

Changing Legal Documents

Why Change your Legal Documents?

Has your organisation experienced a change in the way it operates? Or have you realised that the current operating procedures are no longer effective? Or have you taken on new activities? If you need to change procedures or activities which are reflected in your legal documents you would also need to change your legal documents to bring it up-to-date.

The information here will assist Singaporean non-profit community organisations to understand some of the issues that arise when making changes to their constitution. They include information about changing the constitution for societies, companies limited by guarantee and charitable trusts. We will consider the following questions:

- What are your legal documents?
- What is the legal process from making changes to the legal documents?
- How do we lodge and get approval of changes to legal documents?

The information on this website is intended as a guide only, and is not legal advice. If you or your organisation has a specific legal issue, you should seek advice before making a decision about what to do.

What are your Legal Documents?

Type of legal structure	Legal documents	Can it be changed?
Society	Constitution	Yes, in a general meeting
Company Limited by Guarantee and Company Limited by Shares	Memorandum & Articles of Association ("M&A")	Yes, through a special resolution
Trust	Trust	Generally no
Branch	Parent company's M&A or similar governing documents	The Singaporean branch's local agents do not have the power to change the parent company's M&A
Representative Office	None – an RO is a temporary entity without a legal status	N.A.

What is the Legal Process for Changing a Constitution?

Society

Under the Societies Act a society may only change its rules with the prior approval in writing of the Registry of Societies. As a registered IPC/Charity the society is also required to seek the support of the

Commissioner of Charities before submitting an application to the Registry of Societies for amendment of rules.

A society can submit their applications for amendment of rules via the Registry of Societies. Societies are required to submit their applications after the resolution to amend the constitution is passed at a general meeting of members, in accordance with the society's existing constitution. The President and Secretary are required to verify and submit the application online using their SingPass. Proposed amendments should be submitted in Microsoft Word format. Supporting documents for attachment should preferably be in jpeg, pdf or tif format. The file size of each attachment should not exceed 2Mb.

Companies Limited by Guarantee (CLG)

A company limited by guarantee would need to change their memorandum and articles. This is governed by the Companies Act which states that a company may alter their memorandum and articles by passing a special resolution.

As a charity the CLG is also required to seek the support of the Commissioner of Charities before passing such a resolution.

A special resolution requires you to follow certain procedures. One of the procedures is that it must have been passed by at least three-fourths of members present and entitled to vote at a general meeting. Furthermore at least 21 days' written notice of this meeting must have been given. This notice must specifically state the intention to propose the resolution as a special resolution.

Alternatively, if a majority of voting members – who together hold at least 95% of the total voting rights of all the voting members present at the meeting – agree to do so, a special resolution may be proposed and passed even if less than 21 days notice has been given.

At the special resolution the chairman does not need to prove the number or proportion of votes recorded before he declares the resolution is carried. However, members may demand a poll if they meet certain requirements.

Full details on the law governing special resolution may be found in Section 184 of the Companies Act (Cap 50).

After amending the memorandum the company is required to lodge with the Accounting and Corporate Regulatory Authority (ACRA) a copy of the special resolution as well as a copy of the altered memorandum.

Charitable Trust

The general rule is the terms of the trust cannot be varied once the trust is constituted. However, if the trust instrument gives trustees the power to vary the terms of the trust, these persons can apply to court to do so, although in practice the court rarely exercises its power to vary the terms of a trust.

Any new appointment of a trustee must be certified by the trustees to the Public Trustee, in accordance with Singapore law.

Company Limited by Shares

A company limited by shares is subject to the same requirements as a company limited by guarantee, under section 184 of the Companies Act.

Branch

As a branch is merely an extension of its parent company, it does not have its own constitution. However, if there is a change to the parent company's constitution, the Registrar of Companies must be notified within one month.

For more information, please see ACRA's website.

Representative Office

Unlike a company which is a legal entity in itself, a representative office does not have constitutional documents such as a memorandum or articles of association. However, changes to a representative office's activities or staff must be reported to ACRA one month prior to such changes. Also, if there is a change in a representative office's name or contact details, or an upgrading or closure of its premises, IE Singapore must be notified within one month.

For more information, please see IE Singapore's website.