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# **THE 2005 ANNUAL CHURCH & CHARITY LAW™ SEMINAR**

**Toronto – November 9, 2005**

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## **Charity Reform and Policy Update, including Advancement of Religion**

**(Powerpoint Presentation)**

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## CHARITIES DIRECTORATE REGULATORY REFORM INITIATIVE

Church and Charity Law Seminar  
November 9, 2005

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### Charities Regulatory Reform: Background

- A five-year Action Plan for change, in five major areas of charity regulation.
- Objective is to improve the legislative and regulatory environment within which the charitable sector operates.
- The initiative is of interest to a wide spectrum of organizations and Canadians (5.8 million Canadians claimed in 2004 donations of \$6.9 billion to Canada's 81,500 + charities).

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### Joint Regulatory Table (JRT)

- JRT established to review regulatory environment for charities and make recommendations for potential action by government
- Discussions centered on four areas:
  - Accessibility and transparency
  - Access to appeals
  - Compliance reforms
  - Institutional models for regulating charities federally
- JRT report *Strengthening Canada's Charitable Sector: Regulatory Reform*, released to the public on May 5, 2003.

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## Strategy for Reform

Proposals to improve the existing regulatory environment are based on a comprehensive strategy for reform. Key elements include:

- Accessibility and Transparency
- Public Awareness and Sector Outreach
- Monitoring and Sanctions
- Appeals
- Federal/Provincial/Territorial Collaboration

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## Accessibility and Transparency

**Purpose – to increase trust in the regulator and in the sector**

- Progress being made in increasing transparency of CRA policies and decisions - additional information to be made available to the public.
- Information technology priorities include:
  - An Integrated Charities System (ICS);
  - Enhanced online information return search and display features;
  - Net-file of charity information returns; and
  - Expansion of self-service options on our Website.

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## Public Awareness and Sector Outreach

**Purpose – to educate, inform and raise awareness of registered charities, donors and the general public with respect to charities and their legal obligations**

- Through the new Contributions Program the Charities Directorate will partner with voluntary sector organizations in order to improve compliance levels.
- Strategies for media engagement, public education, and sector preparedness have been developed.

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## Monitoring and Sanctions

### **Purpose – to introduce an enhanced compliance regime**

- Audits moved from Consulting and Audit Canada back to Compliance Programs Branch, CRA
- Office audit function to be implemented within Charities Directorate
- Legislation required to implement intermediate sanctions in place
- Enhancements made to Part V tax program
- New risk management processes being implemented

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## Appeals

### **Purpose – to introduce a more accessible appeals regime**

- Decisions on applications for registration can now be appealed to the CRA's Appeal Branch
- Appeals liaison function established in the Policy, Planning and Legislation Division of Charities Directorate

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## Federal/Provincial/Territorial Collaboration

### **Purpose - engagement of provincial colleagues in discussions seeking cooperation, partnership and support in joint projects aimed at:**

- Public education campaigns;
- Information sharing for enforcement purposes;
- Streamlining regulation; and
- Responding effectively to deceptive fundraising.

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## Next Steps:

### Priorities –

- Implementation of the Integrated Charities System
- Development of Net-file of charity information returns and expansion of self-service options on our Website
- Further development of policy proposals as they relate to deceptive fundraising
- Enhanced integration of risk management into all activities.
- Development of additional intermediate sanctions component (i.e. late filers / non-filers program)
- Further collaboration with provincial and territorial counterparts.

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## Questions?

For more information,

Website: <http://www.cra-arc.gc.ca/tax/charities>

Enquiries line: 1-800-267-2384 (English)

1-888-892-5667 (Bilingual)

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## **CHARITIES DIRECTORATE Policy Update**

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### **Presentation Covers**

- Policy environment for the regulation of charities generally
- Focus on charities registered under the advancement of religion category
  - Historical account of advancement of religion as a charitable purpose
  - Treatment of religious charities under the ITA
- Review of current policy initiatives

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### **Policy Environment**

- Charities Directorate applied new focus to development of Common Law policy in 2001
- Increased emphasis on policy development to alleviate sector concerns that policy guidance needed to be strengthened
- Objective is to guide policy development to achieve more consistent decision-making and better informed public.

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## Initial Work

- Completed policies included
  - Political Activities
  - Promotion of Racial Equality
  - Organizations assisting Ethno-cultural Groups
  - Guidelines on Meeting the Public Benefit Test
  - Related Business
  - Charities in the International Context

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## Policy Development Framework

### Rationale

- New policies were being developed independently despite commonalities
- Policy development proceeding without a clear vision of results to be achieved

### The Framework

- Follows common law definition of charity
- Provides for the development of guidance documents for all heads of charity

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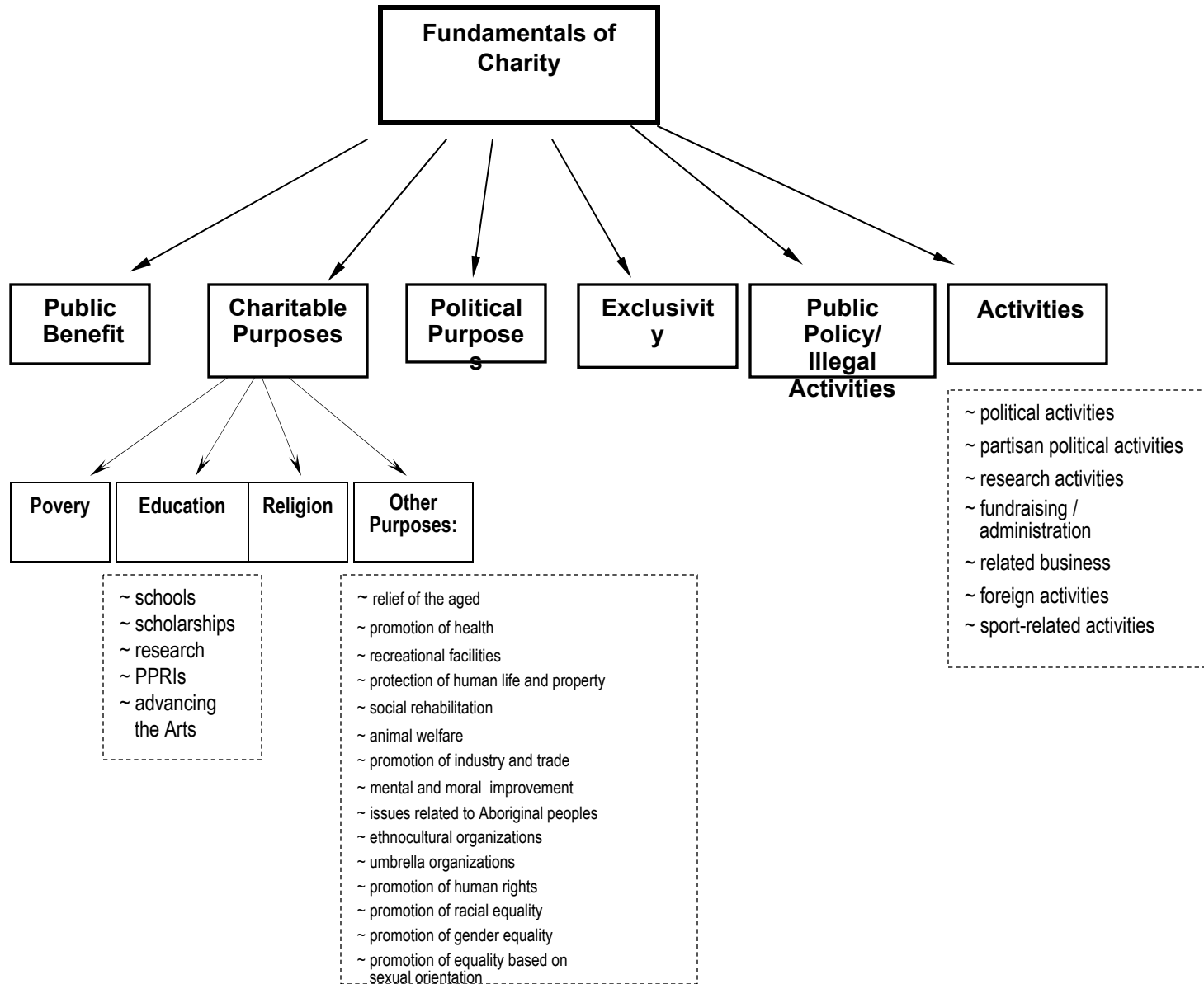
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# The Chart

## Policy Development Framework Decision to Register





### Guidance on Advancement of Religion as a charitable Purpose

- First category of charity to be reviewed in light of the overwhelming numbers of charities – nearing 40%
- Review involves an examination of current approach bearing in mind recent case law, societal trends, and the impact of the Charter

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### Guidance on Advancement of Religion as a charitable Purpose

#### Historical Context

- Religion closely tied to charity for centuries
- Notable absence of religion from the Preamble to the Statute of Elizabeth
- 1891 seminal case referred to as *Pemsel*, included advancement of religion as head of charity
- Thereafter, general trend is the expansion of what qualifies as charitable under the advancement of religion

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### Guidance on Advancement of Religion as a charitable Purpose

#### Historical Context

- The development of advancement of religion at common law
- Two essential attributes of religion – faith in a God and worship of that God.
- Common law employs broad definition of “religion” for the law of charities

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## Guidance on Advancement of Religion as a charitable Purpose

### Current context

- To qualify as charitable under the ITA all organizations must have charitable purposes – must fall within one of the four categories of charity and must be of benefit to the public.
- Definition of “religion” and meaning of “advancement” for the purposes of the law of charity derives from the common law
- Most recent Canadian case, *Fuaran*, provides some guidance

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## Guidance on Advancement of Religion as a charitable Purpose

### Key issues for review

- What types of activities constitute “advancement”
- Whether the current common law definition of “religion” is outdated
- What impact does the Charter have on our determination of what constitutes religion/

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### Other policy initiatives

#### Direct impact on religious charities

- Umbrella organizations
- Foreign Activities
- Partisan Political Activities
- Decision-making process
- Research as a charitable activity

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- **NEXT STEPS**

- **Strategic Planning – Policy Development**

- Set priorities for policy development
- Develop a more inclusive approach to sector consultation
- be more pro-active and forward-looking in approach

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