

# NON-PROFIT ORGANISATIONS BILL, 2018

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## NON-PROFIT ORGANISATIONS BILL, 2018

### A BILL FOR AN ACT TO PROVIDE FOR THE REGULATION OF NON-PROFIT ORGANISATIONS AND FOR CONNECTED PURPOSES

Enacted by the Parliament of The Bahamas

#### PART I - PRELIMINARY

##### 1. Short title and commencement.

- (1) This Act may be cited as the Non-profit Organisations Act, 2018.
- (2) This Act shall come into force on a date to be appointed by the Minister by notice published in the *Gazette* and the Minister may appoint a different date for the coming into force of different sections.

##### 2. Interpretation.

In this Act —

“controller” means —

- (a) a trustee of a trust, where the non-profit organisation is established as a trust;
- (b) a director of a company, where the non-profit organisation is established as a company;
- (c) a general partner of a partnership, where the non-profit organisation is established as a partnership;
- (d) a person or slate of officers or trustees responsible for all aspects of management and administration of an unincorporated association, where the non-profit organisation is established as an unincorporated association;

- (e) a member of a corporation, where the non-profit organisation is established as an entity incorporated by statute;
- (f) a founder of a foundation, where the non-profit organisation is established as a foundation; or
- (g) any person not specified in paragraphs (a), (b), (c), (d), (e) or (f) where the non-profit organisation is established by that person;

**“financial statements”** means a profit and loss statement and annual balance sheet;

**“financial year”** means the financial year of a non-profit organisation;

**“gross annual income”** means, with respect to a non-profit organisation, the total income of the non-profit organisation from any source during the twelve months immediately preceding the first day of that period, including, but not limited to—

- (a) income received from the provision of goods and services;
- (b) rental income;
- (c) interest and other income derived from its investments;
- (d) donations of money or other property made to it; and
- (e) any other monetary grants in kind donations made to it;

**“identified risks”** has the meaning ascribed to it under the Proceeds of Crimes Act (*Ch. 93*), namely that in relation to a non-profit organisation, any act that involves corruption, cybercrime, human trafficking, money laundering, proliferation or financing of weapons of mass destruction, terrorism or financing of terrorism, or such other act that the Minister under the Proceeds of Crime Act may prescribe by Order;

**“Minister”** means the Minister responsible for non-profit organisations;

**“non-profit organisation”** means a body of persons whether incorporated or unincorporated, formed and established for the purpose of promoting public policies or objects that are religious, charitable, educational, scientific, environmental, historical, cultural, fraternal, literary, sporting, artistic, athletic or promoting health, and whose gross annual income or any part thereof, if any, and other income are applied to the promotion of those objects, and there is a prohibition of any dividend or refund of contributions to its members;

**“register”** means the register of non-profit organisations established and maintained under section 6;

**“Registrar”** means the Registrar of Non-Profit Organisations established under section 3.



## **PART II – ADMINISTRATION**

### **3. Registrar of non-profit organisations.**

- (1) There shall be established the office of the Registrar of Non-profit Organisations hereafter referred to as the “Registrar”.
- (2) The Registrar shall be a fit and proper person appropriately qualified to hold office —
  - (a) with a minimum of five years experience as a counsel and attorney-at-law, licensed accountant or trust officer;
  - (b) not having been convicted of a crime involving dishonesty or violence; and
  - (c) not having been adjudged or otherwise declared bankrupt under any law.
- (3) The Registrar shall be responsible for the administration of this Act.
- (4) The Registrar may, in writing, designate a suitably qualified person to perform the duties and functions of the Registrar under this Act.

### **4. Functions of the Registrar.**

The functions of the Registrar are —

- (a) to receive, consider and process applications for registration as a non-profit organisation;
- (b) to ensure that all non-profit organisations have appropriate internal controls in place, including an appropriate system to identify conduct which may involve identified risks;
- (c) to ensure that the financial statements relating to a non-profit organisation are preserved for a minimum of five years;
- (d) to identify apparent cases of misconduct or mismanagement in the administration of non-profit organisations;
- (e) to receive representations from the public about persons who have engaged in, or are engaging in conduct that constitutes, or may constitute a breach of this Act or an identified risk;
- (f) to refer cases or acts of misconduct or mismanagement to the Commissioner of Police;
- (g) to enhance the accountability of non-profit organisations to donors, beneficiaries and the general public;
- (h) to promote public trust and confidence in non-profit organisations;
- (i) to encourage and promote the effective use of charitable resources;

- (j) to educate and assist non-profit organisations in relation to matters of good governance and management, including —
  - (i) issuing guidelines or recommendations on the best practice to be observed by non-profit organisations, fiduciaries and other persons concerned with the management or administration of non-profit organisations;
  - (ii) issuing model rules; and
  - (iii) providing information to non-profit organisations about their rights, duties and obligations under this Act;
- (k) to stimulate and promote research into any matter relating to non-profit organisations, including —
  - (i) collecting and disseminating information or research about non-profit organisations;
  - (ii) advising on areas where further research or information about non-profit organisations should be undertaken or collected; and
  - (iii) entering into contracts or arrangements for research or information about non-profit organisations to be undertaken or collected;
- (l) to make appropriate information available to assist persons in submitting registration applications under this Act;
- (m) to give information or advice, or make proposals to the Minister on matters relating to any of the Registrar's functions or achieving any of his objectives;
- (n) to consider, report and make recommendations on any matter relating to non-profit organisations, including matters —
  - (i) referred by the Minister; or
  - (ii) initiated by the Registrar on his own accord; and
- (o) to perform any other function conferred by this Act or that the Minister may direct the Registrar to perform in accordance with this Act.

## **5. Powers of the Minister.**

The Minister may give general policy directions to the Registrar relating to the exercise of the Registrar's functions and the Registrar shall comply with such directions.

## **6. Establishment of a register of non-profit organisations.**

- (1) The Registrar shall establish and maintain a register of non-profit organisations.

- (2) The register shall include the following information with respect to a non-profit organisation —
  - (a) its name, registered office address, telephone number and e-mail address;
  - (b) its purposes and activities;
  - (c) the identity of the founder and controller;
  - (d) the date of registration of a non-profit organisation under this Act, and if applicable, the date on which its registration was cancelled; and
  - (e) such other information as the Registrar considers appropriate.
- (3) The register shall be prepared and kept in such manner as the Registrar thinks fit.
- (4) The Registrar shall supply any person, on payment of the requisite fee with copies of, or extracts from, any document in his possession which is for the time being open to public inspection in accordance with this Act.
- (5) The register shall be open for inspection, at the office of the Registrar by members of the public, during regular working hours.

## PART III – REGISTRATION

### 7. Registration of non-profit organisations.

- (1) A non-profit organisation shall not carry out operations unless it is registered under this Act.
- (2) A non-profit organisation shall submit to the Registrar, an application to register in accordance with the form set out in the *First Schedule*.
- (3) Subject to subsection (4), the Registrar shall register a non-profit organisation.
- (4) In considering an application submitted by a non-profit organisation for registration, the Registrar shall have regard to —
  - (a) the declared purposes of the non-profit organisation;
  - (b) a mission statement of the non-profit organisation;
  - (c) the identity of the controller and other members of the non-profit organisation;
  - (d) copies or particulars of the trust, trust deed and any other organisational documents;
  - (e) copies of the constitution or memorandum of association and articles of association of the non-profit organisation;
  - (f) anticipated source of contributions;



- (g) where an entity was in existence before the date of the commencement of this Act, the gross annual income for the financial year prior to the application for registration;
  - (h) evidence of how gross annual income was or is to be applied;
  - (i) evidence of “Know Your Client” compliance;
  - (j) evidence of board structure and function; and
  - (k) any other matter the Registrar reasonably considers relevant.
- (5) The controller, or last controller of a non-profit organisation shall —
- (a) notify the Registrar if the non-profit organisation ceases to exist, or if there is any change in its purposes, trusts, membership or other particulars entered in the register; and
  - (b) supply the Registrar with particulars of any such changes under paragraph (a) and with copies of all relevant documents,
- within thirty days after such cessation or change, or such longer period as the Registrar may, in his discretion, allow.
- (6) A person who carries on operations without registering in accordance with this section, commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or a term of imprisonment not exceeding one year, or to both such fine and term of imprisonment.
- (7) A non-profit organisation in existence immediately before the date of commencement of this Act, must be registered within ninety days thereof.

#### **8. Renewal of registration.**

- (1) Where the Registrar is satisfied that a non-profit organisation is suitable for registration, the Registrar shall issue a certificate of registration to the non-profit organisation, upon payment of the prescribed fee.
- (2) A certificate of registration issued under subsection (1) is valid for a period of two years from the date of issue.
- (3) A certificate of registration may be renewed —
  - (a) upon application for the renewal of a certificate of registration as set out in the *First Schedule*; and
  - (b) upon payment of the fee prescribed in the *Second Schedule*.

#### **9. Refusal of application to register.**

The Registrar shall refuse to register a non-profit organisation if —

- (a) the activities of the applicant do not fall within the definition of non-profit organisation under section 2;
- (b) notwithstanding the declared objects, the non-profit organisation is established for illegal purposes;



- (c) the information represented on the application for registration of the non-profit organisation is manifestly incorrect; or
- (d) the name of the non-profit organisation is different from the name in which the entity was established as a company, trust, partnership, foundation, unincorporated entity or body established by statute.

**10. Restriction on name of non-profit organisation.**

- (1) No non-profit organisation shall be registered under this Act under a name that—
  - (a) is identical with the name of an existing non-profit organisation, company or other entity or a name that so nearly resembles the name of an existing non-profit organisation, company or other entity so as to be calculated to deceive or confuse, except where the non-profit organisation in existence is in the course of being dissolved or signifies its consent in such manner as the Registrar approves;
  - (b) contains, without express prior permission of the Registrar whose permission may be withheld without assigning a reason, the words “Assurance”, “Bank”, “Building Society”, “Chamber of Commerce”, “Chartered”, “Cooperative Exchange”, “Imperial”, “Insurance”, “Municipal”, “Royal”, or a word conveying a similar meaning, or any other word that, in the opinion of the Registrar, suggests or is calculated to suggest —
    - (i) the patronage of the Government of The Bahamas or a Minister of the Government of The Bahamas or of a foreign Government;
    - (ii) a connection with any Ministry or Department of the Government of The Bahamas or with a foreign Government;
    - (iii) a connection with any local or foreign authority or statutory board;
  - (c) is indecent, offensive or, in the opinion of the Registrar, is otherwise objectionable; or
  - (d) is in the opinion of the Registrar, likely to mislead the public as to the true nature of the purposes of the non-profit organisation as set out in the trusts, or of the activities which the non-profit organisation carries on under its trusts in pursuit of those purposes.
- (2) Where a non-profit organisation is registered under a name that —
  - (a) is identical with a name under which a non-profit organisation in existence is already registered; or

- (b) so nearly resembles the name or known trading name of an existing non-profit organisation or an incorporated entity, whether local or international, so as to be calculated to deceive or confuse,

the Registrar may, whether or not the consent of the non-profit organisation in existence has been obtained pursuant to subsection (1)(a), give notice to the last registered non-profit organisation to change its name and the time period by which such change shall occur.

- (3) A notice issued in accordance with subsection (2) shall specify that the non-profit organisation shall change its name to a name that the Registrar deems appropriate, and the Registrar shall publish a notice of the change in the *Gazette*.
- (4) A change in the name of a non-profit organisation under this section does not affect the rights or obligations of the non-profit organisation, and any legal proceedings that might have been continued or commenced, by or against it, in its former name may be continued or commenced, by or against it, in its new name.
- (5) Where the name of a non-profit organisation is changed pursuant to this section, the Registrar shall reflect the change of name in the register.

## PART IV – POWERS OF THE REGISTRAR

### 11. Cancellation or suspension of registration.

- (1) The Registrar shall cancel or suspend the registration of a non-profit organisation if, after an investigation, it is proven that the non-profit organisation —
  - (a) engaged in or is engaging in an activity that is an identified risk;
  - (b) failed, without reasonable cause, to maintain financial statements pursuant to section 19;
  - (c) failed, without reasonable cause, to submit its declaration of availability of financial statements pursuant to sections 20 and 21; or
  - (d) failed, without reasonable cause, to pay any fee for registration,provided that the power to cancel or suspend in relation to paragraphs (b) to (d) is only exercised on or after the second occurrence of the same infraction.
- (2) Where the Registrar or the Attorney-General determines that an investigation into the operations of a non-profit organisation is required, the Registrar may suspend the registration of the non-profit organisation during the period of that investigation.

- (3) Where the registration of a non-profit organisation has been cancelled or suspended, the Registrar shall, as soon as is practicable, notify the Minister of the cancellation or suspension and —
  - (a) in the case of a cancellation, the Registrar may make a recommendation to the Minister for the money or other property received by the non-profit organisation to be dealt with by the court; or
  - (b) in the case of a suspension, the Registrar may make a recommendation to the Minister that an order be made prohibiting the non-profit organisation from dealing with any money or other property under its control.
- (4) In any case where the registration of a non-profit organisation has been or is liable to be cancelled or suspended the Registrar shall give notice to the non-profit organisation by publishing such notice in a daily newspaper in circulation in The Bahamas stating that its registration —
  - (a) is liable to be cancelled or suspended; or
  - (b) will be cancelled or suspended,at the end of thirty days from the date of such notice or within such other period as the Registrar determines.
- (5) Before exercising his powers to cancel or suspend under this section, the Registrar shall give a non-profit organisation an opportunity to show cause, in writing, why its registration should not be cancelled or suspended.
- (6) The Registrar may revoke his decision to refuse, cancel or suspend the registration of a non-profit organisation if it appears to the Registrar that there has been a change in circumstances which justify the revocation.

## **12. Removal from the register.**

- (1) The Registrar shall remove from the register a non-profit organization—
  - (a) that fails to conduct its affairs in accordance with its objects;
  - (b) that fails to submit any return, notice, or other required document or fee to the Registrar as required by this Act;
  - (c) that fails, where required, to maintain accounting records;
  - (d) that is dissolved;
  - (e) that refuses to comply with any request or direction given by the Registrar pursuant to this Act;
  - (f) whose registration is revoked or cancelled in accordance with this Act;
  - (g) that has ceased to carry on operations.



- (2) The Registrar shall remove a non-profit organisation from the register if it no longer appears to the Registrar to be a non-profit organisation by virtue of—
- (a) a change in its purposes; or
  - (b) it ceasing to function as a non-profit organisation;
  - (c) it failing to maintain a required financial statements,
- with effect from the date of the change of the time at which it ceases to function as a non-profit organisation.
- (3) Where the Registrar is of the opinion that a non-profit organisation is in default with respect to any requirement as to a return, financial statement or financial statements, notice, document or fee, he shall send a notice to that non-profit organisation advising it of the default and stating that, unless the default is remedied within twenty-one days after the receipt of the notice, the registration shall be cancelled and the non-profit organisation shall be removed from the Register.

**13. Distribution of assets on removal from Register.**

- (1) In respect of an unincorporated non-profit organisation, its constitution shall specify how its assets will be distributed upon removal from the Register.
- (2) Where the constitution does not provide for a distribution of its assets in accordance under subsection (1), a non-profit organisation shall, by resolution of the directors, after payment of all debts and liabilities, distribute or dispose of the remaining property to any organisation in The Bahamas, the undertaking of which is in accordance with the purposes outlined in the definition of a non-profit organisation in section 2.
- (3) If, upon removal from the Register, it is unclear how the assets of the non-profit organisation will be distributed, the assets shall be distributed —
- (a) in respect of its cash, to the Central Bank; and
  - (b) in respect of property, to the Treasurer.

**14. Prohibition of transfer of interests to members.**

Notwithstanding any provision of a non-profit organisation's constitution to the contrary, no property or other interest of a non-profit organisation may be transferred or paid to any member or former member of the non-profit organisation.

**15. Power to impose administrative fines.**

- (1) The Registrar may impose an administrative fine not exceeding five thousand dollars, if after investigation it is proven that a non-profit organisation has failed, without reasonable cause —
  - (a) to maintain financial statements reflecting all monies received and expended; or
  - (b) to pay any fee for registration.
- (2) In the case of a continuing breach, an administrative fine not exceeding five hundred dollars for every day the breach continues shall be imposed on the non-profit organisation.

**16. Power to conduct on-site inspections.**

- (1) The Registrar may, from time to time and at the expense of any non-profit organisation, conduct on-site inspections of the business of that non-profit organisation for the purpose of satisfying himself that the non-profit organisation is in compliance with the provisions of this Act and any regulations made thereunder.
- (2) The Registrar may, in such cases where he is unable to conduct an on-site inspection, designate a compliance officer or suitably qualified person to conduct the inspection, and that person shall submit a report thereon to the Registrar.

**17. Power to require information.**

- (1) The Registrar may, by written order, require any person to provide the Registrar with any information that is in the possession of that person, and which —
  - (a) relates to any non-profit organisation; and
  - (b) is relevant to the discharge of the functions of the Registrar under this Act.
- (2) Where the Registrar has reasonable grounds to believe or has information that a non-profit organisation that is exempt from the requirement to maintain financial statements under section 19(4) is engaged in activities that are identified risks, the Registrar shall, by written order —
  - (a) require that non-profit organisation to submit any bank records or other information that show its financial status;
  - (b) require a bank or financial institution where the non-profit organisation has an account to submit any financial records in respect of the non-profit organisation.

- (3) A person is not required under subsection (1) to produce or provide information that the person would be entitled to refuse to produce or provide on the grounds of legal professional privilege.

## **PART V - RECORD-KEEPING AND REPORTING**

### **18. Records as to purpose.**

A non-profit organisation shall keep at its registered address records that are sufficient to show —

- (a) its purposes, objectives and activities; and
- (b) the identity of the persons who control or direct its activities, including, as appropriate, senior officers, directors and trustees.

### **19. Obligation to maintain financial statements.**

- (1) Subject to subsection (3), a controller of a non-profit organisation shall cause reliable financial statements to be kept at its registered office address which —
  - (a) show and explain its transactions in sufficient detail to demonstrate that its funds have been used in a manner consistent with its purposes, objectives and activities; and
  - (b) show the sources of its gross annual income,so that its financial position can be determined with reasonable accuracy.
- (2) Financial statements maintained pursuant to this section shall be kept for a minimum of five years from the date of the transaction to which the record relates and available for verification purposes.
- (3) A non-profit organisation whose gross annual income does not exceed seventy-five thousand dollars per annum shall not be required to maintain records under this section.
- (4) A non-profit organisation that contravenes subsection (1) or (3) commits an offence summary conviction to a fine not exceeding ten thousand dollars.
- (5) No prosecution shall be commenced for a breach under this section where an administrative fine has been imposed under section 15 for that breach and such fine has been paid.



**20. Declaration of availability of financial statements.**

- (1) Subject to section 19(3) a non-profit organisation shall maintain at its registered office address a declaration stating that —
  - (a) it is maintaining reliable financial statements; and
  - (b) its financial statements shall be made available through its office, accountant or auditor.
- (2) An incorporated non-profit organisation that submits a declaration under section 117B of the Companies Act (*Ch. 308*) is, for the purposes of meeting its obligations under this section, deemed to have submitted a declaration under this section.
- (3) A non-profit organisation shall submit its declaration to the Registrar and shall maintain a duplicate copy of the declaration on its file.
- (4) Where a non-profit organisation changes its registered office address subsequent to the submission of a declaration, the non-profit organisation shall provide the newly appointed registered office with a declaration in accordance with subsection (1) and the new registered office shall submit a duplicate copy of the declaration made by the non-profit organisation to the Registrar within thirty days of the date of the new appointment.

**21. Time required to submit declaration of availability of financial statements.**

- (1) A non-profit organisation shall submit its declaration of availability of financial statements to the Registrar within ninety days of its registration.
- (2) A non-profit organisation that was registered prior to the coming into force of this Act shall submit its declaration within sixty days of the coming into force of this Act.

**22. Production of records.**

- (1) The Registrar may, on the grounds specified in subsection (2), by written notice, require a non-profit organisation to produce the financial statements that are required to be kept under section 19.
- (2) The Registrar may give notice under subsection (1) only where he has reason to believe or has information that the non-profit organisation is engaged in activities that are identified risks.
- (3) A notice given under subsection (1) —
  - (a) shall specify—
    - (i) the records which the Registrar requires the non-profit organisation to produce;

- (ii) the place at which the records specified in the notice must be produced to the Registrar; and
  - (iii) the period within which the records must be produced;
- (b) may require the documents to be produced to a person or persons specified in the notice.
- (4) The Registrar may require the person who produced the records or any person who appears to be an officer or employee of the non-profit organisation or otherwise associated with it, to provide an explanation of the records.
- (5) The Registrar may take copies or extracts of the records or retain the original records for—
  - (a) a period not exceeding one year; or
  - (b) such longer period as the court may, on the application of the Registrar, specify.
- (6) A non-profit organisation which fails to comply with a notice issued under subsection (1) commits an offence and is liable upon summary conviction to a fine not exceeding ten thousand dollars.
- (7) A person required to provide an explanation under subsection (4), commits an offence if he, without reasonable excuse, fails to provide the explanation and shall be liable upon summary conviction to a fine not exceeding ten thousand dollars.

### **23. Confidentiality of financial statements.**

- (1) Subject to subsection (2) a non-profit organisation's financial statements shall be held in confidence by the Registrar.
- (2) If the Registrar has reasonable cause to suspect that a non-profit organisation, is engaged in any activity which qualifies as an identified risk, the Registrar shall, after consultation with the Minister, provide the financial statements and all other relevant information to the Financial Intelligence Unit for analysis or the Commissioner of Police for investigation.

### **24. Reportable donations.**

- (1) A non-profit organisation shall, every two years, submit to the Registrar specifying details in respect of —
  - (a) donations that are fifty thousand dollars and more, whether the donation is made as one lump sum or as aggregate sums; and
  - (b) its ten largest donations.
- (2) The report must be kept confidential by the Registrar and may only be disclosed to a lawful authority for analysis or investigation.

**25. Registration required to open and maintain bank accounts, etc.**

- (1) For the purposes of this section “**financial institution**” and “**designated non financial business and profession**” has the meaning ascribed to them under the Financial Transaction and Reporting Act, 2018.
- (2) A financial institution or a designated non financial business and profession shall not open or maintain—
  - (a) a bank account; or
  - (b) an account ledger,
  - (c) any other type account,for a non-profit organisation unless the organisation has registered under this Act and presents evidence of such registration.

**26. Freezing of accounts.**

Where a non-profit organisation fails to renew its registration within six months of its expiration, a financial institution or a designated non financial business and profession shall freeze the accounts of the organisation specified in subsection (2) until renewal of the registration of the non-profit organisation, and the financial institution or designated non financial business shall forthwith report the fact of such freezing to the Registrar.

## **PART VI - MISCELLANEOUS**

**27. Supplying false or misleading information or withholding of information.**

- (1) A person commits an offence if that person —
  - (a) deliberately provides inaccurate information to the Registrar that is purported to be in compliance with a requirement imposed by or under this Act;
  - (b) alters, suppresses, conceals or destroys a document that he is required under this Act to keep or produce to the Registrar;
  - (c) withholds information when requested by the Registrar to produce such information or fails to discharge a duty imposed by or under this Act.
- (2) A person who contravenes this section shall be liable upon summary conviction to a fine not exceeding ten thousand dollars or a term of imprisonment not exceeding one year or both such fine and term of imprisonment.



**28. Right of appeal.**

A non-profit organisation may appeal to the court against a decision of the Registrar to—

- (a) refuse an application for registration; or
- (b) cancel or suspend its registration.

**29. Limitation period.**

- (1) The Registrar shall not issue a notice to a person with respect to a contravention of this Act after the end of a period of three years commencing on the date that the Registrar first became aware of the contravention.
- (2) For the purposes of subsection (1), the Registrar is deemed to have become aware of a contravention if the Registrar has received information from which the contravention can reasonably be inferred.

**30. Fees.**

The fees to be paid by a non-profit organisation for the purposes of this Act are specified in the *Second Schedule*.

**31. Amendment of schedules.**

The Minister may, by order, amend the Schedules to this Act.

**32. Regulations.**

The Minister may make regulations for the proper carrying out of the purposes of this Act.

**33. Revocation of S.I. No. 47 of 2014.**

The Companies (Non-Profit Organisations) Regulations (*S.I. No. 47 of 2014*) are hereby revoked.

**34. Savings and Transitional provisions.**

- (1) Notwithstanding the revocation of the Companies (Non-Profit Organisations) Regulations (*S.I. No. 47 of 2014*), as from the date of commencement of this Act all notices, designations and certificates issued thereunder, are deemed to have been done under this Act.
- (2) A non-profit organisation, which is registered pursuant to the Companies (Non-Profit Organisations) Regulations (*S.I. No. 47 of 2014*) shall be required to register under this Act within ninety days of coming into force of this Act.

- (3) Every matter and proceeding commenced in any court in relation to a non-profit organisation immediately before the date of the commencement of this Act shall be continued, completed and enforced as if this Act was not in force.

## FIRST SCHEDULE

(Section 8 (2) & (5))

### REGISTRATION FORM FOR NON-PROFIT ORGANISATIONS

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The Form should be completed and attached to the Memorandum and Articles of Association or Constitution and submitted for approval of a certificate of registration at the Registrar of Non-Profit Companies. Of this form the "Balance Sheet" will not be a publicly available document and will not form a part of the information that is publicly accessible in the register.

It is IMPORTANT that you ACCURATELY complete and confirm all information provided before submitting this Form. The Registrar of Non-Profit Companies accepts no responsibility for the information provided in this Form.

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#### Tick the appropriate box:

New application ☐

Renewal of registration ☐

Change of information ☐

Projected or annual turnover of \$75,000 or more: yes ☐ no ☐

**Note:** A non-profit organisation who projected or annual turnover does not exceed \$75,000 does not need to complete the Balance Sheet. Any such declaration shall be subject to verification by the Registrar at any time and in the absolute discretion of the Registrar.

**Note:** In the case of an application to change of information, the relevant sections must be completed.

**Please attach a separate sheet of paper if additional space is required.**

### 1. ORGANISATION CONTACT DETAILS

<b>Name (or proposed name) of Non -profit Organisation ("NPO")</b>			
<b>Contact details for NPO</b>	<b>Office Telephone</b>	<b>Cell Phone</b>	<b>Email</b>
	<b>Address</b>		<b>Website (if any)</b>

### 2. CONTROLLER(S) CONTACT INFORMATION

<b>Name</b>	<b>Address</b>
<b>Telephone (if different from above)</b>	<b>Position in NPO</b>
<b>Email</b>	

### 3. ORGANISATION OPERATING DETAILS



NPO MISSION STATEMENT	NPO VISION STATEMENT

In full detail, please describe the **PURPOSE** (*or intended purpose*) of the NPO:

In full detail, please describe the **ACTIVITIES** (*or intended activities*) of the NPO:

Please provide a copy of the organisation's **CONSTITUTION** (*or intended constitution*) or **MEMORANDUM and ARTICLES OF ASSOCIATION**

Does your organisation have subsidiary organisation(s)? YES/NO

If yes, please list the subsidiary organisation(s):

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

Note: If your organisation has subsidiary organisations, in addition to completing sections 5-7 for your organisation, please copy and complete sections 5 – 7 for each subsidiary organisation.

Please state the criteria for becoming a member of your organisation:

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Please provide the following:

- Total number of members: \_\_\_\_\_
- Number of adult members: \_\_\_\_\_
- Number of child members (i.e. persons under 18): \_\_\_\_\_ (please attach a sample of your parental consent form)
- At least one sample proof of membership (e.g. membership certificate/card, official letter given to members, annual membership registration list).
- Names, addresses, telephone numbers and email addresses of the executive body:

<b>PRESIDENT</b>	<b>Name</b>
	<b>Telephone</b>
	<b>Address</b>
	<b>Email address</b>

<b>VICE PRESIDENT</b>
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NON-PROFIT ORGANISATIONS BILL, 2018

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<b>Name</b>	<b>Telephone</b>
<b>Address</b>	
<b>Email</b>	
<b>SECRETARY</b>	
<b>Name</b>	<b>Telephone</b>
<b>Address</b>	
<b>Email</b>	
<b>TREASURER</b>	
<b>Name</b>	<b>Telephone</b>
<b>Address</b>	
<b>Email</b>	



**BALANCE SHEET**

**Note:** All non-profit organisations must complete the balance sheet below. However, new non-profit organisations are only required to give projected information.

<b>ASSETS</b>	<b>\$</b>	
Cash in Hand		
Cash at Bank		
Investments (Short term)		
Other Current Assets		
Total Current Assets		
Property		
Investments (Long term)		
Other Fixed Assets		
Total Fixed Assets		
<b>LIABILITIES</b>		
Current loans		
Other loans/debts		
Other liabilities		
Total Current Liabilities		
Mortgage		
Other Long Term Liabilities		
Total Long Term Liabilities		
<b>INCOME</b>		
Income received from fund-raising		
Rental income		
Interest derived from investments		

**Note:** Please indicate whether donations are received within The Bahamas or outside of The Bahamas.

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**CONTROLLER DECLARATION**

I, \_\_\_\_\_, controller of \_\_\_\_\_  
(Name of controller) (NPO NAME)

certify that the information provided is true to the best of my knowledge.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

<b>FOR OFFICIAL USE ONLY</b>



## SECOND SCHEDULE

(section 30)

### FEES

- |      |  |          |
|------|--|----------|
| 1.   | Application for registration   |          |
| (a)  | for newly formed organisations   | \$100.00 |
| (b)  | for existing organisations   |          |
| (i)  | where gross annual income does not exceed two hundred and fifty thousand dollars | \$50.00  |
| (ii) | where gross annual income exceeds two hundred and fifty thousand dollars         | \$100.00 |
| 2.   | Application for renewal of registration  |          |
| (a)  | where gross annual income does not exceed two hundred and fifty thousand dollars | \$50.00  |
| (b)  | where gross annual income exceeds two hundred and fifty thousand dollars         | \$100.00 |
| 3.   | Certified copy of a document   | \$25.00  |
| 4.   | Uncertified copy of a document   | \$10.00  |
| 5.   | Certificate of good standing   | \$50.00  |

### OBJECTS AND REASONS

The Non-profit Organisation Bill, 2018 revokes and replaces the Companies (Non-Profit Organisations) Regulations (*S.I. 47 of 2014*). The Bill seeks to provide for the regulation of non-profit organisations to ensure that such organisations are operating in a transparent manner and are not engaged in activities which constitute an identified risk.

Clause 2 of the Bill defines “identified risks” as having the meaning ascribed to it under the Proceeds of Crimes Act (*Ch. 93*), namely that in relation to a non-profit organisation, any act that involves corruption, cybercrime, human trafficking, money laundering, proliferation or financing of weapons of mass destruction, terrorism or financing of terrorism, or such other act that the Minister under the Proceeds of Crime Act may prescribe by Order.

A non-profit organisation is defined under clause 2 of the Bill as body of persons whether incorporated or unincorporated formed and established for the

purpose of promoting public policies or objects that are religious, charitable, educational, scientific, environmental, historical, fraternal, literary, sporting, artistic, athletic or promoting health, and whose profits, if any, and other income are applied to the promotion of those objects, and there is a prohibition of any dividend or refund of contributions to its members. It must be noted that a non-profit company under the Companies Act is included under this Act as a non-profit organisation.

The Bill will apply to non-profit companies formed under the Companies Act, 2018.

Part II of the Bill (clause 3 -7) deals with the administration. Clause 3 of the Bill seeks to provide for the appointment of the Registrar of Non-profit Organisations, who will be responsible for the administration of the Act.

Clause 4 seeks to provide for the functions of the Registrar, which include, among other things-

- (a) receiving representations from the public about persons who have engaged in, or are engaging in conduct that constitutes, or may constitute a breach of this Act or an identified risk;
- (h) referring cases of non-compliance with this Act, including acts of misconduct or mismanagement to the Commissioner of Police;
- (i) enhancing the accountability of non-profit organisations to donors, beneficiaries and the general public; and
- (j) promoting public trust and confidence in non-profit organisations.

Clause 5 of the Bill seeks to provide that the Minister has the power to give general policy directions to the Registrar relating to the exercise of the Registrar's functions and the Registrar shall comply with such directions.

Clauses 6 of the Bill provides for the establishment of a non-profit register which shall be open to public inspection during regular working hours.

Part III (clauses 7 -10) of the Bill deals with the registration of non-profit organisations.

Clause 7 of the Bill provides the matters which the Registrar takes into consideration when processing an application for registration. Some of those considerations include, among other things—

- (a) the organisation's anticipated source of contributions;
- (b) the organisation's records of contributions and contributors;
- (c) evidence of how contributions were or are to be applied;
- (d) evidence of "Know Your Client" compliance; and
- (e) evidence of board structure and function.



Clause 8 of the Bill seeks to establish that a certificate of registration will be valid for two years only. The grounds for refusal of an application to register are also provided for under this Part.

Part IV (clauses 11 -17) of the Bill covers the powers of the Registrar.

Clause 12 of the Bill seeks to provide the grounds upon which the Registrar can strike a non-profit organisation off the register. Clause 13 deals with the Registrar's power to require certain information from a non-profit organisation.

Part V (clauses 18-25) deals with record keeping and reporting obligations of a non-profit organisation, which include records as to purpose and maintaining financial statements, as well as making a declaration of the availability of such financial statements.

Clause 22 of the Bill seeks to provide that the Registrar may give written notice to require the production of financial statements only where he or she reasonably requires the records specified in the notice to assess the extent to which the non-profit organisation is engaged in activities that are identified risks.

Clause 23 of the Bill seeks to provide that the Registrar shall hold financial statements in confidence. Furthermore, the clause seeks to provide that if the Registrar has reasonable cause to suspect that a non-profit organisation, is engaged in any activity which qualifies as an identified risk, the Registrar shall, after consultation with the Minister, provide the financial statements and all other relevant information to the Commissioner of Police or the Financial Intelligence Unit for investigation.

Clause 24 of the Bill seeks to provide that non-profit organisations must report to the Registrar any donations or disbursements of \$50,000 or more made by one person in a year, whether the sum is paid in a lump sum or as aggregate sums.

Clause 25 of the Bill provides for financial institutions and designated non financial business and professions to ensure that non-profit organisations are registered in order to open and maintain bank accounts or account ledgers. Clause 26 provides that where a non-profit organisation fails to renew its registration within six months of its expiration, the institutions shall freeze all of the NPO's accounts.

Part VI (Clause 27 - 34) provides for the miscellaneous provisions.

Clause 27 of the Bill seeks to provide the offences of supplying false information to the registrar; providing misleading information and withholding information.

Clause 28 of the Bill seeks to provide that the right of appeal to a court against a decision of the Registrar to refuse an application for registration or the cancel or suspend the registration of a non-profit organisation.



Clauses 34 of the Bill seeks to provide for savings and transitional provisions to ensure that relevant acts done under the revoked Companies (Non-Profit Organisations) Regulations (*S.I. 47 of 2014*) are preserved. Additionally that registrants done under the revoked Regulations must register within 90 days of it coming into force the Act.