

GOVERNMENT OF THE BAHAMAS

NON-PROFIT ORGANISATIONS (NPO) BILL (2019)

REPORT & RECOMMENDATIONS TO THE HON. ATTORNEY GENERAL

CIVIL SOCIETY BAHAMAS

9 JULY 2019

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INTRODUCTION

Civil Society Bahamas has reviewed the NPO Bill Draft 2019 and broadly consulted with 33 Civil Society and NPOs throughout the archipelago on its points and revisions. We were very pleased to see the many favorable improvements made to the Draft and very much appreciate the receptiveness and advocacy of the Hon. Attorney General in response to the previous consultation exercise. For your reference, these positive revisions and our supportive responses are itemised in section 3 of this document.

In addition, through our consultations, a few points for clarification were raised. These can be found in section 1 of this document.

Finally, Civil Society has assembled some key opportunities for strengthening the bill. These are similarly itemised in full for your consideration in section 2 of this document. Where we were able to identify relevant clauses for replacement, we have included these for consideration. Principal among these recommendations are:

- 1) The establishment of a dedicated Registrar to focus on NPOs given the workload anticipated with the enactment and operation of the Act. From our initial research, the anticipated enrollment of NPOs may well exceed 2000 in number. As such, there should be sufficient resources allocated to support and sustain this demand.
- 2) The appointment of an Advisory Council made up of NPO representatives to support the Registrar by providing a secondary level of review in the vetting of applications and in consideration for suspension or removal of NPOs from the register. This would afford the Registrar the benefit of industry context in these and other circumstances. We feel the Advisory Council could provide further support and be a resource in the development of additional regulations, and ensure ongoing sector stakeholder education and input.
- 3) A provisional opportunity for groups to informally organise on a short term basis for specific charitable purposes. These would include steak-outs, fundraising for scholarships and/or medical expenses, as well as for-profit entities that wish to fundraise for charitable purposes. We would recommend a simple application stating intent, intended membership and a time limit of 6 months to either disband or pursue formal application of NPO status.
- 4) Common standards and declarations for all NPOs regardless of size and orientation. While we appreciate the easing of burdens for smaller NPOs as well as those specified in section 35 of the 2019 Draft Bill, Civil Society Bahamas sees a need to ensure a general standard for operation across the entire sector. As such, we recommend that all level of NPOs are held to the same standards and declaration of reporting.

Promotion of further industry driven standards will be a principal focus of Civil Society Bahamas after the passage and enactment of the NPO Bill . As an example, please find a set of self regulation standards endorsed by CSB and The One Eleuthera Foundation for your review in Appendix 2.

- 5) Consideration of entry level incentives to Not for profits that are registered. These could be financial such as a reduction in business license fees for companies that make a donation of \$5,000 or more (this would require a formal declaration and validation by the registrar), or operational such as priority consideration for Crown land. This would support even smaller groups in maintaining compliance and standards.

The above, along with our other recommendations rise from a dual aim to responsibly regulate the sector while also fostering sustainable growth among NPOs to have a greater impact on national development.

We Thank you again for your collaboration and support in this process and look forward to working together to pass and enact a strong NPO Bill that supports the responsible growth and development of the Civil Society and the nonprofit sector in The Bahamas.

PHILOSOPHY

The philosophy behind the collected commentary is that the Bill should provide responsible regulation and prevention of abuses and consolidate the value-added of the Sector, strengthen its capacity, and promote collaboration for mutual benefit, thereby establishing credibility for incentivising the Sector by Government, Private local and international Donors and Investors.

We believe the Bill should be (a) inclusive, (b) practical, (c) effective, (d) guarantee the independence of the Civil Society sector, (e) stimulate the nonprofit sector, and (f) facilitate regulation and (g) institutionalize the CARICOM consultative mechanism.

GUIDING PRINCIPLES

There are several guiding principles that have guided our deliberations on this legislation. These can be found in Appendix I.

SECTION 1

FURTHER CLARIFICATION REQUIRED FROM AG ON THE NPO BILL, 2019

Clause	Query
<p>PART I - PRELIMINARY 2. Interpretation. “non-profit organisation”</p>	<p>Are associations formed under the Friendly Societies Act included in the definition of “non-profit organisation”? Will they need to register as a Non Profit Organisation?</p>
<p>PART I - PRELIMINARY 2. Interpretation. “non-profit organisation”</p>	<p>Are co-operatives included in the definition of “non-profit organisation”? Will they need to register as a Non Profit Organisation?</p>
<p>PART I - PRELIMINARY 2. Interpretation. “non-profit organisation”</p>	<p>Where there are groups within churches, such women groups, men groups, youth groups, brass bands etc., are these subgroups to be registered separately?</p>
<p>PART I - PRELIMINARY 2. Interpretation. “non-profit organisation”</p>	<p>If the thrust of the bill is to regulate financial transactions, two excluded entities especially organizations with political objectives, as the bulk of financial resources in political parties far exceeds, and constitutes a risk and could be considered discriminatory.</p>
<p>PART I - PRELIMINARY 2. Interpretation. “non-profit organisation”</p>	<p>Who is allowed to operate outside the gambit of the Bill? The AG referred to “one person operations as not having to register”, but this is not defined in the Bill and must be clarified to avoid confusion.</p>
<p>PART I - PRELIMINARY 2. Interpretation. “non-profit organisation”</p>	<p>Would it be better to have promoting policies "for the common good" instead of "public"</p>
<p>NPO Bill, 2018 PART II – ADMINISTRATION 4. Registrar of Non-profit organisations. (b) not having been convicted of a crime involving dishonesty or violence; and</p>	<p>Why has this clause been removed for the Registrar, given that Non Profit Organizations have their responsibilities spelled out in detail in 4 (d) (e) (f)?</p>
<p>NPO Bill, 2018 PART II – ADMINISTRATION 4. Registrar of Non-profit organisations.</p>	<p>Why has this clause been removed for the Registrar, given that Non Profit Organizations</p>

(c) not having been adjudged or otherwise declared bankrupt under any law.	have their responsibilities spelled out in detail in 4 (d) (e) (f)?
PART III – REGISTRATION	What is the process of registration in the family islands? Will there be a point of contact for registration in the family islands, or will registration take place in Nassau?
PART III – REGISTRATION	Does a Non Profit Organisation require an attorney to register, or can a Non Profit Organisation submit on its own?
PART III – REGISTRATION	Will there be an online registration process?
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.	If unincorporated non profits have to now register, can they operate as soon as the registration is submitted, or do they have to wait until the registration is approved?
PART III – REGISTRATION 7. Registration of non-profit organisations. (d) copies or particulars of the organisational documents; and	What copies or particulars of the organizational documents are specified in the Bill? The term "organizational documents" should be defined in the interpretation Section 2.
PART III – REGISTRATION 7. Registration of non-profit organisations. (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.	Why are the penalties so harsh, given that NPOs are not seeking to enrich themselves? This could be a large disincentive to start an NPO.
PART III – REGISTRATION 7. Registration of non-profit organisations. (7) A certificate of registration is valid for a period of two years from the date of issue.	Why was the period reduced from three years to two years?
PART III – REGISTRATION	Does a Non Profit Organisation have to get a TIN number?
PART III – REGISTRATION	Does a Non Profit Organisation have to obtain an annual business license?
PART III – REGISTRATION 7. Registration of non-profit organisations.	Does one have to register a Non Profit Organisation if (a) we are only doing one event,

<p>(1) A non-profit organisation shall not carry out operations unless it is registered under this Act.</p>	<p>such as a fundraising, or a cookout, and (b) we just want to do a short term campaign for 3-6 months?</p>
<p>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.</p>	<p>Does a For Profit school have to register its non profit event or initiative as a Non Profit Organisation?</p>
<p>PART III – REGISTRATION 7. Registration of non-profit organisations. (7) A certificate of registration is valid for a period of two years from the date of issue.</p>	<p>What does it mean that a certificate of registration lasts 2 years? How often does a Non Profit Organisation have to prepare and submit its Renewal of Registration, every year or every two years?</p>
<p>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. (e) evidence of board structure.</p>	<p>Can a Non Profit Organisation have foreign directors on its board? Is there a 60% 40% rule for non profits?</p>
<p>PART IV – POWERS OF THE REGISTRAR 12. Removal from the register. (c) that fails, where required, to maintain accounting records;</p>	<p>Should this not be "financial records"?</p>
<p>PART IV – POWERS OF THE REGISTRAR 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.</p>	<p>Seek clarification of "unincorporated non-profit organisation". An unincorporated NPO is unlikely to have a constitution.</p>
<p>NPO Bill, 2018 16. Power to require information. 2. 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.</p>	<p>Why was this clause deleted? With the removal of this clause, what is to stop the Registrar taking confidential information and putting it into the public domain?</p>
<p>PART V - RECORD-KEEPING AND REPORTING 19. Obligation to maintain accounting records. (2) An incorporated non-profit organisation that submits a declaration under the</p>	<p>Clarification is needed for this Clause.</p>

<p>Companies Act (Ch. 308) is, for the purposes of meeting its obligations under this section, deemed to have submitted a declaration under this section.</p>	
<p>PART V - RECORD-KEEPING AND REPORTING 20. Declaration of availability of financial records. (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.</p>	<p>Why was this not also increased to 90 days as per Clause (1) A non-profit organisation shall submit its declaration of availability of financial records to the Registrar within ninety days of its registration.</p>
<p>PART V - RECORD-KEEPING AND REPORTING 24. Reportable donations. (1) A non-profit organisation shall in the form set out in the Second Schedule submit to the Registrar a declaration that specifies that the non-profit organisation is maintaining records at its registered office address in respect of any donation that is one hundred thousand dollars and above, whether the donation is made as one lump sum or as aggregate sums.</p>	<p>Is this reporting requirement per annum? What if you receive a grant of \$100,000 over a period of 3 years?</p>
<p>PART V - RECORD-KEEPING AND REPORTING 24. Reportable donations. (4) A non-profit organisation that — (b) 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.</p>	<p>Why was this not also increased to 90 days as per Clause (a) is registered shall submit its declaration of availability of reportable donations to the Registrar within ninety days of its registration;</p>
<p>PART VI - MISCELLANEOUS 30. Fees.</p>	<p>Is there a VAT on the registration fee?</p>
<p>FIRST SCHEDULE (Sections 7 (2) & 8) REGISTRATION FORM FOR NON-PROFIT ORGANISATIONS Please note: Unincorporated non-profit organisations must attach to its completed form a copy of its Constitution or intended Constitution. 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</p>	<p>What is the definition of “Constitution” or “intended Constitution”. Is this reference to a Memorandum and Articles of Association? If so, will templates of these documents be made available?</p>

<p>provided in this Form.</p>	
<p>THIRD SCHEDULE OBJECTS AND REASONS 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—</p> <ul style="list-style-type: none"> (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. 	<p>Why is this clause still in the Bill? It appears to relate to KYC issues that were removed in the revised Bill.</p>
<p>THIRD SCHEDULE OBJECTS AND REASONS 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.</p>	<p>Why does this clause refer to \$50,000 when the correct amount is \$100,000?</p>

SECTION 2

CSB SUGGESTIONS TO STRENGTHEN FURTHER THE NPO BILL, 2019

SPECIFIC CONCERNS

Existing Clause	Improvement recommended	Proposed Clause
<p>PART I - PRELIMINARY 2. Interpretation. “non-profit organisation”</p>	<p>Who is allowed to operate outside the gambit of the Bill? The AG referred to “one person operations as not having to register”, but this is not defined in the Bill and must be clarified to avoid confusion.</p>	<p>Drafting to be determined by the AG’s office.</p>
<p>2. Interpretation. “Registrar”</p>	<p>A dedicated Registrar for NPOs. CSB had initially advocated for having a separate Registrar for Non profit organizations, with sufficient staffing, as in past the Registrar has proven to be extremely tardy in processing applications , often taking more than 2 years. CSB recalls the challenges in delays in registration and therefore as a compromise would withdraw its original proposal of an independent Registrar, if a dedicated unit was formed within the Registrar General's Department to deal with these and other challenges which may arise. It can also contribute to partnership with Government of strengthening of the CSO/NPO sector.</p>	<p>To be developed in collaboration with AG’s office.</p>
<p>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</p>	<p>The salient elements of this proposal call for consideration to be given to a National Consultation Mechanism [Regional obligation in Article XXV, 4. (1) of the CARICOM Charter of Civil Society], to be</p>	<p>Drafting to be determined by the AG’s office.</p>

<p>directions.</p>	<p>constituted as an Advisory committee to assist the Registrar. Authoritative sources for the role of Civil Society as an equal Partner, meriting a formal consultative relationship with Government, are: The Constitution of The Bahamas: - Second Preambular Paragraph - Chapter III “Protection of Fundamental Rights and Freedoms of the Individual” The United Nations: - Charter’s Preamble’s opening, clarion words: “WE THE PEOPLES’... - Charter’s Article 71- Economic and Social Council’s (ECOSOC’s) Resolutions 288 B (X), 1996/31 The Caribbean Community (CARICOM): - The Charter of Civil Society : Article XXII “Social Partners” : Article XXV, (4), (1) “National Consultation Mechanism”: Article XXVI “Implementation” : The Revised Treaty of Chaguaramas Preamble; Article 6 et al.</p>	
<p>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.</p>	<p>We should recommend, application as per the precedent applying to the registration of new for profit corporations to be approved within 14 days or failing that the NPO can operate or assume of acceptance.</p>	<p>Drafting to be determined by the AG’s office.</p>
<p>Part III- REGISTRATION 7. (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</p>	<p>We feel this clause may compromise Freedom of Assembly. However, we also recognize the need to ensure regulation and compliance with groups organized for a social, cultural and charitable purpose. We propose a short term (3-6 months)provisional registration and declaration for groups that</p>	

<p>one year, or to both such fine and term of imprisonment.</p>	<p>wish to operate for specific purpose such as a fundraising or public education campaign for a medical expense or march/walkathon for an environmental or cultural day. The provisional registration would entail the name , purpose and functional nasturtium of the group. At the end of the provisional registration the group would need to disband or apply for formal registration as an NPO. This will allow an opportunity for small groups opportunity to operate on a small scale and to consider whether they are committed to build a formal organization. In most countries, there is a segment of the NPO sector that operates informally prior to becoming. This may prevent a glut of formal registrations by every group that is passionate but doesn't have the structure to operate as a sustainable NPO.</p>	
<p>PART III – REGISTRATION 7. Registration of non-profit organisations. (d) copies or particulars of the organisational documents; and</p>	<p>The term "organizational documents" should be defined in the interpretation Section 2.</p>	<p>Drafting to be determined by the AG's office.</p>
<p>PART III – REGISTRATION 10. Restriction on name of non-profit organisation. (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",</p>	<p>Changing "in the opinion of" to "with clear evidence"</p>	<p>(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, with clear evidence, suggests or is</p>

<p>“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 —</p>		<p>calculated to suggest —</p>
<p>PART III – REGISTRATION 10. Restriction on name of non-profit organisation. (c) is indecent, offensive or, in the opinion of the Registrar, is otherwise objectionable; or</p>	<p>Changing "in the opinion of" to "with clear evidence"</p>	<p>(c) is indecent, offensive or, with clear evidence, is otherwise objectionable; or</p>
<p>PART III – REGISTRATION 10. Restriction on name of non-profit organisation. (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.</p>	<p>Changing "in the opinion of" to "with clear evidence"</p>	<p>(d) with clear evidence, 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.</p>
<p>PART III – REGISTRATION 10. Restriction on name of non-profit organisation. (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</p>	<p>We still stand that the NPO be given the option to select a different name rather than for the Registrar to specify the new name</p>	<p>Drafting to be determined by the AG’s office.</p>
<p>PART IV – POWERS OF THE REGISTRAR</p>	<p>There has to be due cause for this and procedures spelled out</p>	<p>Drafting to be determined by the AG’s office.</p>

<p>11. Cancellation or suspension of registration. (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.</p>	<p>and a timeframe for an investigation to take place. This would be a function of the Advisory Committee to provide review and commentary in the instance of a considered cancellation or suspension.</p>	
<p>11. Cancellation or suspension of registration. 4 (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.</p>	<p>CSO should be directly notified formally in writing that the Registrar/Commission is minded to cancel their registration (giving reason(s)) and a time frame to appeal. The timeframe should be increased from the current level to at least 60 days (see s. 126(3) of the Insurance Act). Such appeal should be to a Commission/Board. Note comments on Clause 12 [Part IV, NPO Bill, preceding].</p>	<p>Drafting to be determined by the AG's office.</p>
<p>11. Cancellation or suspension of registration. (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.</p>	<p>Clause (5) should precede clause (4) which is a shaming clause, that could damage the reputation of the NPO. Insert time frame of 21 [as per clause 12 (3)] days for the NPO to respond to the allegations. An extended investigation that may drag on for months and months could be critically deleterious to the NPO(for example, it could lose funding or sponsorships as a result of a pending review.)</p>	<p>Drafting to be determined by the AG's office.</p>
<p>PART IV – POWERS OF THE REGISTRAR 12. Removal from the register. 2 (c) it failing to maintain a required financial records,</p>	<p>Recommend the removal of “a”</p>	<p>2 (c) it failing to maintain required financial records,</p>

<p>PART IV – POWERS OF THE REGISTRAR</p> <p>12. Removal from the register.</p> <p>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 record, 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.</p>	<p>Changing "in the opinion of" to "clear evidence"</p>	<p>3) Where there is clear evidence that a non-profit organisation is in default with respect to any requirement as to a return, financial record, 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.</p>
<p>PART IV – POWERS OF THE REGISTRAR</p> <p>13. Distribution of assets on removal from Register.</p> <p>3 (a) in respect of its cash, to the Central Bank; and</p>	<p>Not defined in Clause 2. Recommend to add the definition to Clause 2 and it should refer to the "Central Bank of The Bahamas"</p>	<p>Drafting to be determined by the AG's office.</p>
<p>PART IV – POWERS OF THE REGISTRAR</p> <p>13. Distribution of assets on removal from Register.</p> <p>(b) in respect of property, to the Treasurer.</p>	<p>Not defined in Clause 2. Recommend to add the definition to Clause 2 and it should refer to the "Treasury of The Bahamas"</p>	<p>Drafting to be determined by the AG's office.</p>
<p>15. Power to impose administrative fines.</p> <p>(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 to produce financial records reflecting all monies received</p>	<p>This can be considered excessive given the nature of the non profit sector. Suspension or cancellation may be a more reasonable, unless fraud, laundering or theft is established.</p>	<p>Drafting to be determined by the AG's office.</p>

<p>and expended.</p>		
<p>15. Power to impose administrative fines. (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.</p>	<p>This is excessive given the nature and scope of the non profit sector. On average, preliminary research indicates that on average, Bahamian for profits have budgets of \$25-40K per annum with volunteers instead of paid staff. . As this level of reporting is a new mandate. The most likely driver of lack of compliance in the first year will be lack of capacity. This is an area of note that the registrar (and Advisory committee) can monitor and if it is found to be a significant occurrence, then further regulations may be developed. This is an additional fine. This could be considered onerous for smaller non profits given the ethos behind non profit activity.</p>	<p>Drafting to be determined by the AG's office.</p>
<p>NPO Bill, 2018 16. Power to require information. 2. 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.</p>	<p>It would seem that there is little to ensure that the Registrar will not take confidential information and putting it into the public domain. We recommend reinstating Clause 2. as per the 2018 bill</p>	<p>17. Power to require information. 2. 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.</p>
<p>PART V - RECORD-KEEPING AND REPORTING 19. Obligation to maintain financial records. (4) A non-profit organisation that contravenes subsection (1) or (3) commits an offence summary conviction to a fine not exceeding ten thousand dollars.</p>	<p>This is excessive given the nature of the non profit sector. We recommend suspension and a period to rectify breach at which point fines and prosecution could take place. Civil Society (or the NPO Advisory Committee) with minimum standards for</p>	<p>Drafting to be determined by the AG's office.</p>

	monitoring the NPOs below \$75k threshold	
<p>PART V - RECORD-KEEPING AND REPORTING</p> <p>20. Declaration of availability of financial records.</p> <p>(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.</p>	Recommend redraft	<p>(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.</p>
<p>PART V - RECORD-KEEPING AND REPORTING</p> <p>20. Declaration of availability of financial records.</p> <p>(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.</p>	<p>This was not also increased to 90 days as per Clause (1) A non-profit organisation shall submit its declaration of availability of financial records to the Registrar within ninety days of its registration. We recommend changing it to 90 days.</p>	<p>PART V - RECORD-KEEPING AND REPORTING</p> <p>20. Declaration of availability of financial records.</p> <p>(2) A non-profit organisation that was registered prior to the coming into force of this Act shall submit its declaration within ninety days of the coming into force of this Act.</p>
<p>PART V - RECORD-KEEPING AND REPORTING</p> <p>22. Production of records.</p> <p>(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</p>	<p>We recommend change "has reason to believe" and replace with "has reasonable grounds" as per Clause 35 (5) and []. We recommend insert "credible" before "information that" This would also be a section where the Advisory Council</p>	<p>(2) The Registrar may give notice under subsection (1) only where he has reasonable grounds or has information that the non-profit organisation is engaged in activities that are identified risks.</p>

<p>activities that are identified risks.</p>	<p>could participate in the risk assessment of NPO activities.</p>	
<p>PART V - RECORD-KEEPING AND REPORTING 22. Production of records. (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.</p>	<p>This is excessive given the nature of the non profit sector. Suspension from the registration would be a fairer option.</p>	<p>Drafting to be determined by the AG's office.</p>
<p>PART V - RECORD-KEEPING AND REPORTING 22. Production of records. (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.</p>	<p>This is excessive given the nature of the non profit sector. In addition, the responsibility for compliance would be on the board , or governing body, of an NPO, not an individual person. This also would be an instance where suspension or cancellation would be an appropriate circumstances unless fraud, theft and laundering are suspected and then the pertinent standing legislation for these would apply.</p>	<p>Drafting to be determined by the AG's office.</p>
<p>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.</p>		
<p>PART VI - MISCELLANEOUS 28. Right of appeal. A non-profit organisation may appeal to the court against a decision of the</p>	<p>We believe this should go to arbitration/dispute settlement / tripartite panel first before the courts, or a cheaper faster legal alternative.</p>	<p>Drafting to be determined by the AG's office.</p>

<p>Registrar to—</p>	<p>The right of appeal should be to a Commission/Board (or an Ombudsman) instead of an immediate appeal to the Supreme Court of The Bahamas. This will allow for the possibility of issues being resolved before adding them to an already over-burdened court system. There are national, regional and international independent mediation/arbitration/dispute settlement bodies on the basis of which an amendment clause can be drafted. Most non profits will not have the ability or resources to go to court to challenge the Registrar.</p>	
<p>THIRD SCHEDULE OBJECTS AND REASONS 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.</p>	<p>We recommend removal as the issues relating to this clause no longer apply to the revised Bill.</p>	
<p>THIRD SCHEDULE OBJECTS AND REASONS Clause 24 of the Bill seeks to</p>	<p>This Clause is incorrect and should be amended from \$50,000 to \$100,000.</p>	

<p>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.</p>		
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ADVISORY COMMITTEE TO THE REGISTRAR

Existing Clause	Improvement recommended	Proposed Clause
<p>Part I Clause 1bis</p>		<p>General Principles:</p> <ul style="list-style-type: none"> ● Contribution of the Sector to National Development ● Social Wellness ● Accountability-highest standards of self-regulation, ● Joint collaboration ● Tripartite Consultation
<p>Part II Clause 6bis <u>Establishment of an NPO Council</u></p>	<p>We recommend a separate independent advisory group for the Registrar to assist with</p> <ul style="list-style-type: none"> ● 2nd level of vetting of applications for NPO status ● Consultation on consideration for suspension/discipline ● Facilitate informal groups toward formalization ● Facilitating public education / build funding & technical support strategies to sustain the NGO community ● Consultation on regulations and enactment ● Stipends and funding <p>We recommend that the members of 9 person council will be suggested by Civil Society Bahamas (4) UB(1) Christian Council (2) Disabilities Council(1)Bar Association NAGB (1)</p>	<p>There is hereby established a body to be known as the NPO Advisory Council (hereinafter referred to as “the Council”). The Council shall have responsibility to support the Registrar in:</p> <ul style="list-style-type: none"> ● vetting of applications for NPO status <ul style="list-style-type: none"> ○ Evaluating the Memorandum of Articles and terms of governance. ○ Vetting for name and mission overlap ○ Consultation on consideration for suspension, cancellation or other level of discipline ● 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 ● to stimulate and promote research into any matter relating to non- profit organisations, including — ● (i) collecting and disseminating information or research about

		<p>non-profit organisations;</p> <ul style="list-style-type: none"> ● (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; <p>Consultation on consideration for suspension/discipline</p> <p>Review of concern and breach of standards</p> <p>Facilitate informal groups toward formalization</p> <p>Facilitating public education / build funding & technical support strategies to sustain the NGO community</p> <p>Consultation on regulations and enactment</p> <p>Stipends and funding</p> <p>assess compliance with the general principles, and to advise on:</p> <ul style="list-style-type: none"> ● Minimum Standards for non-registered NPOs ● Liason for Best Practices and Technical Assistance As appropriate, for registered NPOs ● Inspections ● Appeals
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MINIMUM STANDARDS FOR ALL NPOs

We appreciate that you given concessions with respect to the lower spectrum.

We believe all should be regulated. We are serious about accountability. As accountability leads to sustainability. Whilst we accept the exemptions we would like to work with you to determine minimum standards. Groups under \$75K should have requirement of meeting standards such as the declaration. Additionally, we would advocate that all NPO's regardless of orientation or composition should hold the same requirements for reporting.

Existing Clause	Improvement recommended	Proposed Clause
<p>PART V - RECORD-KEEPING AND REPORTING 19. Declaration of availability of accounting records. (3) A non-profit organisation whose business turnover does not exceed seventy five thousand dollars per annum shall not be required to submit a declaration under this section.</p>	<p>All NPOs should have a standardized level of accountability. As such, we recommend that Clause (3) be removed. NPO's , without exception, should file the declaration. This will encourage record financial record keeping and prevent incentivizing NPO's to "remain small" to avoid declaration/regulation Anonymous donors must be balanced with the overriding priority for the Government to curb/eliminate money-laundering, corruption, exploitation of the vulnerable. It must be concretely demonstrated to Government that Civil Society understands and is prepared to assist the Government in solving this challenge.</p>	<p>removal of subsection (3)</p>
<p>PART VI - MISCELLANEOUS NEW Clause 35. Non-application of Part V of the Act.</p>	<p>We appreciate the exclusions considered for certain NPOs, but feel that the same standards and regulations should apply to all NPOs that operate in The Bahamas. Exemptions such as these create potential loopholes that those seeking to avoid regulation and compliance might exploit. This can damage the integrity of the NPO sector.</p>	

As such we recommend the removal of section 35 (2). Below are our rationales.

(A) Same as B

(B) NPO groups that do not solicit the general public or take any government concessions may expose a risk to laundering as they could be reliant upon a sole private donor. They should still be subject to declaration. Similarly, the registered fiduciary, manager or service provider is bound to their regulation, but the group should be similarly bound to standards and regulation as the remainder of the sector.

(C) (E) Exclusion of religious or umbrella NPO's under these conditions create inequity among the sector based on arbitrary attributes. As an example, many stand alone non-religious NPOs currently have a mandate in their articles to present their budgets to their membership and vote on it's acceptance.

Additionally, there should not be exemptions made based on the sectarian nature of the groups. All NPOs are expected to operate toward the common good and in good faith regardless of spiritual focus.

(D) Groups that affiliate or represent internationally accredited organizations

	<p>should still make declaration on financial records locally. In instances of Disaster relief , scholarships, or other campaign donations, they may receive a very high level of donations or even those at \$100,000 or above. In other countries, these groups are bound to report both locally and internationally</p>	
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PROTECTION OF CONSTITUTIONAL RIGHT FOR INFORMAL SECTOR

Allow informal organizations for time & scope limited operations

- Groups must make basic declaration of purpose and timeline (short term efforts such as CRT, stake out, fundraising for a medical emergency or scholarship. .
- Protects Freedom of Assembly
- Provides time and opportunity for small groups to get started

INCENTIVES FOR ALL NPOs

[Make a narrative that the sector is a very important investment with a very high return on incentive. 1000 hours on national development. Saving youth, addressing NCM, saving the environment, caring for the disabled, keeping culture alive and building toward a sustainable].

NPOs that operate within the requirements could be incentivise as follows:

- Business license rebate for donations of \$5,000 or from companies
- NPO has priority to apply for crown land
- Apply for UB and BTVI scholarships for staff
- New Developments mandate to support a local NPO in HoA
- A percentage of dormant funds in NIB
- Apply for Government grants
- Volunteer govt employees get time off
- Able to apply for duty free equipment

- Duty free for fundraising activities

In an interdependent, globalised World, Sovereignty while requiring pragmatism and compromise, demands leadership in the protection and promotion of National Interests. Every crisis has within it an opportunity. The opportunity for The Bahamas with respect to the NPO Sector of Civil Society, is not for it to be seen as a liability, irritant or complication, but as a potential, repurposed engine for National Development and Economic Growth. How? By recognition and adoption of the following Guiding Principles.

**SECTION 3
IMPROVEMENTS MADE TO THE NPO BILL, 2018**

Civil Society again recognizes the efforts of The Office of the Attorney General in making favorable amendments to the NPO Bill, 2018 in response to feedback and consultation from the affected sector. We feel confident that this exercise in responsive governance has already resulted in the enhancement of the bill. Below is an itemized record of amendments in accordance with suggestions from previous consultation.

Clause in the NPO Bill, 2018	Revised Clause in NPO Bill, 2019
<p>8. Registration of non-profit organisations. (4) In considering an application submitted by a non-profit organisation for registration, the Registrar shall have regard to — (f) anticipated source of contributions; (g) records of contributions and contributors; (h) evidence of how contributions were or are to be applied; (i) evidence of “Know Your Client” compliance; (k) any other matter the Registrar considers relevant.</p>	<p>Clauses (f), (g), (h) and (i) were removed lessening the burden on NPO registration.</p>
<p>PART III – REGISTRATION 10. Restriction on name of non-profit organisation. (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,</p>	<p>This solves the “name squatting” issue</p>
<p>PART IV – POWERS OF THE REGISTRAR 12. Cancellation or suspension of registration. (b) failed, without reasonable cause, to maintain proper financial statements reflecting all monies received and expended;</p>	<p>The replacement clause lessens the burden on NPO record keeping (b) failed, without reasonable cause, to maintain <u>financial records</u> pursuant to section 19; this lessens the burden on NPO record keeping</p>
<p>PART IV – POWERS OF THE REGISTRAR 12. Cancellation or suspension of registration. (c) failed, without reasonable cause, to submit annual returns, notice or other required documents; or</p>	<p>The replacement clause lessens the burden on NPO record keeping (c) failed, without reasonable cause, to submit its declaration of availability of financial records pursuant to sections 20 and 21; or</p>
<p>PART IV – POWERS OF THE REGISTRAR 15. Power to conduct on-site inspections. (1) The Registrar may, from time to time and at the expense of a non-profit organisation,</p>	<p>By removing “at the expense of a non-profit organisation”, the burden of cost has been lessened on NPOs</p>

<p>conduct on-site inspections of the business of the non-profit organisation for the purpose of satisfying himself that the non-profit organisation is in compliance with the provisions of this Act and the Register of Beneficial Ownership Act, 2018 and any regulations made thereunder.</p>	
<p>NPO Bill, 2018 PART V - RECORD-KEEPING AND REPORTING 18. Obligation to maintain accounting records.</p>	<p>Replacing the obligation to maintain accounting records in the NPO Bill, 2018 with “financial records” in the NPO Bill, 2019 thus lessening the burden on NPO record keeping.</p>
<p>NPO Bill, 2018 PART V - RECORD-KEEPING AND REPORTING 18. Obligation to maintain accounting records. (2) Accounting records 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.</p>	<p>Replacing accounting records in the NPO Bill, 2018 with “financial records” in the NPO Bill, 2019 thus lessening the burden on NPO record keeping.</p>
<p>PART V - RECORD-KEEPING AND REPORTING 19. Obligation to maintain accounting records. (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.</p>	<p>This clause reduces the reporting burden on NPOs under \$75k annual income</p>
<p>NPO Bill, 2018 PART V - RECORD-KEEPING AND REPORTING 19. Declaration of availability of accounting records.</p>	<p>Replacing accounting records in the NPO Bill, 2018 with “financial records” in the NPO Bill, 2019 thus lessening the burden on NPO record keeping.</p>
<p>NPO Bill, 2018 PART V - RECORD-KEEPING AND REPORTING 20. Submission of declaration of availability of accounting records.</p>	<p>Replacing accounting records in the NPO Bill, 2018 with “financial records” in the NPO Bill, 2019 thus lessening the burden on NPO record keeping.</p>
<p>NPO Bill, 2018 PART V - RECORD-KEEPING AND REPORTING 20. Submission of declaration of availability of accounting records. (1) A non-profit organisation shall within sixty days of its registration submit its declaration of availability of accounting records.</p>	<p>By increasing the time from 60 to 90 days, it gives NPOs more time to comply.</p>
<p>NPO Bill, 2018</p>	<p>Replacing accounting records in the NPO Bill, 2018</p>

<p>PART V - RECORD-KEEPING AND REPORTING 21. 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 accounting records that are required to be kept under section 18.</p>	<p>with “financial records” in the NPO Bill, 2019 thus lessening the burden on NPO record keeping.</p>
<p>NPO Bill, 2018 PART V - RECORD-KEEPING AND REPORTING 22. Confidentiality of accounting records.</p>	<p>Replacing accounting records in the NPO Bill, 2018 with “financial records” in the NPO Bill, 2019 thus lessening the burden on NPO record keeping.</p>
<p>NPO Bill, 2018 PART V - RECORD-KEEPING AND REPORTING 23. Reportable donations and disbursements. A non-profit organisation shall submit to the Registrar all donations and disbursements of thirty thousand dollars or more made by a person on an annual basis where the donation or disbursement is made as a lump sum or as aggregate sums.</p>	<p>By increasing the amount to \$100,000 in the NPO Bill, 2019 thus lessening the burden on NPO record</p>
<p>PART VI - MISCELLANEOUS NEW Clause 35. Non-application of Part V of the Act.</p>	<p>Now exempts many non profits from PART V - RECORD-KEEPING AND REPORTING, namely a NPO that</p> <ul style="list-style-type: none"> (a) does not solicit funds from the general public or receive concessions from the Government or any statutory body in the pursuit of its objects; (b) has as its fiduciary, management or other service provider, a person that is registered pursuant to the Banks and Trust Companies Regulation Act (Ch. 316); (c) is a non-denominational or stand-alone religious entity or congregation which certifies, in writing, that it maintains its annual bank records and accounting statements and that its membership reviews and votes to approve or reject such records and statements in its annual general meeting; (d) is an internationally recognised or accredited charitable, medical, providential or relief organization; or (e) is a constituent unit of an umbrella organisation whose members are mandated by its constitution, by-laws or documents of incorporation to have its annual bank records and accounting records reviewed and voted on to approve or reject each

	<p>calendar year in an annual general meeting of its members.</p>
<p>PART VI - MISCELLANEOUS NEW Clause (3) An umbrella organisation shall register on behalf of its constituent units.</p>	<p>Gives umbrella organisation the ability to register its members, which may ease the burden of compliance for some NPOs.</p>
<p>NPO Bill, 2018 FIRST SCHEDULE REGISTRATION FORM FOR NON-PROFIT ORGANISATIONS Removed the following information required on Registration</p> <ul style="list-style-type: none"> ● NPO MISSION STATEMENT ● NPO VISION STATEMENT ● 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 ● Please state the criteria for becoming a member of your organisation: ● Total number of members: ● Number of adult members: ● Number of child members (i.e. persons under 18):_____ (below 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). ● 4. ORGANISATION'S EXPENDITURE REPORT ● State NPO's financial year end: ● Is there a first time membership fee? ● Is there an annual membership fee? If yes, how much? ● Does your NPO have operational costs? ● Name of operational cost (e.g. rent, gas, electricity) ● Are any wages, salaries, and/or 	<p>The removal of these requirements will ease the burden on registration to both applicant and The Registrar.</p>

<p>personal emoluments paid by the NPO? YES/NO</p> <p>If yes, please complete the fields below.</p> <ul style="list-style-type: none"> ● 5. REPORT ON FUNDS RAISED ANNUALLY ● Total funds raised during your last financial year? ● Total amount raised within The Bahamas ● Total amount raised outside of The Bahamas ● Details of fund-raising ● Date / Event(s) / Purpose of event / Amount raised ● 6. FUNDS RECEIVED THROUGH DONATIONS ANNUALLY ● Total funds received through donation during your last financial year? ● Total amount received through donations within The Bahamas ● Total amount received through donations outside of The Bahamas ● Details of donation ● Date / Reason for donation / Name of donor / Amount donated ● 7. REPORT ON FUNDS DISBURSED ANNUALLY ● Total funds distributed in your last year? ● Total amount distributed within The Bahamas ● Total amount distributed outside The Bahamas ● Details of Distributions ● Date / Event / Purpose / Amount Distributed 	
<p>NPO Bill, 2018 SECOND SCHEDULE FEES</p> <p>1. Application for registration (b) for existing organisations</p> <p>(i) where gross annual income does not exceed two \$50.00 hundred and fifty thousand dollars</p> <p>(ii) where gross annual income exceeds two hundred \$100.00 and fifty thousand dollars</p>	<p>Both these categories pay no fees on Registering in the NPO Bill, 2019</p>

<p>NPO Bill, 2018 SECOND SCHEDULE FEES 2. Application for renewal of registration (b) where gross annual income exceeds two hundred and fifty thousand \$100.00</p>	<p>This category will now pay only \$50 in the NPO Bill, 2019</p>
<p>NPO Bill, 2018 SECOND SCHEDULE FEES 3. Certified copy of a document \$25.00</p>	<p>The 2019 Bill waives this fee</p>
<p>NPO Bill, 2018 SECOND SCHEDULE FEES 4. Uncertified copy of a document \$10.00</p>	<p>The 2019 Bill waives this fee</p>

APPENDIX 1 - GUIDING PRINCIPLES

I. NPOs ARE ESSENTIALLY INDEPENDENT, CHARITABLE, NOT COMMERCIAL ENTITIES

Acknowledgement that even though under The Companies Act, their focus is specific and/or specialised initiatives for welfare and societal betterment. Where initiatives result in financial gain, the same are reinvested into the vision and mission of the NPO, and not disbursed to members or shareholders. They are also contradistinguished from non-governmental organisations (NGOs) whose focus is usually more broad, and, centred on advocacy. NGOs were first formally recognised and defined by the United Nations [ECOSOC Resolutions 288 (X) of 27 February, 1959, and, 1996/31 Of 25 July, 1996].

II. NPOs ARE ETHICAL AND MORAL IMPERATIVES WITHIN SOCIETY

There is an ethical dimension to NPOs, divinely based in Ecclesiastes 11:1 [MSG]

“Be generous: Invest in acts of charity. Charity yields high returns”.

This was scientifically corroborated in the Paper “Gross Domestic Philanthropy: An International Analysis of GDP, Tax and Giving”, by the Charities Aid Foundation (CAF) [2016, page 3]¹. This Study found, *inter alia*:

“There is a correlation between charitable giving and other aspects of giving such as volunteering time and helping a stranger – backing up other data sources which have shown that those who volunteer their time are more likely to give monetarily to charity.”

III. THE NPO SECTOR SHOULD BE SUBJECT TO A RISK BASED APPROACH

While Recommendation 2 [“National Cooperation and Coordination”] of The FATF Recommendations points to the accountability of NPOs, its very first Recommendation [“Assessing Risks and Applying a Risk-based Approach”] clearly indicates that all NPOs should not be subject to the same degree of severe scrutiny and penalties:

“Based on that assessment, countries should apply a risk-based approach (RBA) to ensure that measures to prevent or mitigate money laundering and terrorist financing are commensurate with the risks identified. This approach should be an essential foundation to efficient allocation of resources across the anti-money laundering and countering the financing of terrorism (AML/CFT) regime and the implementation of riskbased measures throughout the FATF Recommendations. Where countries identify higher risks, they should ensure that their AML/CFT regime adequately addresses such risks. Where countries identify lower risks, they may decide to allow simplified measures for some of the FATF Recommendations under certain conditions.”

Consequently, NPOs should be categorised according to the spirit of The FATF Recommendations, and waivers governed by the resultant conclusions of FATF recommended risk assessments. In addition, The Central Bank of The Bahamas, recently declared that NPOs and Churches represented a minimal risk for money laundering.

IV. NPOs SHOULD BE ACCOUNTABLE

Waiver, however, should not nullify accountability. Civil Society, therefore, proposes **Minimum Standards for NPO Categories** eligible for waiver, to be agreed between Government and Civil Society Bahamas (CSB). In

¹ <https://www.cafonline.org/docs/default-source/about-us-policy-and-campaigns/gross-domestic-philanthropy-feb-2016.pdf>
Report & Recommendations on the NPO Bill, 2019

APPENDIX 1 hereto is a Framework for such Minimum Standards, to be **supplemented by Clauses 25** [**“Registration Required to Open and Maintain Bank Accounts, Etc.”**], and, **35 (3) and (4)** [**“Non-Application of Part V of the Act”**] to be incorporated as an additional Schedule to the NPO Bill. A possible title for the proposed new Schedule to be *‘Declaration of Funds’*.

V. IMPLEMENTATION OF THE ACT WILL REQUIRE COLLABORATION

Given the stated ethos of NPOs, and their demonstrated value-added to National Life and Government Programmes and challenges, CSB proposes further partnership with Government, through the Registrar, for more effective outcomes from the existing, disparate and fragmented collaboration. Such improved collaboration could redound in:

- Capacity strengthening of the Office of the Registrar for the significant increase in registration which the Bill will provoke. Relevant areas include: Clauses 3 [**“Registrar of Non-Profit Organisations”**], 16 [**“Power to Conduct On-site Inspections”**], 28 [**“Right of Appeal”**], and the First Schedule [**“Registration Form for Non-Profit Organisations”**]
- CSB on behalf of the NPO Sector and wider CSO Sector (Civil Society Organisations), has already demonstrated capability and initiative in this regard, in terms of the value-added it can bring to the Registrar, evidenced by its Civil Society Sector ***Mapping Initiative***², ***Self Regulation Scheme for the Sector***³ and Civil ***Society Strategic Plan***⁴.
- Capacity-building for the NPO Sector as a result of mandated accountability, better organisation, and resultant greater credibility to attract support and resources.
- Attraction of greater investment can result in greater socio-economic impact, both for individual beneficiaries and the National Economy, as clients/beneficiaries become not only empowered or self-sufficient, but also become the catalyst to inspire domestic philanthropy and profitable partnerships.
- Such NPO client empowerment can equally boost revenue returns directly, as well as provide evidence to Government that there can be exponential revenue returns if domestic and external investments in the Sector are incentivised by concessions such as waiver of Business Licenses.-.

² <https://www.civilsocietybahamas.org/mapping-the-sector>

³ <https://www.civilsocietybahamas.org/self-regulation>

⁴ <https://www.civilsocietybahamas.org/csb-strategic-plan>

APPENDIX 2 - FRAMEWORK OF MINIMUM STANDARDS for consideration by the

PRINCIPLE 1 - LEGAL

- STANDARD 1

- The CSO should seek to be incorporated in accordance with the laws of The Commonwealth of The Bahamas and comply with all regulatory licensing and financial standards and requirements.

1.1.1 In addition to the 2014 Regulation, all CSOs should seek to comply with any other local and international legislation, regulation and best practices that is applicable to its constitution, management and operations. (Note that Section 5 of the 2014 Regulations explicitly states that "A non-profit organisation shall not conduct operations unless registered under the Companies Act (Ch. 308) and in accordance with these Regulations.")

- STANDARD 2

- All CSO should have written policies and procedures (applicable to the size and complexity of the organisation) which establishes the legal obligations and expectations of the organization.

PRINCIPLE 2 - GOVERNANCE

- STANDARD 3

- Each CSO should be led by a Board of Directors.
- The Board should ensure that there are policies which govern its structure, composition (size and diversity) and the compensation of its members (if applicable).
- The number and composition of the Board members and the structure of the Board should be commensurate with the size and complexity of the institution.

- STANDARD 4

- The Board should meet regularly to deal with the business of the CSO. At minimum the Board should meet quarterly
- The Board should have a policy governing the details of its meeting to include frequency, participants required to attend and the consequences of failure to attend meetings.

4.2.1. Attendance at such meeting may be by digital means unless byelaws dictate otherwise

- STANDARD 5

- The Board of the CSO should set the "tone at the top" and this should be' enshrined in a Code of Ethics and Accountability, specific to the Board.
- This code should detail the legal and ethical duties and obligations in relation to the contents of the governance documents, fiduciary responsibilities, the structure and management of operations.
- This code should include controls and policies including, inter alia:

- A clearly defined conflict of interest policy for members (which includes, at a minimum, an obligation to disclose relationships and/or their family and/ or their interest in entities doing business with the CSO where there is at least 10% ownership and/ or control of the entity.)
- A conflict of interest policy governing staff, volunteers, consultants, and independent contractors and their families;
- A commitment by Board members to understand their collective and individual roles;
- The Board's commitment to ensuring the achievement of the organization's goals by creating strategic plans, operational plans, contingency plans, implementing budgets, monitoring and assessing progress and evaluating results;
- The Board's commitment to exercising effective control including implementing adequate compliance, financial, management and risk mitigation controls;
- The Board's commitment to ethics and integrity for its stakeholders including, staff and volunteers; and
- The Board's commitment to accountability and transparency. To evidence Transparency and Accountability, the CSO, *inter alia*, should produce at least an annual report on its activity. This report should be made widely available to the general public.

PRINCIPLE 3 - TRANSPARENCY & ACCOUNTABILITY

- STANDARD 6

- The CSO should produce at least an annual report on its activity.
- This report should be made widely available to the general public.
- Larger, mature CSOs with an annual budget in excess of [\$1million?] should consider providing reports on activities at least twice a year or more and where required to have audited financial reports these should accompany the annual activities report. Small CSOs with an annual budget of less than [250,000?] are not required to have accompanying financial accounts to the annual report audited.

PRINCIPLE 4 - FINANCIAL OVERSIGHT

- STANDARD 7

- To foster Financial Oversight, all CSOs must maintain adequate financial records of its activities. (See section 12, 2014 Regulations)
- To facilitate this all CSOs must have policies governing the budgeting process, the separation and control of accounts, the management of expenditures and the form and content for financial statements.
- This will also include policies specific to the active management of expenses, income, fundraising and the use of funds, loans and disbursements.
- The policies should be reviewed and updated in line with the growth of the CSO.

- STANDARD 8

- All CSOs should prepare an annual report of their financial performance.
- In line with the “Governance” provision on “Transparency and Accountability”, this report should be made widely available to the general public.
- Where the CSO has a website, the CSO is encouraged to publish its annual report and financial accounts on its website.

PRINCIPLE 5 - FUNDRAISING & COMMUNICATION

- STANDARD 9

- All CSOs should have policies to govern solicitation and fundraising communications (paper and electronic).
- At minimum the policy should include the requirement that the CSO produce truthful and clear information in its solicitation and communication materials (including any available supporting evidence).

- STANDARD 10

- The CSO should have documented policies which deal with donor related issues including donor privacy.
- The CSO should have a policy which details its position with respect to the handling of donor information.
- Other donor related issues that should be governed by this policy include Donor communications, accountability, recording keeping and acknowledgment and contribution compliance.
- Donors should be made aware of the CSO’s position on the issues which affect them, and provide documentation to show that they have been advised.
- For transparency it is also recommended that CSOs reference relevant provisions of governing legislation in their documentation.

PRINCIPLE 6 - MONITORING & EVALUATION

- STANDARD 11

- The management of complaints is essential to maintaining trust between the CSO, the donor, the public and government agencies and other entities with whom the CSO engages. All CSOs should develop a complaints policy which assures prompt action and response to complaints.

- STANDARD 12

- The CSO should implement a policy that mandates the periodic evaluation of its program effectiveness; efficiency; compliance with applicable legislation, standards and mission objects; its impact in the sector; the Board; and the overall organization itself.