

NON-PROFIT ORGANISATIONS ACT, 2019

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NON-PROFIT ORGANISATIONS ACT, 2019

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, 2019.
- (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 records” means records that show —

- (a) and explain a non-profit organisation's transactions in sufficient detail to demonstrate that its funds have been used in a manner consistent with its purposes, objectives and activities; and
- (b) the sources of its gross annual income, so that its financial position can be determined with reasonable accuracy”;

“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, but excludes a religious or charitably founded school

registered with the Ministry of Education, and any organisation with political objectives;

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

“**Registrar**” means the Registrar General.

PART II – ADMINISTRATION

3. Registrar of non-profit organisations.

- (1) The Registrar shall be responsible for the administration of this Act.
- (2) 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 records 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.

- (1) 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.
- (2) The Minister may from time to time, after consultation with the Registrar, issue guidance notes to be published in the Gazette for the better management of non-profit organisations registered under this Act.

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) Subject to section 34(3), 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 the non-profit organisation and issue to the non-profit organisation a certificate of registration upon —
 - (a) being satisfied that the non-profit organisation is suitable for registration; and
 - (b) payment of the fee set out in the *Third Schedule*.
- (4) In considering an application for registration, the Registrar shall have regard to —
 - (a) the declared purposes of the non-profit organisation;
 - (b) the identity of the controller and other members of the non-profit organisation;
 - (c) copies or particulars of the organisational documents; and

- (d) evidence of the board structure.
- (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 certificate of registration is valid for a period of two years from the date of issue.

8. Renewal of registration.

The Registrar shall renew a certificate of registration upon an application being made in the form set out in the First Schedule and the payment of the fee set out in the Third 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 records pursuant to section 19;
 - (c) failed, without reasonable cause, to submit its declaration of availability of financial records 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 records,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 records, 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.

- (4) For the purposes of paragraph (a) of subsection (2), “a change in its purpose” does not include the receipt of tuition fees or sale of items for fund-raising purposes.

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 an investigation it is proven that a non-profit organisation has failed, without reasonable cause to produce financial records reflecting all monies received and expended.
- (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 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 records under section 19(3) 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.

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 records.

- (1) Subject to subsection (3), a controller of a non-profit organisation shall cause reliable financial records to be kept at its registered office address.
- (2) Financial 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 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 records.

- (1) Subject to section 19(3) a non-profit organisation shall maintain at its registered office address a declaration, in the form set out in the *Second Schedule*, stating that —
 - (a) it is maintaining reliable financial records; and
 - (b) its financial records shall be made available through its office administrator, registered agent, registered office or person who as the non-profit organisation's fiduciary, management body or other service provider, is regulated by the Banks and Trust Companies Regulation Act (*Ch. 316*) or the Financial and Corporate Service Providers Act (*Ch. 369*).
- (2) An incorporated non-profit organisation that submits a declaration under 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 records.

- (1) A non-profit organisation shall submit its declaration of availability of financial records 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 records 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 records.

- (1) Subject to subsection (2) a non-profit organisation's financial records 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 records 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 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.
- (2) The declaration made pursuant to subsection (1), shall be kept confidential by the Registrar and may only be disclosed to a lawful authority for analysis or investigation.
- (3) A non-profit organisation shall —
 - (a) keep records with respect to reportable donations for a minimum of five years from the date of the transaction to which the record relates; and
 - (b) make those records available for verification purposes.
- (4) A non-profit organisation that —
 - (a) is registered, shall submit its declaration of availability of reportable donations to the Registrar within ninety days of its registration;
 - (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.

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.

26A. Non-application of Part V of the Act.

- (1) With the exception of sections 18,19, 20, 21 and 25, Part V of this Act does not apply to a non-profit organisation that —
 - (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*) or the Financial and Corporate Service Providers Act (*Ch. 369*);
 - (c) is a non-denominational or stand-alone religious entity or congregation which certifies, in writing, that it maintains its annual financial records and that its membership reviews and votes to approve or reject such records in its annual general meeting;
 - (d) is an internationally recognised or accredited charitable, medical, providential or relief organization;
 - (e) is a constituent unit whose members are mandated by its constitution, by-laws or documents of incorporation to have its annual financial records reviewed and voted on to approve or reject, each calendar year in an annual general meeting of its members.
- (2) An umbrella organisation shall register on behalf of its constituent units.
- (3) An umbrella organisation shall certify, in writing, that its constituent units have complied with its obligations to —
 - (a) maintain annual financial records; and
 - (b) cause the said records to be reviewed and voted upon each calendar year in its annual general meeting.
- (4) Where the Registrar has reasonable grounds to believe or has information that any constituent unit is engaged in activities that are identified risks, the Registrar shall, by written order —

- (a) require that the respective constituent unit or, where applicable, the umbrella organisation submit any financial records or other information that show the financial status of the constituent unit;
 - (b) require a bank or financial institution, where the constituent unit or the umbrella organisation has an account, to submit any financial records; or
 - (c) exercise such powers under Part IV as the circumstances require and refer all information to the Commissioner of Police, the Attorney-General and the Director of Public Prosecutions, where it is found to the satisfaction of the Registrar that a non-profit organisation under subsection (1) or a constituent unit of an umbrella organisation has engaged in any identified risk activity.
- (5) For the purposes of this section —
- (a) **“constituent unit”** means a subsidiary, branch, affiliate or any other such unit of an umbrella organisation;
 - (b) **“umbrella organisation”** means a civic, social, fraternal or religious non-profit organisation that governs and regulates its constituent units, for example, an arch-diocese, a diocese, national convention, national assembly, council or a grand or district grand lodge or chapter, local society or club district or local organisation, and any entity which is internationally recognised or accredited.

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 *Third 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) 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.

- (3) A non-profit organisation that has a physical presence in The Bahamas and is in existence immediately before the date of the commencement of this Act, shall be deemed registered if it submits —
- (a) a registration form as set out in the *Second Schedule*; and
 - (b) a completed declaration as set out in the *Second Schedule* within ninety days of the coming into force of this Act and such non-profit organisation shall be exempt from the payment of the registration fee set out in the *Third Schedule*.

FIRST SCHEDULE

(Section 8 (2) & (5))

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 provided in this Form.

Tick the appropriate box:

- New application Umbrella Organisation
- Renewal of registration
- Change of information
- Projected or annual turnover of \$75,000 or more: Yes No

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

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

1. ORGANISATION CONTACT DETAILS

Name (or proposed name) of Non -profit Organisation (“NPO”):			
Contact details for NPO	Office Telephone:	Cell Phone:	Email:
	Address:		Website (if any):

2. CONTROLLER(S) CONTACT INFORMATION

Name:	Address:
Telephone (if different from above):	Position in NPO:
Email:	

3. ORGANISATION OPERATING DETAILS

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

b. Does your organisation have subsidiary organisation(s)? YES NO

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

1. _____
2. _____
3. _____

d. Please provide the information below for the *President, Vice President, Secretary* and *Treasurer* of the non-profit organisation:

PRESIDENT	Name:	
	Telephone:	Email:
	Address:	
VICE PRESIDENT	Name:	
	Telephone:	Email:
	Address:	
SECRETARY	Name:	
	Telephone:	Email:
	Address:	
TREASURER	Name:	
	Telephone:	Email:
	Address:	

If an umbrella organisation, please attach a list of the full name and physical or street address of every constituent unit.

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:** _____

FOR OFFICIAL USE ONLY

SECOND SCHEDULE

(Sections 20(1), 24(1) and 34(3))

DECLARATION FORM FOR NON-PROFIT ORGANISATIONS

Please note that this form must be filled out by the Controller of the non-profit or umbrella organisation.

I, _____ controller of _____
hereby declare that:

- (a) reliable financial records are being maintained and are available through the office administrator/registered agent/registered office or person who as the non-profit organisation's fiduciary, management body or other service provider is regulated by the Banks and Trust Companies Regulation Act (*Ch. 316*) or the Financial and Corporate Service Providers Act (*Ch. 369*); and
- (b) in respect of any donation that is one hundred thousand dollars and above, records are being maintained at the registered office address of the non-profit organisation, whether the donation is made as one lump sum or as aggregate sums.

Signature: _____

Date: _____

THIRD SCHEDULE

(SECTIONS 26A AND 30)

FEEES

- | | | |
|----|------------------------------------|----------|
| 1. | Application for registration | |
| | (a) for newly formed organisations | \$100.00 |
| | (b) for existing organisations | Nil |

- | | | |
|----|---|---------|
| 2. | Application for renewal of registration | \$50.00 |
| 3. | 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 records, as well as making a declaration of the availability of such financial records.

Clause 22 of the Bill seeks to provide that the Registrar may give written notice to require the production of financial records 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 records 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 records 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. Clause 26A provides for the non-application of Part V of this Bill.

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.

Clause 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.

The *First Schedule* makes provision for the Registration form to be completed and submitted to the Registrar General by every non-profit organisation.

The *Second Schedule* makes provision for the Declaration form to be completed by every non-profit organisation.

The Third Schedule makes provision for the fee entries and corresponding rate of fees to be paid to the Registrar General by every non-profit organisation relative to its application, obtaining both its renewal of registration and Certificate of good standing.