

CIVIL SOCIETY ORGANISATIONS BILL, 2015

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CIVIL SOCIETY ORGANISATIONS BILL, 2015

A BILL FOR AN ACT TO PROVIDE FOR THE RECOGNITION, REGISTRATION AND REGULATION OF CIVIL SOCIETY ORGANISATIONS; TO PROMOTE AND ENCOURAGE THE DEVELOPMENT OF CIVIL SOCIETY ORGANISATIONS AND TO CREATE TRANSPARENCY AND ACCOUNTABILITY IN THEIR OPERATIONS; TO ESTABLISH MINIMUM STANDARDS TO BE OBSERVED BY CIVIL SOCIETY ORGANISATIONS AND FOR CONNECTED PURPOSES.

Enacted by the Parliament of The Bahamas

PART I - PRELIMINARY

1. Short title, commencement and application.

- (1) This Act may be cited as the Civil Society Organisations Act, 2015.
- (2) This Act shall come into operation on such date as the Minister may appoint by notice published in the Gazette.
- (3) This Act applies to the whole of The Bahamas.

2. Interpretation.

In this Act, unless the contrary intention appears —

“**auditor**” means a person who—

- (a) examines and reports on financial statements or accounts;
- (b) is a professionally qualified accountant licensed to practice under the Public Accountants Act (*Ch. 364*);

- “Bahamas Civil Society United”** or **“BCSU”** means the umbrella organisation or apex body established by section 25;
- “board of directors”** means the board of directors, or equivalent committee or governing body of persons, responsible for the management and control of a civil society organisation;
- “Bye-laws”** means Bye-laws of a civil society organisation governing its internal regulation;
- “civil society organisation”** means an organisation having the mission and attributes referred to in section 4;
- “Constitution”** means the Constitution of the Commonwealth of The Bahamas;
- “core principles”** means the fundamental values of a civil society organisation, reflected in its mission and consistent with and adhering to the principles and human rights enshrined and accorded in —
- (a) the Constitution;
 - (b) the United Nations International Bill of Human Rights comprising —
 - (i) the Universal Declaration of Human Rights, adopted in 1948;
 - (ii) the International Covenant on Civil and Political Rights, adopted in 1966;
 - (iii) the International Covenant on Economic, Social and Cultural Rights, adopted in 1966;
 - (c) all international and regional human rights treaties to which The Bahamas is a party;
- “financial year”** means the period used by a civil society organisation registered under section 6 to estimate its annual revenue and expenditure;
- “founding documents”** means the documents by which a civil society organisation is established and governed including but not limited to one or more of —
- (a) a memorandum and articles of association;
 - (b) a charter;
 - (c) Bye-laws;
- “Government”** means the Government of the Commonwealth of The Bahamas;

“Government entity” means a ministry, department, statutory body, agency, local government council, or other entity of or controlled by the Government;

“Minister” means the Minister responsible for civil society organisations registered or operating within The Bahamas;

“organisation” includes —

- (a) a company or other body corporate;
- (b) an unincorporated association;
- (c) a foundation;
- (d) any group or body of persons formed to pursue a common cause or shared interests or values;

“public” means one or more natural or legal persons;

“register” means the register of civil society organisations referred to in section 13; and

“Registrar” means the Registrar, or Deputy Registrar, of Civil Society Organisations referred to in section 7;

“sustainable human development” means a programme of activities referred to in section 5(2) carried out by a civil society organisation in The Bahamas.

3. Purpose.

The purpose of this Act is to provide a national regulatory framework for —

- (a) the recognition of civil society organisations in The Bahamas and the role they play in the sustainable development of its people, environment, culture and traditions;
- (b) public accountability and public participation, through civil society organisations, in the decision-making processes in matters affecting or relating to sustainable development and, in particular, environmental sustainability in The Bahamas;
- (c) tripartite partnership, through the mediation of civil society organisations, between the Government, the private sector and the people on all matters affecting, or likely to affect, the well-being, circumstances or prospects of Bahamian society or a sector of Bahamian society.

PART II – MISSION, ATTRIBUTES AND TYPES OF CIVIL SOCIETY ORGANISATIONS

4. Mission of registered civil society organisations.

The mission of a civil society organisation registered under this Act must include, in whole or in part, the attainment of one or more of the following goals

- (a) protection of human life and health;
- (b) prevention and alleviation of human suffering and poverty;
- (c) dissemination of knowledge and advance learning;
- (d) articulation of the interests and demands of the people of The Bahamas;
- (e) defence of the human and democratic rights and reasonable expectations of the people of The Bahamas;
- (f) efficiency of the justice and law enforcement system;
- (g) economic, social, political and cultural development of The Bahamas;
- (h) protection, preservation and promotion of national culture and heritage;
- (i) protection of the natural environment;
- (j) provision of opportunities for people to participate in national decision-making and to serve the public interest;
- (k) delivery of emergency relief services and other types of public service to the people of The Bahamas;
- (l) promotion and protection of social harmony, social welfare and the national and public interest;
- (m) building of constructive partnerships with Government entities;
- (n) effective and efficient use of the public and private financial resources at its disposal for the purposes referred to in paragraphs (a) through (n).

5. Attributes of civil society organizations.

- (1) Subject to this Act and the regulations, an organisation is a civil society organisation where such organisation —
 - (a) has as its primary aim, object and purpose the pursuit in The Bahamas of sustainable human development or environmental sustainability;
 - (b) is founded and operates on a voluntary and non-profit basis;

- (c) is autonomous and independent of Government control in its operations and management;
 - (d) is controlled and managed by a board of directors elected to office for a period and in the manner specified in the organisation's founding documents;
 - (e) where it engages in revenue generating activities, uses revenue generated principally in pursuit of its aims, objects and purposes and distributes profit or surplus to its founders, donors, directors, trustees, shareholders or members only incidentally as a by-product of its activities;
 - (f) acts on concerns and issues which are or may be detrimental to the well-being, circumstances or prospects of people, the environment or society as a whole;
 - (g) has no member of its board of directors, or officer or employee, with an interest in using the aims, objects and purposes of the civil society organisation for personal gain or profit;
 - (h) has voluntary participation by a small or large number of its board members in all its activities and undertakings;
 - (i) is open to the public in its membership;
 - (j) pursues a programme of activities open to participation by the public whether or not a person is a member of the organisation;
 - (k) has published for the benefit of the public, in a manner acceptable to the Registrar, a clear statement of its core principles.
- (2) For the purposes of paragraph (a) of subsection (1) —
- (a) sustainable human development includes, but is not limited to, a programme of activities to —
 - (i) promote, protect, educate the public and encourage respect for human rights generally and the fundamental rights and freedoms enshrined in the Constitution in particular;
 - (ii) encourage, promote, protect and develop the educational system of The Bahamas to meet the basic needs of the society and economy;
 - (iii) educate the public or a section of the public about the Constitution and laws of The Bahamas and their constitutional and legal rights and obligations;
 - (iv) assist communities in general, and women and youth in particular, in the planning, implementation and successful execution of community-based development projects;

- (v) promote and encourage the formation and sustainable growth of organisations concerned with the constitutional and legal rights of workers, fishermen, farmers, women, children, youth and the elderly, disabled, marginalised or otherwise disadvantaged social groups and sections of society;
 - (vi) promote and encourage the observance of primary and secondary health care, sanitary standards and health education;
 - (vii) assist local, rural or urban communities in engaging in income generating production projects;
 - (viii) promote multi-cultural citizenship, patriotism and national consciousness beyond identity at the ethnic level;
 - (ix) promote, protect and disseminate Bahamian culture in all its diversity;
 - (x) promote gender awareness and the participation of women in all spheres of national development;
 - (xi) provide supervised micro-credit schemes to community groups for the implementation of income generating projects;
 - (xii) foster appreciation of the role played by community activities, community leaders and other influential persons in the development of society by promoting and disseminating, in schools, libraries, media outlets including the world wide web, books, pamphlets, magazines and other forms of literature; or
 - (xiii) in ways other than referred to in sub-paragraphs (i) to (xii), promote and facilitate the attainment of the core principles;
- (b) environmental sustainability includes, but is not limited to, a programme of activities to —
- (i) improve and maintain the well-being of the people and the natural environment of The Bahamas and meet the needs of the present generation without compromising the needs of future generations;
 - (ii) promote, protect, educate and encourage respect, wise use, conservation and sustainable development of the natural resources of The Bahamas;
 - (iii) encourage, promote and protect the biodiversity of The Bahamas and the materials utilised to meet the basic needs of Bahamian society;

- (iv) encourage and promote responsible conservation, protection and sustainable use of The Bahamas' natural environment, resources, antiquities and monuments; or
 - (v) develop the educational system of The Bahamas to better equip the public and future generations to preserve and protect the environment and meet the challenges of climatological and other changes.
- (3) A civil society organisation may apply for registration in accordance with this Act and the regulations.

6. Types of registered civil society organisations.

- (1) For the purposes of this Act, a civil society organisation may be registered as —
- (a) a public benefit organisation to benefit society as a whole or a particular section of society;
 - (b) a mutual benefit organisation to advance the shared interests of its members or supporters, including but not limited to an organisation comprising groupings of —
 - (i) people working in a particular profession;
 - (ii) businesses engaged in a particular industry;
 - (iii) youth studying in a university or college;
 - (iv) people interested in a particular cultural activity, sport or hobby; or
 - (c) an international civil society organisation.
- (2) Civil society organisations may include but are not limited to —
- (a) charitable trusts and other charitable organisations;
 - (b) non-profit organisations registered under the Companies Act (*Ch. 308*);
 - (c) non-governmental organisations;
 - (d) cooperative societies;
 - (e) institutions of academia;
 - (f) civic groups and activist groups;
 - (g) community organisations and consumer organisations;
 - (h) professional associations;
 - (i) cultural groups and environmental groups;
 - (j) policy institutions;
 - (k) religious organisations;

- (l) support groups; and
- (m) men's groups, women's groups and youth groups.

PART III – REGISTRATION OF CIVIL SOCIETY ORGANISATIONS

7. Offices of Registrar and Deputy Registrar of Civil Society Organisations.

- (1) There is established for the purposes of this Act the offices and posts of —
 - (a) Registrar of Civil Society Organisations; and
 - (b) Deputy Registrar of Civil Society Organisations.
- (2) The Registrar of Civil Society Organisations and the Deputy Registrar of Civil Society Organisations are public officers.
- (3) The Minister shall, in addition to the appointments of a Registrar and Deputy Registrar respectively, ensure the appointment of such other staff as may be required to enable the full and effectual administration of this Act.

8. Civil society organisations may apply for registration.

- (1) A civil society organisation may at any time apply to the Registrar for registration.
- (2) An application pursuant to subsection (1) must be made in the form prescribed by regulations and submitted to the Registrar together with —
 - (a) certified copies of the founding documents of the civil society organisation;
 - (b) the name and address of the civil society organisation;
 - (c) brief details of the aims, objectives and purposes of the civil society organisation, in particular its mission and goals relating to sustainable human development and environmental sustainability in The Bahamas;
 - (d) information on the organisational structure of the civil society organisation, its membership and management, how its directors are elected, their duties and powers and terms of office;
 - (e) information on the accounting and management procedures of the civil society organisation;
 - (f) the names, addresses and occupation of each member of the board of directors of the civil society organisation for each year, where applicable;

- (g) the types of programmes that the civil society organisation intends to pursue;
 - (h) the maximum annual estimated revenues and grants of the civil society organisation and —
 - (i) where the organisation has revenues and grants of at least two hundred and fifty thousand dollars per annum, the financial statements for the previous financial year, duly audited by an independent auditor;
 - (ii) where the organisation has annual revenues and grants below two hundred and fifty thousand dollars per annum, the statement of accounts prepared by the organisation's accountant or bookkeeper;
 - (i) the Bye-laws, if any, of the civil society organisation; and
 - (j) the prescribed application fee.
- (3) A civil society organisation whose aims, objectives and purposes necessitate utilisation or possession by the organisation of particular technical or professional qualifications, skills or expertise must, within two months after the date of its registration, submit to the Registrar satisfactory proof that its officers and employees are duly licensed or registered to practice their relevant professions in accordance with the laws of The Bahamas regulating such professions.

9. Registration of civil society organisations.

- (1) The Registrar shall, where the Registrar is satisfied on application made pursuant to section 8 that the applicant meets the requirements of sections 5 and 8 —
 - (a) register the organisation as a civil society organisation; and
 - (b) issue to the organisation, upon payment of the prescribed fee, a certificate of registration in the form prescribed by regulations.
- (2) The Registrar may refuse to register an organisation as a civil society organisation where, in the opinion of the Registrar —
 - (a) the name of the organisation is similar to the name of an existing civil society organisation or other organisation or entity such as is likely to mislead the public as to its true identity;
 - (b) the name of the organisation is offensive to good morals; or
 - (c) the application for registration does not comply with the requirements of this Act or the regulations.
- (3) Where the Registrar refuses to register an organisation pursuant to subsection (2), the Registrar shall —

- (a) give the applicant a notice in writing containing the reason for the refusal to register; and
 - (b) direct the organisation to resubmit within such time as may be prescribed by the notice a new application which cures the defect stated in the notice or otherwise complies with the requirements of this Act and the regulations.
- (4) The Registrar shall, where an organisation complies within the time prescribed with the Registrar's direction pursuant to subsection (3), register the organisation as a civil society organisation.
- (5) The Registrar may issue such guidelines or rules as may be necessary or desirable to clarify, assist or facilitate an organisation in the registration process.
- (6) An organisation or a board member or officer or employee thereof, aggrieved by the Registrar's refusal to register the organisation as a civil society organisation, may appeal to the Supreme Court.

10. Registration of international civil society organisations.

- (1) An international, regional or intergovernmental organisation wishing to operate in The Bahamas as a civil society organisation, and whose programme of activities encompasses sustainable human development or environmental sustainability in The Bahamas, must —
- (a) apply for registration under section 8; or
 - (b) collaborate and partner with one or more local civil society organisations whose aims, objects and purposes coincide with the specifics of its proposed projects.
- (2) The Minister may, by order, exempt an organisation referred to in subsection (1) from the requirement of registration under this Act.

11. Rights and privileges of a registered civil society organisation.

Subject to this Act —

- (a) a civil society organisation registered under and in compliance with this Act and the regulations is eligible for and entitled to the rights and privileges referred to in Part V; and
- (b) a civil society organisation is not, while it remains unregistered, eligible for or entitled to receive the rights and privileges granted in Part V to a registered civil society organisation.

12. Cancellation and suspension of registration.

- (1) Subject to subsection (2), the Registrar may cancel the certificate of registration of a civil society organisation —

- (a) where the organisation no longer complies with section 5;
 - (b) where any information, representation, or document is provided or made on behalf of the civil society organisation which —
 - (i) is false or materially misleading;
 - (ii) the person making or providing it did not, at the time it was provided or made, believe to be true; or
 - (c) pursuant to subsection (4) of section 16.
- (2) The Registrar shall, before cancelling a certificate of registration, grant the civil society organisation an opportunity to be heard and to present its case in writing.
- (3) The Registrar may —
- (a) suspend the certificate of registration of a civil society organisation at any time where the organisation is not in compliance with a provision or requirement of this Act or the regulations; and
 - (b) lift the suspension of the certificate of registration of a civil society organisation at any time upon the organisation becoming compliant with this Act or the regulations.
- (4) A civil society organisation, upon cancellation or suspension of its certificate of registration, is not eligible for or entitled to claim the rights and privileges referred to in Part V.
- (5) A civil society organisation, upon the lifting of the suspension of its certificate of registration, may apply to the Minister of Finance for the rights and privileges referred to in section 18 and a refund of the taxes paid by the organisation during the period of its suspension.

13. Register to be open to the public.

- (1) The Registrar shall establish and maintain an up to date register of civil society organisations containing such details of a civil society organisation as may be prescribed by this Act and the regulations.
- (2) The register shall be open to the public at all reasonable hours and available in electronic media.
- (3) A person may, upon payment of the prescribed fee, require an extract or copy of an entry from the register to be certified by or on behalf of the Registrar.
- (4) The Registrar may, where satisfied a certificate has been lost, mutilated or destroyed, issue to a civil society organisation on written request a certified copy of the registration certificate upon payment of such fees as may be prescribed.

- (5) An extract or copy of an entry from the register, certified by or on behalf of the Registrar, is in all legal proceedings receivable in evidence as proof —
 - (a) of the registration of an organisation as a civil society organisation as at the date stated in the entry; and
 - (b) that a certificate of registration was issued to such civil society organisation.
- (6) The Registrar shall publish annually in the month of June of each year —
 - (a) a list of the names and addresses of every civil society organisation registered under this Part; and
 - (b) a copy of the audited financial statements and report submitted to the Registrar pursuant to subsection (2) of section 16.
- (7) The Registrar shall publish the information and documents referred to in subsection (6) —
 - (a) in the Gazette;
 - (b) in at least one local newspaper in daily circulation throughout The Bahamas; and
 - (c) where applicable, on its website.

PART IV – MANAGEMENT AND ADMINISTRATION OF CIVIL SOCIETY ORGANISATIONS

14. Board of directors of civil society organisation.

- (1) A civil society organisation registered under this Act must have, pursuant to its founding documents, a board of directors which is the principal policy-making organ of the civil society organisation.
- (2) The composition of the board of directors must be in accordance with the founding documents of the civil society organisation.
- (3) The founding documents of a civil society organisation must specify the —
 - (a) manner of electing the chairman of the board of directors of the civil society organisation;
 - (b) period for which the chairman is to hold office;
 - (c) place and times at which the board must meet to transact the business of the civil society organisation;
 - (d) conditions which disqualify or make a person ineligible to become a member of the board of directors;

- (e) allowances, if any, which may be paid to a director; and
- (f) person or persons to whom the board may delegate its powers in respect of the management and control of the affairs of the civil society organisation.

15. Executive officer and other staff of a civil society organisation.

- (1) Notwithstanding a contrary provision in its founding documents, the board of directors of a registered civil society organisation —
 - (a) must appoint or employ subject to such terms and conditions as the board thinks fit, a suitably qualified, fit and proper person to be the executive officer of the civil society organisation;
 - (b) may appoint or employ, or direct the executive officer to appoint or employ, subject to such terms and conditions as the board thinks fit, such other officers, employees and agents as the board considers necessary for the proper performance of the organisation's aims, objectives and purposes;
 - (c) has responsibility for and oversight of the performance of the executive officer.
 - (2) The executive officer of a registered civil society organisation is —
 - (a) subject to the general policy directions of the board of directors;
 - (b) responsible for the day to day management of the affairs of the civil society organisation, including the supervision of staff in accordance with the general terms and conditions of service established by the board of directors; and
 - (c) in the absence of an appointment or employment pursuant to subsection (1), deemed to be the president or chairman of the board, or the equivalent person, of the organisation.
 - (3) A registered civil society organisation must formulate and implement a training programme to train its officers and employees to become competent, efficient, effective and professional in delivery of the programmes of activities of the organisation.
 - (4) No member of the board of directors, the executive officer, or officers employees or agents of a registered civil society organisation may utilise, or cause to be utilised, the financial or other resources of the organisation for a purpose other than the attainment of the organisation's aims, objectives and purposes.
 - (5) A person who contravenes or fails to comply with subsection (4) commits an offence and is liable on summary conviction —
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- (a) to a fine not exceeding five thousand dollars or a term of imprisonment not exceeding three months; and
- (b) to pay restitution to the civil society organisation in the sum or equivalent value of the financial or other resources wrongly utilised or caused to be utilised.

16. Reliable accounting records must be kept.

- (1) A civil society organisation registered under this Act must implement internal accounting and administrative procedures sufficient to demonstrate the transparent and proper use of its financial and other resources including but not limited to —
 - (a) keeping accurate and reliable accounting records in relation to its business;
 - (b) preparing annually a statement of accounts conforming to the best national commercial and accounting standards; and
 - (c) having the annual statement of accounts audited by an auditor appointed in each year by the board of directors.
- (2) A registered civil society organisation must, within four months after the end of the organisation's financial year, submit to the Registrar and the Minister, respectively, with respect to such year —
 - (a) a copy of the audited statement of accounts referred to in subsection (1) together with the auditor's report; and
 - (b) a report on the programme of activities and policies of the civil society organisation.
- (3) The documents submitted to the Registrar pursuant to subsection (2) shall form part of the register and be open to inspection by the public upon payment to the Registrar of the prescribed fee.
- (4) Where a civil society organisation fails to comply with a provision of subsection (1) or subsection (2), the Registrar shall independently or at the request of the Minister grant the civil society organisation an opportunity to be heard and to present its case in writing, and, after hearing and considering the case presented by the organisation —
 - (a) may cancel its certificate of registration or extend or grant a time period within which the organisation is to bring itself into compliance with the relevant provisions; and
 - (b) where the organisation is not in compliance within a time period referred to in paragraph (a), may cancel the certificate of registration of the civil society organisation.

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- (5) The Registrar shall, upon the cancellation of a certificate of registration, inform the Minister and the Minister of Finance, respectively, in writing of such cancellation.
 - (6) A civil society organisation, upon cancellation of its registration, is no longer eligible for or entitled to claim the rights and privileges referred to in Part V.
 - (7) For the purposes of paragraph (a) of subsection (1), accounting records must —
 - (a) correctly explain all transactions, within and outside The Bahamas, in sufficient detail to show that the civil society organisation has used its funds in pursuit of its aims, objects and purposes;
 - (b) show the sources of the civil society's gross annual income;
 - (c) enable the financial position of the civil society organisation to be determined with reasonable accuracy at any time;
 - (d) allow statements of accounts to be prepared;
 - (e) include the underlying documentation, including invoices, contracts and receipts, necessary to facilitate (a), (b), (c) and (d); and
 - (f) be kept for a minimum period of five years from the date of the transaction to which such records relate.
 - (8) A civil society organisation aggrieved by the decision of the Registrar to cancel its certificate of registration may appeal such decision in writing to the Minister.
 - (9) The Minister may on an appeal under subsection (8) confirm or set aside the decision of the Registrar.
 - (10) A civil society organisation aggrieved by the decision of the Minister on an appeal may further appeal the decision to the Supreme Court.

17. Role of the Minister.

- (1) The Minister is the national authority with responsibility for the implementation of this Act.
- (2) The functions and duties of the Minister in relation to civil society organisations registered under this Act are to —
 - (a) communicate to Government entities directions of a general or specific character as to the policy of the Government to be followed by such entities in their interactions and relationships with civil society organisations;
 - (b) coordinate the activities of Government entities in their interactions and relationships with civil society organisations;

- (c) oversee and manage the relationship between Government entities and civil society organisations and, in this regard —
 - (i) establish procedures and protocols to be used by Government entities for consultation and cooperation with civil society organisations;
 - (ii) issue directives and guidelines to relevant Government entities whose mandates are shared by civil society organisations on the nature, manner and extent of participation in the decision-making process to be accorded, and the notices to be given, to relevant civil society organisations;
 - (iii) establish and maintain a clear, transparent and consistent framework to ensure that Government entities accord to civil society organisations the rights and privileges referred to in Part V;
- (d) maintain a directory of the address, telephone numbers, and contact persons of BCSU and every civil society organisation registered under this Act;
- (e) establish a schedule for regular meetings and consultation with BCSU;
- (f) accede to reasonable requests made by a civil society organisation for a direct meeting with the Minister to discuss matters of an urgent nature within the mandate of such organisation;
- (g) assist and facilitate organisations wishing to register as civil society organisations under this Act and cause the Registrar to issue such guidelines or rules as may be required to explain and illustrate the criteria for and effects of registration in clear and simple language;
- (h) upon request and within budgetary confines, provide technical, financial or other assistance to develop and strengthen institutionally civil society organisations in The Bahamas;
- (i) identify and recommend, in appropriate cases, suitably qualified and experienced civil society organisations —
 - (i) to formulate, evaluate, implement or manage relevant national or local projects funded by the Government or by local or foreign funding agencies;
 - (ii) to assist the Government in respect of a matter referred to in sub-paragraph (i); and
- (j) monitor the activities of civil society organisations to ensure compliance with —
 - (i) this Act and the regulations; and

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- (ii) their founding documents and the aims, objects and purposes for which they have been founded.
 - (3) The Minister may at any time require from BCSU information and statistics relating to the —
 - (a) operations, programmes and activities of BCSU and of civil society organisations in The Bahamas; and
 - (b) revenues, funds and property of BCSU and of civil society organisations in The Bahamas.
 - (4) The Minister may, on the Minister's own motion or on the application of any person as prescribed in regulations, inquire into a registered civil society organisation's —
 - (a) administration or management;
 - (b) value, condition, management or application of property or income; or
 - (c) entitlements and privileges.
 - (5) An inquiry under subsection (4) shall be conducted in the manner prescribed in regulations.
 - (6) The Minister shall in each year —
 - (a) cause to be prepared and approve, a minimum of three months before the end of the Government's financial year, an annual budget showing estimates of expenditure required for the administration of this Act for the next ensuing year;
 - (b) at any time before the end of the Government's financial year cause to be prepared and approve budgetary estimates supplementary to the estimates of a current financial year; and
 - (c) cause to be prepared and approve, a minimum of three months before the end of the Government's financial year, an annual report on —
 - (i) the interactions and relationships between, and accomplishments of, Government entities and civil society organisations for the relevant financial year;
 - (ii) the strength and state of development of civil society organisations in The Bahamas;
 - (iii) key sectors of civil society organisations requiring strengthening and development;
 - (iv) major issues of concern identified and raised as a result of tripartite consultation and cooperation between the Government, the private sector and the people of The Bahamas through civil society organisations; and
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- (v) the Minister's overall assessment of civil society organisations for the relevant financial year and the importance of their role and participation in the decision-making process.
- (5) The Minister shall cause the approved annual budget and annual report to be laid before both chambers of Parliament for the relevant financial year.

18. Establishment of Civil Society Secretariat.

- (1) There is established for the purposes of this Act a Civil Society Secretariat.
- (2) The Civil Society Secretariat comprises a unit within the Ministry of the Minister and is headed by a Director.
- (3) The Director of the Civil Society Secretariat is responsible for —
 - (a) coordinating the access and transfer of information to and from BCSU and the Government of The Bahamas;
 - (b) organising monthly meetings with BCSU, its agents and the Minister;
 - (c) negotiating on behalf of BCSU for the funding of its programmes and the programmes of its member organisations;
 - (d) collaborating with BCSU on the design of 'Request For Proposals' that member organisations may bid on and execute;
 - (e) consulting with BCSU on matters relating to the development of civil society and the registration, encouragement and development of civil society organisations;
 - (f) connecting BCSU with international corporations planning to do business in The Bahamas;
 - (g) discussing with BCSU —
 - (i) the projects of registered civil society organisations;
 - (ii) the provision of funding to BCSU and its member organisations, required for the continued development of civil society in The Bahamas;
 - (iii) the availability of funding to BCSU and its member organisations, having regard to corporate social responsibility and international obligations to developing countries.

PART V – RIGHTS AND PRIVILEGES OF CIVIL SOCIETY ORGANISATIONS

19. Relief from certain taxes, duties, etc.

- (1) A civil society organisation registered under this Act may apply to the Minister of Finance to be exempted from or refunded the payment of any tax, duty or imposts levied by the Government from time to time.
- (2) Without prejudice to subsection (1), the Minister of Finance may on application in writing by a registered civil society organisation, certified by the Registrar to be in compliance with the requirements of this Act and the regulations, exempt from or refund such organisation payment of —
 - (a) customs duty and stamp tax on imported goods for the benefit and development of its projects and programmes;
 - (b) work permit fees for foreign volunteers; and
 - (c) customs duty on international grants and gifts.
- (3) The Minister of Finance may approve, in accordance with section 58 of the Value Added Tax Act (*No. 32 of 2014*), a registered civil society organisation as an eligible charitable organisation or non-governmental organisation for the purposes of a refund of VAT on qualifying goods and services.
- (4) Where a registered civil society organisation is involved in the management and disbursement of monies on credit for projects which are, by order, approved by the Minister for the benefit of individuals or community-based groups —
 - (a) subject to subsection (5), such monies and interest derived therefrom are not liable to taxes, duties and imposts levied by the Government from time to time; and
 - (b) the civil society organisation must certify in accordance with the requirements of the Minister of Finance the disbursement of the monies for the specified projects.
- (5) Subsection (4) applies only where the monies disbursed by the civil society organisation and interest derived therefrom are, by order, approved by the Minister of Finance to be exempted from taxes, duties and imposts levied by the Government from time to time.
- (6) The Minister shall, after consultation with the Minister of Finance, make regulations pursuant to section 27 to give effect to the provisions of this section.

20. Access to information.

- (1) A civil society organisation registered under this Act has in the public interest a right of access in a timely manner to, and may request in writing from a Government entity, information on —
 - (a) matters affecting, or likely to affect, the sustainable development of The Bahamas and, in particular, the environmental sustainability of The Bahamas;
 - (b) policies, programmes, projects, actions and measures proposed by Government entities which impact, or are likely to impact, the civil, political, economic, social or cultural rights, traditions and reasonable expectations of the people of The Bahamas; and
 - (c) policies, programmes, projects, actions and measures instituted or taken by Government entities which are detrimental to the well-being, circumstances or prospects of society or a sector of society.
- (2) Information is accessed in a timely manner where requested information is received by the civil society organisation —
 - (a) prior to the making of a decision by the relevant Government entity, such as to enable informed and effectual consultations and participation by the civil society organisation in the decision-making process; or
 - (b) where policies, programmes, projects, actions and measures have already been instituted or taken by a Government entity at the time the request is made, forthwith such as to enable public participation in the discourse and search for solutions to prevent, remedy or ameliorate the adverse effects of such policies, programmes, projects, actions and measures.
- (3) A Government entity shall not deny a registered civil society organisation access to information under this section save where such information would be exempt from disclosure under Part III of the Freedom of Information Act (*Ch. – of 2015*).
- (4) The Minister shall meet with BCSU on a regular basis for consultations on the matters referred to in paragraphs (a), (b) and (c) of subsection (1).
- (5) Notwithstanding subsection (4), a registered civil society organisation may at any time request a meeting with the Minister to consult urgently on a matter within the organisation's mandate and the Minister shall, where reasonably possible, accommodate such request.
- (6) A registered civil society organisation aggrieved by the refusal or failure of a Government entity to provide access to requested information in a

timely manner may apply to the Supreme Court for an order of mandamus.

21. Participation in decision-making.

- (1) A civil society organisation registered under this Act has a right to effective participation in the decision-making processes of the Government in relation to —
 - (a) matters referred to in paragraphs (a) and (b) of subsection (1) of section 19; and
 - (b) the search for solutions to prevent, remedy or ameliorate the adverse effects of policies, programmes, projects, actions and measures taken by Government entities referred to in paragraph (c) of subsection (1) of section 19.
- (2) Participation in decision-making by a civil society organisation is effective only where —
 - (a) the organisation is specifically informed of the relevant matters early on in the decision-making process;
 - (b) the relevant Government entity provides reasonable time-frames for the different stages of the envisaged decision-making process in order to give the organisation sufficient time to receive the information and effectively prepare for and participate in the decision-making;
 - (c) the organisation is permitted to submit in writing, or at a public hearing or inquiry, any comments, information, analyses or opinions it considers relevant; and
 - (d) the relevant Government entity —
 - (i) in reaching a decision, takes due account of the submissions referred to in paragraph (c);
 - (ii) informs the organisation promptly of the decision; and
 - (iii) makes the text of the decision, and the reasons and considerations on which it is based, accessible to the organisation.
- (3) A registered civil society organisation aggrieved by an act or omission by a Government entity in the participation procedure may challenge the legality of the act, omission or decision of the Government entity by way of judicial review to the Supreme Court.

22. Rights and privileges of international civil society organisation.

An international civil society organisation intending to operate in The Bahamas, unless exempted from the requirement of registration under section 10, is not eligible for or entitled to the rights and privileges referred to in this Part unless

- (a) it is registered under this Act; or
- (b) collaborates and partners with one or more local civil society organisations whose aims, objects and purposes coincide with the specifics of their proposed projects.

23. Engaging in income-generating projects.

A civil society organization registered under this Act may engage in commercial income-generating projects where such activity is —

- (a) authorised by its founding documents; and
- (b) the income generated is used principally for the furtherance of the organisation's aims, objectives and purposes.

24. Freedom of civil society organisations to assemble and associate.

- (1) A civil society organisation registered under this Act may in accordance with the Constitution associate with any other civil society organisation, within or outside The Bahamas, for the purpose of forming associations, federation or networks.
- (2) An association, federation or network established pursuant to subsection (1) must register under this Act and, upon registration, the provisions of this Act shall apply to it as if it were a civil society organisation.

PART VI – ESTABLISHMENT OF BAHAMAS CIVIL SOCIETY UNITED AND CIVIL SOCIETY SECRETARIAT

25. Establishment of Bahamas Civil Society United.

- (1) There is established for the purposes of this Act an umbrella organisation or apex body of all civil society organisations in The Bahamas registered under this Act to be called Bahamas Civil Society United.
- (2) Bahamas Civil Society United is composed of —
 - (a) member representatives from all registered civil society organisations, each organisation being represented by one member only;

- (b) a maximum of twenty observers who shall be non-voting members elected by the member representatives at the first general meeting of BCSU —
 - (i) for a fixed term of three years; and
 - (ii) from amongst individuals who are not currently members of a civil society organisation in The Bahamas but who have made or continue to make exceptional contributions to the work and development of civil society in The Bahamas.
- (3) BCSU is deemed to be a registered civil society organisation under this Act and shall —
 - (a) within thirty days after the coming into operation of this Act, hold its first general meeting and elect the observer members in accordance with subsection (2)(b);
 - (b) within three months after the coming into operation of this Act, formulate and recommend to the Minister the making of regulations prescribing its Bye-laws.
- (4) The use, after the coming into operation of this Act, of the title and name “Bahamas Civil Society United” or “BCSU” by any other organisation or body of persons in The Bahamas is prohibited.

26. Board of Directors.

- (1) **Subject to section 32**, BCSU shall be governed by a board of directors, not exceeding nine persons, who are elected at the general meeting of BCSU —
 - (a) by the member representatives from amongst themselves; and
 - (b) for an initial period of three years and, thereafter, in accordance with the Bye-Laws of BCSU.
- (2) The board of directors shall —
 - (a) meet at a place of its choosing a minimum of once per month to conduct the business of BCSU;
 - (b) elect from amongst themselves a chairperson and a vice-chairperson; and
 - (c) subject to this Act and the regulations, determine its own rules, procedures and agenda for the conduct of board meetings.
- (3) A minimum of five executive board members present shall constitute a quorum of the board of directors and decisions of the board shall be made —
 - (a) by simple majority of executive board members present; or

- (b) where five executive board members only are present, unanimously by the quorum.

27. Observers and invitees at board meetings.

- (1) The board of directors may invite an observer or any other person to attend a meeting of the board where the board considers it necessary or desirable to do so.
- (2) The board may request advice and assistance from an observer or invitee in attendance at a board meeting in respect of any matter within such person's knowledge or experience.
- (3) An observer or invitee may take part in the deliberations of the board but shall not vote on any matter.

28. Committees of the board.

- (1) The board of directors may establish one or more committees of the board to perform such functions as may be delegated to a committee in writing by the board.
- (2) A committee established pursuant to subsection (1) may consist of member representatives, observers, and such other persons as the board considers necessary or desirable.
- (3) The chairman shall designate a member of each committee established under this section to act as the chairperson of the committee.

29. Functions, duties and powers of Bahamas Civil Society United.

- (1) The functions, duties and powers of Bahamas Civil Society United are to —
 - (a) co-ordinate, assist and promote the development of all registered civil society organisations;
 - (b) encourage and support the registration under this Act of civil society organisations generally;
 - (c) establish and maintain a list of all civil society organisations in The Bahamas, registered and non-registered, and represent and be the competent authority for civil society organisations in the administration of this Act;
 - (d) as competent authority, be the clearing-house for information passing from the Government and foreign nations, international organisations and foundations to civil society organisations in The Bahamas; and

- (e) perform such other functions and duties, not being inconsistent with this Act or the regulations, as may be determined by its constituent members.
- (2) The board of directors shall hold general meetings of BCSU at a place of its choosing a minimum of once per quarter and as often as may be otherwise required to fulfil BCSU functions and duties under this Act.
- (3) Subject to this Act and the regulations, BCSU may determine its own rules and procedures for the conduct of meetings of BCSU.

30. Officers and staff.

- (1) The officers of Bahamas Civil Society United shall consist of the —
 - (a) executive officers, namely the President, Vice-President, Secretary, Assistant Secretary, Treasurer and Assistant Treasurer, elected by the member representatives from amongst the Board of Directors with each member having one vote only; and
 - (b) *ex officio* non-executive officers, including —
 - (i) President of The Bahamas Christian Council;
 - (ii) Presidents of the registered National Umbrella Trade Unions in The Bahamas;
 - (iii) Chairman of The Bahamas Chamber of Commerce;
 - (iv) President of The College of The Bahamas; and
 - (v) not more than five persons appointed by the Board of Directors by instrument in writing for an initial term of two years, each in his capacity as head of an umbrella organisation or apex body of an esteemed academic, cultural, social or economic organisation in The Bahamas.
- (2) The executive officers shall be elected at the first general meeting of Bahamas and hold office for an initial term of five years and, thereafter, in accordance with the Bye-Laws of BCSU.
- (3) The board of directors may employ, on terms and conditions as the board thinks fit, such staff of BCSU as may be necessary or desirable for the proper performance of its functions and duties under this Act.

PART VII – MISCELLANEOUS

31. Power of Minister to make regulations.

- (1) The Minister may from time to time make regulations for carrying out all or any of the purposes of this Act in accordance with the powers and duties conferred or imposed on the Minister by this Act.
- (2) Without prejudice to the generality of subsection (1), the Minister may in particular make regulations prescribing the —
 - (a) form and content of the certificate of registration referred to in section 9;
 - (b) content of the public register and the manner in which the register may be rectified, amended and maintained;
 - (c) fees payable in respect of services performed and documents issued by the Registrar under or pursuant to this Act;
 - (d) Bye-laws of Bahamas Civil Society United as recommended to the Minister pursuant to section 25(3)(b);
 - (e) criteria and procedure for relief from taxes, duties et al under section 18;
 - (f) procedure for appeals to the Minister from a decision of the Registrar; and
 - (g) nature of anything required under this Act, or that the Minister considers necessary or desirable, to be prescribed.

32. Transitional provisions.

- (1) The Registrar General shall act as the Registrar of Civil Society Organisations until such time as a Registrar is appointed in accordance with this Act.
- (2) **The members of the first Board of Directors of BCSU shall —**
 - (a) **consist of the members of the board of Civil Society Bahamas, a non-governmental organisation incorporated under the laws of The Bahamas; and**
 - (b) **hold office for a period of one year, commencing from the date of the first general meeting of BCSU, and shall be eligible for re-election in accordance with section 26(1).**

OBJECTS AND REASONS

The purpose of the Civil Society Organisations Bill is to provide for the recognition, registration and regulation of civil society organisations in The Bahamas.

Clause 1 of the Bill empowers the Minister to appoint a date for its commencement once enacted.

Clause 2 defines key words and phrases used in the Bill.

Clause 3 clarifies the purpose of the Bill.

Clauses 4 to 6 provide for the mission, attributes and types of civil society organisations.

Clause 7 establishes the public offices and posts of Registrar of Civil Society Organisations and Deputy Registrar of Civil Society Organisations respectively.

Clauses 8 to 12 provide for the registration of civil society organisations, cancellation and suspension of registration, and the rights and privileges of registered civil society organisations.

Clause 13 provides for the Registrar to maintain a register of civil society organisations to be kept open to the public.

Clause 14 provides for the role of the board of directors of a registered civil society organisation.

Clause 15 provides for the appointment and role of the executive officer and other staff of a civil society organisation.

Clause 16 mandates that a civil society organisation keep reliable accounting records, and submit annual statements of accounts to the Registrar.

Clause 17 provides for the role, functions and duties of the Minister in relation to civil society organisations and, in particular, for the Minister to lay in Parliament the Minister's annual budget and annual report on civil society organisations.

Clause 18 establishes the Civil Society Secretariat as a unit within the Ministry of the Minister responsible for civil society organisations and provides for the role and responsibility of the Director.

Clauses 19 to 21 provide for a civil society organisation to have rights and privileges of relief from certain taxes and duties, access to information, and participation in decision-making.

Clause 22 provides for the rights and privileges of an international civil society organisation.

Clause 23 empowers a civil society organisation to engage in income-generating projects, exclusively for the furtherance of its aims, objects and purposes, where permitted by its founding documents.

Clause 24 provides for the freedom of a civil society organisation to associate freely and form associations, federations and networks with other civil society organisations.

Clause 25 establishes Bahamas Civil Society United as the apex body of civil society organisations in The Bahamas and provides for its membership.

Clause 26 provides for the governance of Bahamas Civil Society United by a Board of Directors and for the election, meetings and procedures of the Board.

Clause 27 empowers the Board of Directors of BCSU to invite observers and other persons to attend and participate in Board meetings without the right to vote on matters.

Clause 28 empowers the Board of Directors to establish committees of the Board and delegate in writing functions to such committees.

Clause 29 provides for the functions, powers and duties of BCSU and for the Board to hold quarterly general meetings of BCSU.

Clause 30 provides for the elected executive officers and ex officio officers of BCSU and empowers the Board to employ such staff as may be required for the proper functioning of BCSU.

Clause 31 empowers the Minister to make regulations.

Clause 32 makes transitional provisions for the implementation of the Bill once enacted.