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COMPANIES (NON-PROFIT ORGANISATIONS) REGULATIONS, 2014

Arrangement of Sections

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OFFICE OF THE ATTORNEY GENERAL
AND MINISTRY OF LEGAL AFFAIRS

S.I. No. 47 of 2014

COMPANIES ACT
(Chapter 308)

COMPANIES (NON-PROFIT ORGANISATIONS)
REGULATIONS, 2014

The Minister in exercise of the powers conferred by section 302 of the Companies Act (*Ch. 308*) makes the following Regulations —

PART I - PRELIMINARY

1. **Citation.**

These Regulations may be cited as the Companies (Non-Profit Organisations) Regulations, 2014.

2. **Interpretation.**

2. In these Regulations —

“Act” means the Companies Act (*Ch. 308*);

“anti-money laundering legislation” means the Proceeds of Crime Act (*Ch. 93*);

“gross annual income” of a non-profit organisation, during any period, means 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 or 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 grants made to it;

“non-profit organisation” means an organisation that primarily engages in raising or disbursing funds for purposes such as religious, charitable, educational, scientific, historical, fraternal, literary, sporting, artistic or athletic purposes not for profit;

“Registrar” means the Registrar General and any person designated to carry out such duties and functions as prescribed under these Regulations;

“Register” means the register of non-profit organisations established and kept under regulation 4;

“terrorist financing legislation” means the Anti-Terrorism Act (*Ch. 107*) and any other terrorist financing legislation.

3. Functions and duties of Registrar.

- (1) The functions of the Registrar are —
 - (a) to act as the registration, supervision and enforcement authority for non-profit organisations;
 - (b) to monitor compliance by non-profit organisations with the registration requirements of these Regulations;
 - (c) to monitor the effectiveness of these Regulations in—
 - (i) protecting non-profit organisations from being used for terrorist financing; and
 - (ii) ensuring the compliance of The Bahamas with its international obligations, to the extent they apply to non-profit organisations;
 - (d) to undertake periodic reviews of the non-profit organisations sector in The Bahamas for the purpose of identifying the features and types of non-profit organisations that are at risk of being used for terrorist financing;
 - (e) to undertake outreach to non-profit organisations with the objective of protecting the non-profit organisation sector in The Bahamas from being used for terrorist financing; and
 - (f) to discharge such other functions as may be assigned under the Act, these Regulations or any other legislation.
- (2) The outreach function undertaken by the Registrar must include activities or measures to —
 - (a) raise awareness of non-profit organisations concerning the risks of terrorism and terrorist financing abuse and the measures available to protect against such abuse; and
 - (b) promote transparency, accountability, integrity and public confidence in the administration and management of non-profit organisations.
- (3) Where the Registrar forms the view that these Regulations are not effective in protecting non-profit organisations from being used for terrorist financing, the Registrar must make a report to the Minister

responsible for companies with recommendations for appropriate changes to these Regulations.

PART II - REGISTRATION OF NON-PROFIT ORGANISATIONS

4. Register of non-profit organisations.

- (1) The Registrar shall maintain and keep a register of non-profit organisations to be known as the "Non-Profit Organisations Register" (hereinafter referred to as "the Register").
- (2) The Register shall contain the following information in respect of each non-profit organisation that has been registered in accordance with regulation 7 —
 - (a) the name, address in The Bahamas and contact details of the non-profit organisation;
 - (b) the purpose, objectives and activities of the non-profit organisation;
 - (c) the identity of the persons who own, control or direct the non-profit organisation;
 - (d) the date of registration and, if applicable, de-registration of the non-profit organisation; and
 - (e) such other information as the Registrar considers appropriate.
- (3) The Register and the information contained in any document filed with the Registrar shall be kept in such manner as the Registrar considers appropriate, including either wholly or partly, by means of a device or facility that —
 - (a) records or stores information magnetically, electronically or by other means; and
 - (b) permits the information recorded or stored to be inspected and reproduced in legible and usable form.
- (4) A person may, during normal business hours and on payment of a fee of ten dollars, require the Registrar to provide details of the information entered on Register in respect of a registered non-profit organisation.

5. Non profit organisation prohibited from operating unless registered.

A non-profit organisation shall not conduct operations unless registered under the Companies Act (*Ch. 308*) and in accordance with these Regulations.

6. Application to register.

- (1) An application to register a non-profit organisation or a proposed non-profit organisation shall be made in accordance with these Regulations.
- (2) The application must—
 - (a) be made in the Form shown in the *Schedule*;
 - (b) be signed by a person authorised to act on behalf of the non-profit organisation; and
 - (c) be accompanied by documents or information as may be specified by these Regulations or on the application form.
- (3) The Registrar may require an applicant to —
 - (a) provide him with such documents and information, in addition to those specified in paragraph (2)(c), as it reasonably requires to determine the application and any such information shall be in such form as the Registrar may require; or
 - (b) verify any document and information provided in support of an application in such manner as the Registrar may specify.
- (4) If, before the determination by the Registrar of an application, or the registration of a non-profit organisation —
 - (a) there is a material change in any information or documentation provided by or on behalf of the applicant to the Registrar in connection with the application; or
 - (b) the applicant discovers that any such information or documentation is incomplete, inaccurate or misleading, the applicant shall, as soon as reasonably practicable, give the Registrar written particulars of the change or of the incomplete, inaccurate or misleading information or documentation.

7. Registration.

Following the receipt of an application and any additional documents or information that is required or has been required under regulation 6, and in accordance with section 14 of the Act, unless the Registrar refuses the application under regulation 8(1), the Registrar must —

- (a) if the application is for the registration of a non-profit organisation, register the non-profit organisation in the Register; and
- (b) provide the applicant and the non-profit organisation with a certificate of incorporation in accordance with section 16 of the Act.

8. Refusal of application to register.

- (1) The Registrar may refuse an application for registration if —

- (a) the application does not comply with regulation 6(1) and (2);
 - (b) the applicant fails to provide any information or documents required by the Registrar under regulation 6(3);
 - (c) the Registrar is of the opinion that —
 - (i) the organisation is not, or the proposed organisation will not be, a non-profit organisation within the meaning specified in regulation 2 of these Regulations;
 - (ii) the non-profit organisation or proposed non-profit organisation is being used for money laundering or terrorist financing or it is intended or likely that it will be used for money laundering or terrorist financing; or
 - (iii) it is contrary to the public interest for the non-profit organisation to be registered; or
 - (d) the non-profit organisation, having previously been registered under these Regulations, has been revoked under regulation 9.
- (2) If the Registrar refuses an application for registration, it must send the applicant a written notice of refusal, stating the grounds for its refusal.
- (3) The Registrar's refusal of an application for registration of a non-profit organisation may be appealed in accordance with section 284 of the Act.

9. Revocation.

- (1) The Registrar—
- (a) may revoke the registration of a non-profit organisation if—
 - (i) the non-profit organisation is convicted of an offence under the Act, anti-money laundering legislation, terrorist financing legislation or these Regulations;
 - (ii) a cash forfeiture order is made against the non-profit organisation under the Act;
 - (iii) a forfeiture order is made against the non-profit organisation under the anti-money laundering legislation or terrorist financing legislation;
 - (b) may revoke the registration of a non-profit organisation if, in the opinion of the Registrar, the non-profit organisation—
 - (i) has breached these Regulations or any of the provisions under the Act; or
 - (ii) no longer exists or is not carrying out, and is not likely to carry out, the activities specified for the non-profit organisation in the Register;

- (c) may revoke the registration of a non-profit organisation if, in the opinion of the Registrar, it is in the public interest for the registration of the non-profit organisation to be revoked.
- (2) In determining whether it is in the public interest for a registered non-profit organisation to be revoked, the Registrar shall only take into account matters that suggest that the non-profit organisation is being used, or may in the future be used, for, or to assist in, money laundering or terrorist financing.
- (3) Before revoking the registration of a non-profit organisation under this regulation, the Registrar shall give written notice to the non-profit organisation stating —
 - (a) the grounds upon which it intends to revoke the registration of the non-profit organisation; and
 - (b) that unless the non-profit organisation, by written notice, shows good reason why its registration should not be revoked, the registration be revoked on a date not less than fourteen days after the date of the receipt of notice.
- (5) If it is not practicable for the Registrar to give notice to the non-profit organisation under paragraph (3), it may revoke the registration of the non-profit organisation without giving such notice.
- (6) Where the Registrar revokes the registration of a non-profit organisation, it shall mark the name of the non-profit organisation in the Register as revoked, showing the date of its revocation.

10. Voluntary revocation of registration.

- (1) Where a person authorised on behalf of the non-profit organisation requests that the registration of the non-profit organisation be revoked, the Registrar may revoke the registration of that non-profit organisation.
- (2) The Registrar must not revoke the registration of a non-profit organisation at its request if the Registrar is of the opinion that the revocation of the non-profit organisation would hinder the Registrar in the exercise of its functions.

PART III - OBLIGATIONS OF NON-PROFIT ORGANISATIONS

11. Change of information to be provided to Registrar.

- (1) If there is a change in any information provided to the Registrar, whether the information was provided before or after its registration, a registered

non-profit organisation shall give the Registrar written notice of the change, as soon as reasonably practicable.

- (2) Changes required to be provided under this regulation include changes to its purposes, objectives and activities.

12. Records.

- (1) A registered non-profit organisation shall keep—
 - (a) records of—
 - (i) its purposes, objectives and activities; and
 - (ii) the identity of the persons who control or direct its activities, including, as appropriate, senior officers, directors and trustees; and
 - (b) financial records that—
 - (i) show and explain its transactions, within and outside The Bahamas, that are sufficiently detailed to show that its funds have been used in a manner consistent with its purposes, objectives and activities; and
 - (ii) show the sources of its gross annual income.
- (2) A registered non-profit organisation shall keep the records specified in paragraph (1) for a period of at least five years.
- (3) A registered non-profit organisation that contravenes this regulation commits an offence and is liable on summary conviction, to a fine not exceeding \$10,000.

13. Provision of records to the Registrar.

- (1) The Registrar may, on the ground specified in paragraph (2), by written notice, to a registered non-profit organisation, require it to produce the records that the non-profit organisation is required to keep under regulation 12, or any of those records.
- (2) The Registrar may give notice under paragraph (1) only where it reasonably requires the records specified in the notice to assess the extent, if any, to which the registered non-profit organisation is being used to assist terrorist financing.
- (3) A notice given under paragraph (1) —
 - (a) shall specify —
 - (i) the records which the Registrar requires the registered non-profit organisation to produce;
 - (ii) the place where the records specified in the notice must be produced to the Registrar, which may be by inspection at the premises of the non-profit organisation; 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 produced under this regulation or may 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 registered non-profit organisation that fails to comply with a notice issued under paragraph (1) commits an offence and is liable on summary conviction, to a fine not exceeding \$10,000.
- (7) A person required to provide an explanation of any records produced under this regulation who, without reasonable excuse, fails to provide the explanation, commits an offence and is liable on summary conviction, to a fine not exceeding \$10,000.

PART IV - MISCELLANEOUS

14. False and misleading information.

A person who for any purpose under these Regulations, with intent to deceive, provides any information, makes any representation or submits any document or return that he knows to be false or materially misleading or does not believe to be true commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.

15. Continuation of existing non-profit organisations.

- (1) All non-profit organisations in existence at the time of the commencement of these Regulations shall within ninety days thereof, comply with the provisions of these regulations.
- (2) Failure of a non-profit organisation to comply with paragraph (1) may result in the revocation of the registration of the non-profit organisation pursuant to regulation 9.

SCHEDULE
(regulation 6)

**COMPANIES (NON PROFIT ORGANISATIONS)
REGULATIONS, 2014**

APPLICATION FOR REGISTRATION OF NON-PROFIT ORGANISATION

This Form should be completed and attached to each Memorandum and Articles of Association submitted for approval of a Licence by the minister responsible for Companies and subsequent registration at the Registrar General's Department. The purpose of this Form is to provide the information required to create a Registry of Non-Profit Organisations established under Regulation 4 of the Companies (Non-Profit Organisations) Regulations, 2014.

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

Date of submission: _____
(mm/dd/yy)

ORGANISATION, AGENT OR INDIVIDUAL SUBMITTING DOCUMENTS

Name: _____

Contact Person: _____

Address: _____

(Island) (District) (P.O. Box)

Telephone Contact(s): _____

Email Address: _____

Contact: _____

Type of Application: _____

Date of Establishment: _____

Purpose of Organization: _____

Objective(s): _____

Signature: _____ Date: _____

Receiving Officer: _____ Date: _____

Comments: _____

Made this 6th day of August, 2014.

**Signed
ALLYSON MAYNARD-GIBSON
Minister Responsible for Companies**