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Trinidad and Tobago

HOUSE OF REPRESENTATIVES

BILL

AN ACT to provide for the registration of non-profit
organisations, the establishment and maintenance
of a register of non-profit organisations, the
obligations of non-profit organisations and for
related matters

THE NON-PROFIT ORGANISATIONS BILL, 2019

Explanatory Note

(These notes form no part of the Bill but are intended only to indicate its general purport)

This Bill seeks to provide for the registration of non-profit organisations, the establishment and maintenance of a register of non-profit organisations, the obligations of non-profit organisations and for related matters.

The Bill contains five Parts.

Part One of the Bill would provide for certain preliminary matters.

Clause 1 of the Bill would provide the short title of the Bill.

Clause 2 would provide for the commencement of the Act on a date to be fixed by the President by Proclamation.

Clause 3 of the Bill would provide the definition of certain words and phrases used in the Bill.

Part Two of the Bill would provide for the supervision and registration of non-profit organisations.

Clause 4 of the Bill would provide for the Financial Intelligence Unit (“FIU”) to be the Regulator of Non-Profit Organisations. As the Regulator of Non-Profit Organisations (“Regulator”), the FIU will be responsible for the Anti-Money Laundering/Countering the Financing of Terrorism/Financing the Proliferation of weapons of mass destruction (“AML/CFT/PF”) supervision of non-profit organisations. In relation to non-profit organisations, the FIU shall also have the powers and duties conferred on it by the Act, the Financial Intelligence Unit of Trinidad and Tobago Act, Chap. 72:01 and any other written law. However, the requirement under section 18B of the Financial Intelligence Unit of Trinidad and Tobago Act for all non-regulated financial institutions and businesses listed in the First Schedule of the Proceeds of Crime Act, Chap. 11:27 to register with the FIU does not apply to non-profit organisations because they are required to register with the Registrar General under the Act.

Clause 5 of the Bill would provide that a person shall not operate a non-profit organisation in Trinidad and Tobago unless the non-profit organisation is registered under the Act, and if he contravenes this provision he commits an indictable offence. This

clause also provides that a controller of a non-profit organisation shall apply to the Registrar General, in the prescribed form, to have the non-profit organisation registered in accordance with the Act.

Clause 6 of the Bill would provide for the registration of a non-profit organisation, and the renewal of registration of a non-profit organisation once the Registrar General is satisfied that the applicant has met the requirements under the Act, and a Certificate of Non-Profit Organisation Registration shall be issued to the registered non-profit organisation. This clause also provides for the instances where the Registrar General may refuse to register or renew an applicant as a non-profit organisation.

Clause 7 of the Bill would provide that the duration of a Certificate of Non-Profit Organisation Registration (“certificate of registration”) shall be for a period of three years from the date of its issue. Upon the expiration of the certificate of registration, a non-profit organisation must apply to the Registrar General for the renewal of its registration, no later than one month after the certificate of registration’s expiration.

Clause 8 of the Bill would provide that a non-profit company registered under the Companies Act, Ch. 81:01 is deemed to be duly registered as a non-profit organisation under the Act, and the Registrar General shall enter it on the register of non-profit organisations.

Clause 9 of the Bill would provide that a register of non-profit organisations shall be established and maintained by the Registrar General. The register shall only include certain information in relation to a non-profit organisation which was provided during the application process. The register may be examined by the public upon payment of a prescribed fee. This clause would also provide that the Registrar General shall not disclose information which is not contained in the register except to the Regulator, for the purposes of law enforcement for Court proceedings, or pursuant to an order of the Court.

Clause 10 of the Bill would provide for the instances when the Registrar General may cancel the registration of a non-profit organisation, and the process of notifying a non-profit organisation when the Registrar General determines that its registration should be cancelled. This clause would also provide that when the registration of a non-profit organisation is cancelled, the Registrar General shall notify the non-profit organisation, the Regulator and

such other persons as may be prescribed by Regulations of that cancellation. Once the registration of a non-profit organisation is cancelled it shall not conduct business as a non-profit organisation nor solicit cash, donations, grants, subventions or property.

Clause 11 of the Bill would provide for the updating of the register of non-profit organisations by the Registrar General if the registration of a non-profit organisation is cancelled or surrendered under the Act. The register shall also be updated by the Registrar General when a non-profit company is struck off the Companies register under section 461 or 489 of the Companies Act.

Clause 12 of the Bill would provide that where a non-profit organisation fails to comply with a directive issued by the Regulator under the Financial Intelligence Unit of Trinidad and Tobago Act, the Regulator may recommend to the Registrar General that the non-profit organisation's registration be cancelled.

Clause 13 of the Bill would provide that an applicant whose registration as a non-profit organisation has been refused, a non-profit organisation whose renewal of registration as a non-profit organisation has been refused, or a non-profit organisation whose registration as a non-profit organisation has been cancelled, may appeal those decisions to a Judge of the High Court.

Part Three of the Bill would treat with the obligations of a non-profit organisation under the Act.

Clause 14 of the Bill would provide that a controller of a non-profit organisation shall ensure that proper financial accounts and records are kept including all sums of cash received and expended, all gifts, sales and purchases of property *et al.* This clause would also provide that a controller of a non-profit organisation shall ensure that the financial accounts and records show and detail all the transactions of the non-profit organisation, and be able to accurately disclose, at any time, the financial position of the non-profit organisation.

Clause 15 of the Bill would provide that a non-profit organisation with a gross annual income exceeding ten million dollars shall have its financial accounts and records annually audited and reported on by a qualified auditor, and this audited report shall be submitted to the Registrar General when requested. The Registrar General shall provide a copy of the audit report of a

non-profit organisation to the Regulator, either on his own motion or when requested by the Regulator.

Clause 16 of the Bill would provide that the controller of a non-profit organisation shall notify the Registrar General of any change in the particulars of the non-profit organisation provided during an application for registration within thirty days of such change. The Registrar General shall enter in the register any change in the particulars specified under clause 9.

Clause 17 of the Bill would provide that it is an offence for a controller of a non-profit organisation to fail to notify the Registrar General in accordance with clause 16.

Clause 18 of the Bill would provide for the process of the surrender of the registration of a non-profit organisation where it voluntarily wishes to do so, or it is no longer in operation. If a non-profit organisation wishes to surrender its registration it shall notify the Registrar General of same, and the Registrar General may approve the surrender. Within six months after receiving approval, the non-profit organisation shall distribute its property in accordance with clause 21. Within twenty-one days after the distribution of its property the non-profit organisation shall file with the Registrar General a statutory declaration, and surrender its Certificate of Non-Profit Organisation Registration to the Registrar General. A controller of a non-profit organisation which contravenes this clause commits an offence under the Act.

Clause 19 of the Bill would provide that a controller of a non-profit organisation shall ensure that records of its purposes and activities, the identity of the controllers, senior officers, directors and trustees, and the source of its gross annual income, as well as its financial accounts and records are kept for a period of six years or such other period as may be prescribed by Regulations. A controller of a non-profit organisation which contravenes this clause commits an offence under the Act.

Clause 20 of the Bill would provide for the disqualification of a person from acting as a controller of a non-profit organisation based on certain grounds.

Clause 21 of the Bill would provide for the process of distribution of the property of a non-profit organisation which has chosen to surrender its registration as a non-profit organisation. A non-profit organisation which is not a non-profit company shall

apply to the Official Receiver for its property to be distributed to such other non-profit organisation with a similar purpose as determined by its members. If the Official Receiver approves the application the non-profit organisation shall, after satisfaction of all its debts and liabilities, give or transfer any remaining property to the approved non-profit organisation. A non-profit company which is a non-profit organisation shall distribute its property in accordance with section 316 of the Companies Act.

Clause 22 of the Bill would provide for the forfeiture of the property of a non-profit organisation whose registration has been cancelled under clause 10. The property of a non-profit organisation shall be forfeited in accordance with the Proceeds of Crime Act or Anti-Terrorism Act, as the case may be, if the registration of a non-profit organisation has been cancelled because the non-profit organisation is found guilty of an offence under the Proceeds of Crime Act, Anti-Terrorism Act, Financial Intelligence Unit of Trinidad and Tobago Act, or any other written law under which the recommendations of the Financial Action Task Force are implemented; or the non-profit organisation is a designated individual or entity under section 22B of the Anti-Terrorism Act or any order made under section 4 of the Economic Sanctions Act. This clause would also provide for the process where the registration of a non-profit organisation is cancelled pursuant to the other causes for cancellation under clause 10. In such instances, the Attorney General shall make an application to a Judge of the High Court for an order of forfeiture of the property of the non-profit organisation, and the Judge may order that the property be forfeited to the State. Property forfeited to the State shall be given or transferred to such other non-profit organisation as determined by the Judge.

Part Four would provide for offences.

Clause 23 of the Bill would provide that a non-profit organisation which solicits or causes to be solicited contributions from the public or the State, whether locally or internationally, whilst not registered under the Act, commits an offence.

Clause 24 of the Bill would provide that a controller of a non-profit organisation who knowingly or recklessly makes or provides a false document, financial accounts or records, or audited financial accounts or records which are required under the Act commits an offence. This clause would also provide that any controller of a non-profit organisation who knowingly or recklessly

authorises, acquiesces in, or permits the contravention of the Act which constitutes an offence by a non-profit organisation, commits that offence and is liable to be proceeded against and punished accordingly.

Part Five would provide for certain miscellaneous provisions.

Clause 25 of the Bill would provide that any notice required by the Act to be sent to a non-profit organisation shall be sent in writing, by prepaid post or personally delivered, to the registered address of the non-profit organisation.

Clause 26 of the Bill would provide that the Minister to whom responsibility for finance is assigned may make Regulations in relation to the Regulator. This clause would also provide that the Minister to whom responsibility for legal affairs is assigned may make Regulations in relation to the Registrar General. Regulations made under the Act shall be subject to negative resolution of Parliament.

Clause 27 of the Bill would provide that the Registrar General may, with the approval of the Minister with responsibility for the Registrar General Department, make Rules prescribing forms, fees and other matters relating to the registration of non-profit organisations under the Act.

Clause 28 of the Bill would provide for certain transitional provisions under the Act including the ability of a non-profit organisation which was in operation immediately before the commencement of the Act to continue carrying out its activities without registration for a period of no more than eighteen months or such other period as the Minister may extend by Order, provided that the extension does not exceed twelve months.

Clause 29 of the Bill would provide for the consequential amendments occurring to other Acts as set out in the Schedule.

The Schedule provides for consequential amendments to the Anti-Terrorism Act, Chap. 12:07; Companies Act, Chap. 81:01; the Financial Intelligence Unit of Trinidad and Tobago Act, Chap. 72:01 and the Proceeds of Crime Act, Chap. 11:27.

THE NON-PROFIT ORGANISATIONS BILL, 2019

Arrangement of Clauses

Clause

PART ONE

PRELIMINARY

1. Short title
2. Commencement
3. Interpretation

PART TWO

SUPERVISION AND REGISTRATION OF NON-PROFIT ORGANISATIONS

4. Regulator of Non-Profit Organisations
5. Application for registration as non-profit organisation
6. Power to grant or renew registration
7. Renewal of registration
8. Non-profit companies
9. Establishment of a register of non-profit organisations
10. Cancellation of registration
11. Updating the register
12. Recommendation for cancellation by Regulator
13. Appeals

PART THREE

OBLIGATIONS OF NON-PROFIT ORGANISATIONS

14. Keeping of financial accounts and records
15. Audit
16. Change of particulars
17. Failure to notify Registrar General
18. Surrender of registration
19. Records
20. Disqualification of controller of a non-profit organisation

21. Distribution of property upon surrender

22. Forfeiture of property upon cancellation

PART FOUR

OFFENCES

23. Non-solicitation of contributions from public

24. Liability of a controller

PART FIVE

MISCELLANEOUS

25. Notice to non-profit organisation

26. Regulations

27. Rules

28. Transitional

29. Consequential amendments

SCHEDULE

BILL

AN ACT to provide for the registration of non-profit organisations, the establishment and maintenance of a register of non-profit organisations, the obligations of non-profit organisations and for related matters

[, 2019]

Enactment ENACTED by the Parliament of Trinidad and Tobago as follows:

PART ONE
PRELIMINARY

Short Title 1. This Act may be cited as the Non-Profit Organisations Act, 2019.

Commencement 2. This Act comes into operation on such date as is fixed by the President by Proclamation.

Interpretation 3. (1) In this Act, unless the context otherwise requires—

“AML/CFT/PF” means Anti-Money Laundering/Countering the Financing of Terrorism/Financing the Proliferation of weapons of mass destruction;

Chap. 79:09 “business day” means any day on which institutions licensed under the Financial Institutions Act are open for the conduct of business in Trinidad and Tobago;

“cash” includes coins and notes in any currency, postal orders, cheques of any kind including travellers’ cheques, bankers’ drafts, bearer bonds, bearer shares and bearer negotiable instruments and other bearer negotiable instruments in any currency;

“certificate of registration” means a Certificate of Non-Profit Organisation Registration issued by the Registrar General under section 6;

“control”, in relation to a non-profit organisation, means the power of a person to—

(a) elect a majority of the directors of a non-profit company, where the non-profit organisation is established as a non-profit company;

(b) secure that the business and affairs of a non-profit organisation

are conducted in accordance with his wishes; or

- (c) directly or indirectly exercise dominant influence over the conduct of the business and affairs of a non-profit organisation;

“controller” means a person who has the control or management of a non-profit organisation and includes—

- (a) a director of a non-profit company, where the non-profit organisation is established as a non-profit company;
- (b) a trustee of a trust, where the non-profit organisation is established as a trust;
- (c) a person responsible for the management or administration of an unincorporated body, where the non-profit organisation is established as an unincorporated body;
- (d) a senior officer of the non-profit organisation; or
- (e) a person not specified in paragraphs (a) to (d) where the non-profit organisation is owned, controlled or managed by that person;

“Financial Action Task Force” means the task force established by the Group of Seven, to develop and promote national and international policies to combat money laundering and terrorist financing;

“Financial Intelligence Unit” means the Financial Intelligence Unit established under the Financial Intelligence Unit of Trinidad and Tobago Act;

“financial year” means the financial year of a non-profit organisation of a period of twelve months;

“gross annual income” in relation to a non-profit organisation, means any—

- (a) income from the provision of goods and services;
- (b) rental income;
- (c) interest or other income received from investments;
- (d) donations, grants or subventions;
- (e) loans; and
- (f) other income, cash or money’s worth,

received by the non-profit organisation in a financial year;

“IFRS” means International Financial Reporting Standards issued by the International Accounting Standards Board and as adopted by the Institute of Chartered Accountants of Trinidad and Tobago;

“Minister” means the Minister to whom responsibility for legal affairs is assigned;

“non-profit company” has the meaning assigned to it under the Companies Act;

“non-profit organisation” means a body of persons, whether incorporated or unincorporated, which—

- (a) is established primarily for the promotion of a patriotic, religious, philanthropic, charitable, educational, cultural, scientific, literary, historical, artistic, social, professional, fraternal, sporting or athletic purpose, or some other useful object and raises or disburses funds for that purpose or object;

(b) carries on its business without pecuniary gain to its members or officers except as reasonable compensation for services rendered; and

(c) restricts the use of any of its profits or other accretions to the promotion of its purpose or object;

“Official Receiver” means the Official Receiver designated under section 462 of the Companies Act;

“property” means assets of any kind, whether tangible or intangible, moveable or immovable, however acquired and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including but not limited to cash, bank credits, payment cards, payment instruments, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit whether situated in Trinidad and Tobago or elsewhere, and includes a legal or equitable interest, whether full or partial, in any such property, precious metals, oil and other natural resources and their refined products, modular refineries and related material and other economic resources which may be used to obtain funds, goods or services;

“register” means the register of non-profit organisations established and maintained by the Registrar General under section 9;

“Registrar General” refers to the Registrar General or any officer acting in that capacity, and includes any person duly authorised by the Registrar General in accordance with section 3(1) of the Registrar General Act;

“Regulations” means Regulations made under section 26;

“Regulator” means the Regulator of Non-Profit Organisations referred to in section 4; and

“Rules” means Rules made by the Registrar General under section 27.

(2) For the purposes of this Act, where a non-profit organisation is not a legal person, each controller of that non-profit organisation shall be responsible for carrying out the obligations of the non-profit organisation under this Act.

PART TWO

SUPERVISION AND REGISTRATION OF NON-PROFIT ORGANISATIONS

Regulator of
Non-Profit
organisations

4. (1) The Financial Intelligence Unit shall be the Regulator of Non-Profit Organisations (hereinafter referred to as the “Regulator of Non-Profit Organisations”) and shall—

- (a) be responsible for the AML/CFT/PF supervision of non-profit organisations; and
- (b) in relation to non-profit organisations, have the powers and duties conferred on it by this Act, the Financial Intelligence Unit of Trinidad and Tobago Act and any other written law.

(2) Notwithstanding subsection (1), section 18B of the Financial Intelligence Unit of Trinidad and Tobago Act does not apply to non-profit organisations.

Application for
registration as
non-profit
organisation

5. (1) A person shall not operate a non-profit organisation in Trinidad and Tobago unless the non-profit organisation is registered under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction on indictment to a fine of fifty thousand dollars and to imprisonment for seven years.

(3) An application for registration as a non-profit organisation shall be made by a controller of a non-profit organisation to the Registrar General in the form prescribed by Rules.

(4) An application for registration as a non-profit organisation under subsection (3) shall include the following:

- (a) a form containing—
 - (i) the name, address, telephone number and e-mail address of the non-profit organisation;
 - (ii) the declared purposes and activities of the non-profit organisation; and
 - (iii) the name, occupation, address, telephone number and e-mail address of each person who is a controller of the non-profit organisation;
- (b) copies of the constituent documents of the non-profit organisation;
- (c) a copy of photo identification of the controller making the application of the non-profit organisation in the form of a valid national identification card or passport;
- (d) a completed AML/CFT/PF risk assessment questionnaire;
- (e) a fee prescribed by Rules; and
- (f) such other information as may be prescribed by Rules.

6. (1) Where the Registrar General is satisfied that an applicant has met the requirements of this Act for ^{Power to grant or} ~~renew registration~~ registration or renewal of registration, he shall—

- (a) approve the registration of the applicant in thirty business days; and
- (b) issue to the non-profit organisation a Certificate of Non-Profit Organisation

Registration in the form prescribed by Rules.

(2) The Registrar General may refuse to register or renew an applicant as a non-profit organisation if—

- (a) the applicant does not qualify to be a non-profit organisation within the definition of a non-profit organisation under section 3;
- (b) the information contained in the application for registration is incorrect or incomplete;
- (c) the non-profit organisation is a designated individual or entity under section 22B of the Anti-Terrorism Act or any order made under section 4 of the Economic Sanctions Act;
- (d) a person named as a controller is disqualified under section 20;
- (e) the name of the non-profit organisation—
 - (i) is the same or similar to a name of a registered non-profit organisation, any other person, association, partnership, firm, or any registered trade mark or any well-known trade mark as determined under section 13A of the Trade Marks Act and the use of that name would be likely to confuse or mislead, unless the non-profit organisation, person, association, partnership or firm consents in writing to the use of that name in whole or in part;
 - (ii) is primarily a geographic name used alone unless the applicant establishes to the satisfaction of the Registrar General that the name has, through use, acquired and continues to have a secondary meaning;

Chap. 12:07

Chap. 81:05

Chap. 82:81

- (iii) suggests or implies a connection with the State, or the Government or of any ministry, department, branch, bureau, service, agency or activity of the Government, unless consent in writing to the proposed name is duly obtained from the appropriate Minister;
- (iv) contains the word or words “credit union”, “co-operative”, or “co-op” when it connotes a co-operative venture;
- (v) suggests or implies a connection with a university or a professional association recognised by the laws of Trinidad and Tobago unless the university or professional association concerned consents in writing to the use of the proposed name;
- (vi) is a name, in the opinion of the Registrar General, for any reason, objectionable; or
- (f) where the non-profit organisation, having been previously registered under this Act has been cancelled under section 10.

7. (1) A certificate of registration issued under section 6 is valid for a period of three years from the date of issue. ^{Renewal of registration}

(2) A non-profit organisation shall apply in the form prescribed by Rules to the Registrar General for the renewal of its certificate of registration no later than one month after the certificate expires.

(3) A non-profit organisation that submits an application for renewal shall pay a fee prescribed by Rules and may continue to operate until a decision is made by the Registrar General.

Non-profit
companies

8. (1) A non-profit company registered under the Companies Act is deemed to be duly registered as a non-profit organisation under this Act.

(2) The Registrar General shall enter a non-profit company under subsection (1) on the register.

Establishment of a
register of non-profit
organisations

9. (1) A register of non-profit organisations shall be established and maintained by the Registrar General.

(2) The register shall include the following information with respect to a non-profit organisation:

- (a) its name, address, telephone number and e-mail address;
- (b) its purpose and activities;
- (c) the name, occupation and address of each person who is a controller of the non-profit organisation;
- (d) the date of its registration as a non-profit organisation, the date of its renewal of registration, and if applicable, the date on which its registration was cancelled; and
- (e) such other information prescribed by Rules.

(3) The Registrar General shall on his own motion provide a copy of the register to the Regulator or when requested by the Regulator.

(4) A person who has paid the fee prescribed by Rules may, during normal business hours, examine, make copies of or extracts from, the register.

(5) The Registrar General shall not disclose information under section 5(4) which is not contained in the register except—

- (a) to the Regulator;
- (b) for the purposes of law enforcement for Court proceedings; or
- (c) pursuant to an order of the Court.

10. (1) The Registrar General may cancel the Cancellation of registration registration of a non-profit organisation if—

- (a) the non-profit organisation failed, without reasonable cause—
 - (i) to keep proper financial accounts and records in accordance with section 14; or
 - (ii) to submit audited financial accounts and records in accordance with section 15;
- (b) it is proven in Court that the non-profit organisation breached a duty owed to itself or any of its contributors;
- (c) it is proven in Court that the non-profit organisation committed a criminal offence which carries a penalty of a term of imprisonment of three years or more;
- (d) the non-profit organisation is found guilty of an offence under the Proceeds of Crime Act, Chap. 11:27 Anti-Terrorism Act, Financial Intelligence Unit of Trinidad and Tobago Act, or any other written law by which the recommendations of the Financial Action Task Force are implemented;
- (e) the non-profit organisation is a designated individual or entity under section 22B of the Anti-Terrorism Act or any order made under section 4 of the Economic Sanctions Act;
- (f) the non-profit organisation is struck off the Companies register under section 461 or 489 of the Companies Act; or
- (g) on the recommendation of the Regulator under section 12.

(2) Where the Registrar General determines that the registration of a non-profit organisation should be

cancelled in accordance with subsection (1), the Registrar General shall give notice in writing to the non-profit organisation that its registration shall be cancelled upon the expiration of thirty days, or such longer period as the Registrar General may determine, from the date of the notice, unless within that period the non-profit organisation submits written reasons to the satisfaction of the Registrar General as to why its registration should not be cancelled.

(3) Where the Registrar General is in receipt of written reasons under subsection (2), the Registrar General shall consider those reasons and make a determination within twenty-one days from the date of receipt of those reasons.

(4) Where the Registrar General decides not to cancel the registration of a non-profit organisation, he shall, as soon as is practicable, notify the non-profit organisation in writing.

(5) Where the registration of a non-profit organisation is cancelled—

(a) the Registrar General shall, as soon as is practicable, notify the non-profit organisation, the Regulator and such other persons as may be prescribed by Regulations of that cancellation; and

(b) the non-profit organisation shall not conduct business as a non-profit organisation nor solicit cash, donations, grants, subventions, or property.

Updating the register

11. (1) The Registrar General shall update the register if the registration of a non-profit organisation is cancelled or surrendered pursuant to this Act, and the Registrar General shall publish notice thereof in the *Gazette* and one daily newspaper in general circulation in Trinidad and Tobago.

(2) The Registrar General shall inform the Regulator when a non-profit company is struck off the Companies register under section 461 or 489 of the Companies Act, and shall update the register accordingly.

12. Where a non-profit organisation to whom a directive is issued by the Regulator under the Financial Intelligence Unit of Trinidad and Tobago Act fails to comply with the directive, the Regulator may, in addition to any other action that may be taken under this Act and the Financial Intelligence Unit of Trinidad and Tobago Act, recommend to the Registrar General that the registration of the non-profit organisation be cancelled. Recommendation for cancellation by Regulator

13. (1) An applicant under section 5 whose registration is refused may appeal that decision to a Judge of the High Court. Appeals

(2) A non-profit organisation whose renewal of registration is refused under section 6 may appeal that decision to a Judge of the High Court.

(3) A non-profit organisation whose registration is cancelled under section 10 may appeal that decision to a Judge of the High Court.

PART THREE

OBLIGATIONS OF NON-PROFIT ORGANISATIONS

14. (1) A controller of a non-profit organisation shall ensure that proper financial accounts and records of the following are kept: Keeping financial accounts and records

- (a) all sums of cash received and expended and the matters in respect of which the receipt and expenditure relate;
- (b) all gifts, sales and purchases of property;
- (c) all sums of cash raised through fundraising;

- (d) non-monetary transactions as may be prescribed by Regulations;
- (e) all assets and liabilities; and
- (f) any other matter that may be prescribed by Regulations.

(2) A controller of a non-profit organisation shall ensure that the financial accounts and records show and detail all the transactions of the non-profit organisation and disclose at any time, with accuracy, its financial position.

Audit

15. (1) A non-profit organisation with a gross annual income exceeding ten million dollars shall have its financial accounts and records audited and reported on, in accordance with IFRS, annually by a qualified auditor.

(2) Upon the completion of an audit of the financial accounts and records of a non-profit organisation, a qualified auditor shall submit his report to a controller of the non-profit organisation.

(3) A controller of a non-profit organisation shall submit the audit report under subsection (2) to the Registrar General when requested by the Registrar General.

(4) The Registrar General shall provide on his own motion a copy of the audit report of a non-profit organisation to the Regulator or when requested by the Regulator.

(5) For the purposes of this section, “qualified auditor” means an auditor who is a member of, and is in good standing with the Institute of Chartered Accountants of Trinidad and Tobago.

Change of
Particulars

16. (1) A controller of a non-profit organisation shall notify the Registrar General, in the form prescribed by Rules, of any change in the particulars referred to in section 5(4) within thirty days of such change.

(2) The Registrar General shall enter in the register any change in the particulars referred to in section 9(2).

17. A controller who fails to notify the Registrar General in accordance with section 16 commits an offence and is liable on summary conviction to a fine of fifty thousand dollars.

18. (1) A non-profit organisation which—
 (a) wishes to voluntarily surrender its registration as a non-profit organisation; or
 (b) is no longer in operation,

shall notify the Registrar General in writing of same.

(2) Where the Registrar General receives notice under subsection (1), he may approve the surrender of the registration of the non-profit organisation.

(3) Within six months after receiving approval to surrender its registration, a non-profit organisation shall distribute its property in accordance with section 21.

(4) Within twenty-one days after the distribution of its property in accordance with subsection (3), a non-profit organisation shall—

(a) file with the Registrar General a statutory declaration in the form prescribed by Rules; and

(b) surrender its certificate of registration to the Registrar General.

(5) A controller of a non-profit organisation which contravenes subsection (3) or (4) commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars and to imprisonment for ten years.

(6) Where a non-profit organisation surrenders its certificate of registration, the non-profit organisation shall not conduct business as a non-profit organisation nor solicit cash, donations, grants, subventions, or property.

Records

19. (1) A controller of a non-profit organisation shall ensure that records of the following are kept:

- (a) its purposes and activities;
 - (b) the identity of the controllers, senior officers, directors and trustees of the non-profit organisation; and
 - (c) the source of its gross annual income.
- (2) A non-profit organisation shall retain—
- (a) the records under subsection (1); and
 - (b) the financial accounts and records under section 14,

for a period of six years or such other period as may be prescribed by Regulations.

(3) A controller of a non-profit organisation which contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for seven years.

Disqualification of controller of a non-profit organisation

20. A person who—

- (a) is found guilty of a summary offence under the Proceeds of Crime Act or the Anti-Terrorism Act;
- (b) is found guilty of a criminal offence which carries a penalty of a term of imprisonment of three years or more;
- (c) is sentenced to imprisonment or is convicted of an offence involving fraud or dishonesty, whether in Trinidad and Tobago or elsewhere;
- (d) is a designated individual or entity under section 22B of the Anti-Terrorism Act or any order made under section 4 of the Economic Sanctions Act; or
- (e) is found guilty of an offence under this Act,

shall be disqualified from acting as a controller of a non-profit organisation.

21. (1) Before a non-profit organisation, which is not a non-profit company, surrenders its registration as a non-profit organisation, the non-profit organisation shall apply to the Official Receiver for the property of the non-profit organisation to be distributed to such other non-profit organisation with a similar purpose as determined by the members. Distribution of property upon surrender

(2) Where the Official Receiver approves an application under subsection (1), the non-profit organisation shall, after satisfaction of all its debts and liabilities, give or transfer any remaining property to such other non-profit organisation as approved by the Official Receiver.

(3) Before a non-profit organisation which is a non-profit company surrenders its registration as a non-profit organisation, the non-profit organisation shall dispose of its property in accordance with section 316 of the Companies Act.

22. (1) Where the registration of a non-profit organisation is cancelled under section 10(1)(d) or (e), the property of the non-profit organisation shall be forfeited in accordance with the Proceeds of Crime Act and Anti-Terrorism Act, as the case may be. Forfeiture of property upon cancellation

(2) Where the registration of a non-profit organisation is cancelled under section 10(1)(a), (b), (c), (f) or (g), the Attorney General shall make an application to a Judge of the High Court for an order of forfeiture in respect of the property of a non-profit organisation.

(3) The Attorney General shall be required to name as respondents to an application under subsection (2) only those persons who are known to own or control the property that is the subject of the application.

(4) The Attorney General shall give notice of an application under subsection (2) to the respondents named in the application, in such manner as the Judge may direct.

(5) A Judge may order that the property of a non-profit organisation be forfeited to the State, and the order shall be published in the *Gazette* and one daily newspaper in general circulation in Trinidad and Tobago at least once a week for two weeks.

(6) The property of a non-profit organisation forfeited to the State shall be given or transferred to such other non-profit organisation as determined by the Judge.

(7) On an application under subsection (2), a Judge may require notice to be given to any person not named as a respondent who in the opinion of the Judge, appears to have an interest in the property, and any such person shall be entitled to be added as a respondent to the application.

(8) Where a Judge is satisfied that a person has an interest in the property which is the subject of an application under subsection (2), the Judge shall order that the interest shall not be affected by the order made under subsection (5) and the order shall also declare the nature and extent of the interest in question.

(9) A person who claims an interest in property that has been forfeited and who has not been named as a respondent or been given notice under subsection (7) may make an application to the High Court to vary or set aside an order made under subsection (5), not later than sixty days after the day on which the forfeiture order was made.

(10) Pending the determination of an appeal against an order of forfeiture made under this section, any person appointed to manage, control or otherwise deal with the property under this section shall continue in that capacity.

PART FOUR

OFFENCES

Non-solicitation
of public funds

23. (1) A non-profit organisation that solicits or causes to be solicited contributions from the public or

the State, whether locally or internationally, whilst not registered under this Act, commits an offence and is liable on summary conviction to a fine of fifty thousand dollars.

(2) A controller of a non-profit organisation which contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for seven years.

(3) It is a defence for a controller of a non-profit organisation charged with an offence under this section to prove that he did not know of the non-profit organisation's solicitation under subsection (1).

(4) In this section, "contributions" means the receipt of cash, donations, gifts, grants and subventions.

24. (1) A controller of a non-profit organisation who knowingly or recklessly makes or provides a false document, financial accounts or records, or audited financial accounts or records which are required under this Act commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for seven years. ^{Liability of a controller}

(2) Any controller of a non-profit organisation who knowingly or recklessly authorises, acquiesces in, or permits the contravention of this Act which constitutes an offence by a non-profit organisation, commits that offence and is liable to be proceeded against and punished accordingly, unless otherwise expressly provided.

PART FIVE

MISCELLANEOUS

25. Any notice required by this Act to be sent to a non-profit organisation shall be sent in writing, by prepaid post or personally delivered, to the registered address of the non-profit organisation. ^{Notice to non-profit organisation}

26. (1) The Minister to whom responsibility for finance is assigned may make Regulations in relation to ^{Regulations}

the Regulator in order to carry into effect the provisions of this Act.

(2) The Minister to whom responsibility for legal affairs is assigned may make Regulations in relation to the Registrar General in order to carry into effect the provisions of this Act.

(3) Regulations made under this section shall be subject to negative resolution of Parliament.

Chap. 3:01

(4) Notwithstanding section 63 of the Interpretation Act, Regulations made pursuant to this Act may prescribe penalties not exceeding ten thousand dollars and six months imprisonment for offences committed thereunder on summary conviction.

Rules

27. (1) The Registrar General may, with the approval of the Minister to whom the responsibility for the Registrar General's Department is assigned, make Rules prescribing forms, fees and other matters relating to the registration of non-profit organisations under this Act.

(2) Notwithstanding section 63 of the Interpretation Act, Rules made under subsection (1) may prescribe penalties not exceeding two thousand dollars for offences committed thereunder on summary conviction.

Transitional

28. (1) Subject to subsection (2), a non-profit organisation, other than a non-profit company, which was in operation immediately before the date of commencement of this Act, may continue to carry out its activities without registration under this Act for a period of eighteen months or such longer period as the Minister may by Order determine, provided that the extension does not exceed twelve months.

(2) A non-profit organisation under subsection (1) shall, before the expiration of the period referred to in subsection (1) or any extension of that period, as the case may be—

(a) apply to be registered as a non-profit organisation under this Act; and

(b) where the non-profit organisation was exempt from corporation tax under section 6(1) of the Corporation Tax Act, ^{Chap. 75:02} immediately before the date of commencement of this Act, provide the Registrar General with a copy of the letter of approval of the exemption granted by the Minister with responsibility for finance.

(3) A non-profit company registered under the Companies Act immediately before the commencement of this Act shall submit a completed AML/CFT/PF risk assessment questionnaire to the Registrar General within twelve months of the commencement of this Act.

(4) Any matter or proceedings commenced in any Court in relation to a non-profit organisation immediately before the date of commencement of this Act shall be continued, completed and enforced as if this Act was not in force.

29. The Acts referred to in the First Column of the Schedule are amended as set out in the Second Column ^{Consequential amendments} of the Schedule.

SCHEDULE

(Clause 29)

<i>Short title of Act</i>	<i>Amendment</i>
Anti-Terrorism Act, Chap. 12:07	In section 2, by deleting the definition of “non-profit organisation” and substituting the following definition: “ “non-profit organisation” has the meaning assigned to it in the Non-Profit Organisations Act, 2019;”.
Companies Act, Chap. 81:01	A. In section 308, by deleting subsection (2) and substituting the following subsection: “(2) In order to qualify for approval, a non-profit company shall— (a) restrict its business to one that is of a patriotic, religious, philanthropic, charitable, educational, cultural, scientific, literary, historical,

SCHEDULE—CONTINUED

(Clause 29)

<i>Short title of Act</i>	<i>Amendment</i>
Companies Act, Chap. 81:01	artistic, social, professional, fraternal, sporting or athletic nature, or the like, or to the promotion of some other useful object; and (b) complete an AML/CFT/PF risk assessment questionnaire. (2A) For the purposes of this section, “AML/CFT/PF” means Anti-Money Laundering/Countering the Financing of Terrorism/Financing the Proliferation of weapons of mass destruction.”.
B. In section 316,	(a) by repealing subsection (1) and replacing the following subsections: “(1) Subject to subsection (2), before dissolution, a non-profit company shall apply to the Official Receiver for the property of the non-profit company to be distributed to such other non-profit company with a similar purpose as determined by the members. (1A) Where the Official Receiver approves an application under subsection (1), the non-profit company shall, after satisfaction of all its debts and liabilities, give or transfer any remaining property to such other non-profit company as approved by the Official Receiver.”; and (b) in subsection (2), by deleting the words “Upon the dissolution” and substituting the words “Before the dissolution”.
C. In section 473(1), by inserting after the words “section 499(2)” the following words “and an AML/CFT/PF risk assessment questionnaire under section 308”.	
D. In section 489, by deleting the word “or” at the end of paragraph (d) and inserting the following new paragraph:	“(da) the registration of the non-profit company is cancelled or surrendered pursuant to the Non-Profit Organisations Act, 2019; or

SCHEDULE—CONTINUED

(Clause 29)

<i>Short title of Act</i>	<i>Amendment</i>			
Financial Intelligence Unit of Trinidad and Tobago Act, Chap. 72:01	In section 8(1), by deleting the words “and the Anti-Terrorism Act” and substituting the words “, the Anti-Terrorism Act and the Non-Profit Organisations Act, 2019”.			
Proceeds of Crime Act, Chap. 11:27	In the First Schedule, by inserting the following item: <table><tr><td>“Act No. of 2019</td><td>Non-profit organisation</td><td>a body of persons, whether incorporated or unincorporated, which—</td></tr></table> (a) is established primarily for the promotion of a patriotic, religious, philanthropic, charitable, educational, cultural, scientific, literary, historical, artistic, social, professional, fraternal, sporting or athletic purpose, or some other useful object and raises or disburses funds for that purpose or object; (b) carries on its business without pecuniary gain to its members or officers except as reasonable compensation	“Act No. of 2019	Non-profit organisation	a body of persons, whether incorporated or unincorporated, which—
“Act No. of 2019	Non-profit organisation	a body of persons, whether incorporated or unincorporated, which—		

SCHEDULE—CONTINUED

(Clause 29)

<i>Short title of Act</i>	<i>Amendment</i>
Proceeds of Crime Act, Chap. 11:27	for services rendered; and
	(c) restricts the use of any of its profits or other accretions to the promotion of its purpose or object,
	as defined under the Non-Profit Organisations Act.”

Passed in the House of Representatives this day
of , 2019.

Clerk of the House

I confirm the above.

Speaker

Passed in the Senate this day of ,
2019.

Clerk of the Senate

I confirm the above.

President of the Senate

No. 4 of 2019

FOURTH SESSION
ELEVENTH PARLIAMENT
REPUBLIC OF
TRINIDAD AND TOBAGO

BILL

AN ACT to provide to provide for the registration of non-profit organisations, the establishment and maintenance of a register of non-profit organisations, the obligations of non-profit organisations and for related matters

Received and read the

First time

Second time

Third time