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THE CHARITIES REGULATIONS, 2022
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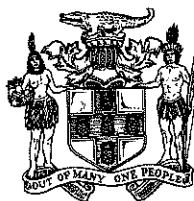
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THE
JAMAICA GAZETTE
SUPPLEMENT

PROCLAMATIONS, RULES AND REGULATIONS

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Vol. CXLV

THURSDAY, DECEMBER 8, 2022

No. 302B

No. 418B

Extract from the Minutes of the meeting of the House of Representatives held on December 6, 2022:

PUBLIC BUSINESS

The Honourable Nigel Clarke, DPhil, MP, Minister of Finance and the Public Service, having obtained suspension of the Standing Orders, moved:

THE CHARITIES ACT

THE CHARITIES REGULATIONS, 2022 RESOLUTION

WHEREAS section 38(1) of the Charities Act (hereinafter referred to as "the Act") provides that the Minister may, after consultation with the Charities Authority, make regulations for the purpose of giving effect to the objects and provisions of the Act and, without prejudice to generality of the foregoing, the regulations may among other things contain provisions in relation to—

- (a) guidelines for the proper operation of charitable organizations;

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- (b) the protection of charitable organizations from being used for money laundering, the financing of terrorism or other financial crimes; and
 - (c) the requirement for registered charitable organizations to use their best efforts to confirm the identity, credentials and good standing of persons who provide them with financial contributions and other donations (including documenting the identity of their significant donors, while respecting donor confidentiality), persons to which registered charitable organizations provide financial support or other benefits, and persons with which registered charitable organizations collaborate in carrying out their charitable purposes:

AND WHEREAS subsection (3) of the said section 38 of the Act provides that regulations made under subsection (1) shall be subject to affirmative resolution:

AND WHEREAS the Minister, after consultation with the Charities Authority, on the 2nd day of December, 2022, made the Charities Regulations, 2022:

AND WHEREAS it is desirable that the Charities Regulations, 2022, be affirmed:

NOW, THEREFORE, BE IT RESOLVED by this Honourable House as follows:—

1. This Resolution may be cited as the Charities Regulations, 2022, Resolution.
2. The Charities Regulations, 2022, which were laid on the Table of the House on the 6th day of December, 2022, are hereby affirmed.

Mr. Julian Robinson and Mr. George Hylton also spoke on the motion.

Seconded by: Mr. Dwight Sibblies.

Agreed to.

I certify that the above is a true extract from the Minutes.

VALRIE A. CURTIS, CD, BH(M), JP
Clerk to the Houses.

No. 418C

Extract from the Minutes of the meeting of the Senate held on December 2, 2022:

PUBLIC BUSINESS

The Honourable Senator Aubyn Hill, Minister of Industry, Investment and Commerce, moved:

THE CHARITIES ACT

THE CHARITIES REGULATIONS, 2022 RESOLUTION

WHEREAS section 38(1) of the Charities Act (hereinafter referred to as “the Act”) provides that the Minister may, after consultation with the Charities Authority, make regulations for the

purpose of giving effect to the objects and provisions of the Act and, without prejudice to generality of the foregoing, the regulations may among other things contain provisions in relation to—

- (a) guidelines for the proper operation of charitable organizations;
- (b) the protection of charitable organizations from being used for money laundering, the financing of terrorism or other financial crimes; and
- (c) the requirement for registered charitable organizations to use their best efforts to confirm the identity, credentials and good standing of persons who provide them with financial contributions and other donations (including documenting the identity of their significant donors, while respecting donor confidentiality), persons to which registered charitable organizations provide financial support or other benefits, and persons with which registered charitable organizations collaborate in carrying out their charitable purposes:

AND WHEREAS subsection (3) of the said section 38 of the Act provides that regulations made under subsection (1) shall be subject to affirmative resolution:

AND WHEREAS the Minister, after consultation with the Charities Authority, on the 2nd day of December, 2022, made the Charities Regulations, 2022:

AND WHEREAS it is desirable that the Charities Regulations, 2022, be affirmed:

NOW, THEREFORE, BE IT RESOLVED by this Honourable House as follows:—

1. This Resolution may be cited as the Charities Regulations, 2022, Resolution.
2. The Charities Regulations, 2022, which were laid on the Table of the Senate on the 25th day of November, 2022, are hereby affirmed.

Senator Lambert Brown and Senator Sherene Golding Campbell also spoke on the motion.

Seconded by: Senator Donald Wehby.

Agreed to.

I certify that the above is a true extract from the Minutes.

VALRIE A. CURTIS, CD, BH(M), JP
Clerk to the Houses.

THE CHARITIES ACT**THE CHARITIES REGULATIONS, 2022**

In exercise of the powers conferred upon the Minister by section 38 of the Charities Act, the following Regulations are hereby made:—

PART I.—Preliminary

Citation. 1. These Regulations may be cited as the Charities Regulations, 2022.

Interpretation. 2.—(1) In these Regulations, unless the context otherwise requires—

“agent” means any person authorized in writing by a donor to act on that donor’s behalf with respect to any action that may be or is required to be taken with respect to any donor-recipient relationship or one-off transaction under these Regulations;

“applicant” means—

(a) a charitable trust; or

(b) an institution, whether incorporated or not,

in respect of which an application for registration as a registered charitable organization has been made under section 15 of the Act;

“associate charitable organization” means a charitable organization whether established in or outside Jamaica, registered under the Act, with which protected charities have entered into partnership to collaborate in carrying out their charitable purposes;

“Authority” means the person or body designated as the Charities Authority under section 6 of the Act;

“beneficiaries” means any natural person or group of natural persons who receive charitable donations and humanitarian assistance through the services of a charitable organization;

“certificate of approval” means a certificate of approval issued under section 16(7) of the Act;

“Chartered Accountant” has the meaning assigned to it by section 24 of the Public Accountancy Act;

“conflict zone”, in relation to a jurisdiction, means a zone—

(a) where a terrorist group is exerting territorial control; or

(b) that is within close geographic proximity to jurisdictions with active terrorist groups;

“connected person” shall be construed in accordance with paragraph (2);

“Designated Authority” means the Chief Technical Director of the Financial Investigations Division established under section 4 of the Financial Investigations Division Act;

“donor information” includes the full name, current address, taxpayer registration number or other tax identification number and date and place of birth (in the case of an individual), of the donor and, where applicable, the information referred to in regulation 15(1)(c);

“donor-recipient relationship” means any arrangement between a donor or the agent authorized to act on behalf of a donor and a protected charity where the purpose of the arrangement is to facilitate the contribution and receipt of charitable donations in accordance with the due diligence procedures stipulated in these Regulations through the carrying out of—

- (a) two or more transactions between the donor or the agent authorized to act on behalf of a donor and the protected charity; or
- (b) transactions between the donor or the agent authorized to act on behalf of a donor and the protected charity on a frequent, habitual or regular basis;

“electronic” has the meaning assigned to it under section 2 of the Electronic Transactions Act;

“employee” means a person (including a person in a senior management position) who has entered into or works under a contract of services, or a contract for services, with a protected charity, whether such contract is express or implied, oral or in writing;

“entity” has the meaning assigned to it under section 2(1) of the Terrorism Prevention Act;

“FATF” means the Financial Action Task Force;

“FATF Recommendations” means the FATF recommendations on International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation and such other amendments as may be made;

“high risk jurisdiction” means a jurisdiction identified by the FATF as having significant strategic deficiencies in its legal and regulatory regime to counter money laundering and the financing of terrorism and subsequently is subjected to increased monitoring;

“listed entity” has the meaning assigned to it under section 2(1) of the Terrorism Prevention Act;

“money laundering” has the meaning assigned to it under section 91(1)(b) of the Proceeds of Crime Act;

“one-off transaction” means any transaction carried out between a donor and a protected charity (whether or not the transaction is completed), other than a transaction carried out in the course of a donor-recipient relationship;

“politically exposed person” means a person specified in paragraph (4);

“principal donor” in relation to a registered charitable organization, means a donor which makes charitable donations or acts by means of an agent;

“protected charity” means a registered charitable organization designated by the Minister pursuant to regulation 7;

“registered public accountant” has the meaning assigned to it by section 2 of the Public Accountancy Act;

“relevant officer” has the meaning assigned to it by regulation 17(2);

“terrorist activity” has the meaning assigned to it under section 2(1) of the Terrorism Prevention Act;

“terrorist group” has the meaning assigned to it under section 2(1) of the Terrorism Prevention Act;

“Tribunal” means the Charities Appeal Tribunal established pursuant to section 36 of the Act.

(2) For the purpose of these Regulations, the following persons shall be treated as being connected with a given person (“A”) and the (“A”) person with them, and shall be so treated notwithstanding that at the relevant time any of the persons in question (not being individuals) had not yet come into existence or ceased to exist—

- (a) the holding company or subsidiary of A;
- (b) a subsidiary of a holding company of A;
- (c) a holding company of a subsidiary of A;
- (d) a company of which A has control;
- (e) a company that, whether by itself or jointly with another, has control of A;
- (f) any company of which A and persons connected with A together have control;

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- (g) any company which together with A constitute a group;
 - (h) an individual who is a director, manager or a person who has control of A or any partner or any immediate relative of such director, manager or person aforesaid;
 - (i) any company of which the persons referred to in sub-paragraph (h) is a director, manager or has control;
 - (j) any unincorporated body of which the persons referred to in sub-paragraph (h) is a director, manager or has control.
- (3) For the purpose of paragraph (2)(g) "group" in relation to a company means that company and—
- (a) any other company that is its holding company or subsidiary;
 - (b) any other company that is a subsidiary of the holding company;
 - (c) any company that directly or indirectly controls or is controlled, directly or indirectly, by any company referred to in paragraph (a) or (b); or
 - (d) any company that is controlled by a person who directly or indirectly Controls a company referred to in paragraph (a), (b) or (c).
- (4) For the purpose of these Regulations, the following persons are politically exposed persons—
- (a) any individual who, in the relation to any State, holds any of the following positions or carries out functions analogous to the functions of the holder of any such position, namely—
 - (i) a head of State;
 - (ii) a head of Government;
 - (iii) a member of any House of Parliament;
 - (iv) a Minister of Government;
 - (v) a member of the judiciary;
 - (vi) a military official above the rank of Captain;
 - (vii) a member of the police of or above the rank of Assistant Commissioner;
 - (viii) a Permanent Secretary, Chief Technical Director or chief officer in charge of the operations of a Ministry, department of Government, executive agency or statutory body, as the case may be;

- (ix) a director or chief executive of any company in which the Government owns a controlling interest;
- (x) an official of any political party;
- (b) an individual who holds or has held a senior management position in an international organization;
- (c) an individual who is an immediate family member or close associate of a person described in paragraph (a) or (b).

*PART II.—Application for and Renewal of Certificate
of Approval of Registration*

Application
for
registration.
Form I.
First
Schedule.

3.—(1) Pursuant to section 15 of the Act, an applicant may apply for registration as a charitable organization by submitting to the Authority a completed application in the form set out as Form I of the First Schedule.

(2) An application under paragraph (1) shall be accompanied by—

- (a) a non-refundable application fee of five thousand dollars;
- (b) a copy of the constitution of the charitable organization which satisfies the conditions specified in paragraph (3);
- (c) Taxpayer Registration Number;
- (d) in respect of each member of the charitable organization, fit and proper questionnaire in the form set out as Form II of the First Schedule;
- (e) proof of legal status of the charitable organization;
- (f) a photograph of each governing board member, certified by a Justice of the Peace;
- (g) audited financial statements in respect of the preceding financial year prepared by a registered public accountant;
- (h) a detailed plan of charitable activities to be carried out or the plan for the disbursement of donor funds to further the charitable purposes of the organization;
- (i) a copy of the administrative and operations management policies and procedures of the charitable organization; and
- (j) any other documents and information as the Authority may require.

(3) For the purposes of paragraph (2)(b), the constitution accompanying an application shall include the following particulars—

- (a) the charitable purposes of the organization and any power conferred to carry out activities in support of those charitable purposes;

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- (b) arrangements established for the management of the organization, which shall include provisions that—
 - (i) the governing board shall be constituted by not less than two governing board members and in the case of a charitable organization that is a private company, one of whom shall be a director and the other being the company secretary;
 - (ii) outline the duties and terms of office of the governing board members;
 - (iii) require at least one governing board member to be a resident of Jamaica; and
 - (iv) require the Authority to be notified in writing of any changes in the membership of the governing board;
 - (c) procedures to address conflicts of interest between a governing board member and the charitable organization;
 - (d) provisions prohibiting governing board members from receiving payment of any kind from the charitable organization except for reimbursement of out of pocket expenses incurred while undertaking the affairs of the charitable organization;
 - (e) the required quorum for meetings of the governing board;
 - (f) the details of any immovable property and the name of any person who has legal or beneficial interest in the immoveable property;
 - (g) states the financial year of the charitable organization;
 - (h) provisions that permit the amendment of the constitution and specify the manner in which amendments are to be made;
 - (i) provisions for the dissolution of the charitable organization which specify that upon dissolution of a charitable organization, any charitable donations, funds or assets of the charitable organization be distributed to another registered charitable organization and which include procedures for the distribution of any charitable donations, funds or assets to other registered charitable organizations.
- (4) Upon receipt of an application made in accordance with paragraph (2), the Authority shall consider whether—
- (a) the applicant is connected to another charitable organization that at any time—
 - (i) has been removed from the register of charities;

- (ii) has been refused registration under section 16(5)(b) of the Act; or
- (iii) has been declared to be a listed entity under section 14(4) of the Terrorism Prevention Act;
- (b) the applicant has acted unlawfully or has contravened any law;
- (c) the applicant has furnished any false, misleading or inaccurate information to the Authority;
- (d) the applicant furnished the additional information or documents required by the Authority under section 15(3) of the Act;
- (e) the requirements of section 17 of the Act have been satisfied;
- (f) each governing board member is a fit and proper person within the meaning of section 18 of the Act;
- (g) the governing board members of the charitable organization will be able to exercise proper management of the administration of the charitable organization;
- (h) the administrative and operations management policies and procedures of the applicant are sufficient to ensure proper management of the charitable organization;
- (i) the activities planned by the applicant are sufficient to further the applicant's charitable purpose; and
- (j) any other prescribed matter.

(5) Subject to paragraphs (2), (3) and (4), the Authority shall determine the application submitted under paragraph (1) within thirty working days from the date of receipt of the application, and where satisfied with the merits of the application, grant the approval for registration as a charitable organization and issue a certificate of approval in accordance with section 16(7) of the Act.

(6) Where the Authority refuses to grant the approval for registration as a charitable organization, the Authority shall notify the applicant in writing of the reasons therefor and the applicant's right of appeal conferred by section 37 of the Act.

Prohibitions
on the use of
certain
names, *etc.*

4.—(1) Except with the approval, in writing, of the Authority, a charitable organization that is not registered under the Act shall not—

- (a) use any name, title, word, term or grammatical presentation that represents or implies that the organization is a registered charitable organization;
- (b) use, in relation to the name, title or designation of the organization the words "Foundation" and "International"; or

- (c) use any name, title or designation of the organization that is Wholly in a foreign language.
- (2) Notwithstanding paragraph (1)—
 - (a) an organization may use the word “Foundation” if—
 - (i) the organization is self-funded by an individual, family or for profit company to aid the organization’s intended charitable purposes; or
 - (ii) the organization is financed by an endowment;
 - (b) an organization may use the word “International” if the organization has activities in service of achieving its charitable purpose that are done outside Jamaica.

Certificate of Approval. 5.—(1) A certificate of approval issued by the Authority under section 16(7) of the Act shall—

- Second Schedule.
- (a) be in the form prescribed in the Second Schedule;
 - (b) specify the period for which it is valid, being a period not exceeding two years; and
 - (c) be subject to such terms and conditions as may be specified in the certificate of approval.

(2) The Authority shall provide the Registrar with a copy of each certificate of approval issued.

Application for renewal of registration. 6.—(1) A charitable organization may apply for renewal of registration, by submitting to the Authority a completed application in accordance with the form set out in the Third Schedule within—

- Third Schedule.
- (a) sixty days prior to the expiration of the certificate of approval; or
 - (b) one hundred and eighty days after the expiration of the certificate of approval.

(2) An application under paragraph (1) shall be accompanied by—

- (a) a non-refundable renewal fee of five thousand dollars; and
- (b) all supporting documentation as would be required on the original application for registration, other than any documentation expressly exempted by the Authority from time to time for the purpose of renewal.

(3) Subject to paragraph (4), the Authority shall determine an application submitted under paragraph (1) within fifteen working days from the date of receipt of the application and shall take into account the factors required under these Regulations to be taken into account on the original application.

- (4) Where amendments have been made to—
- (a) the constitution of the charitable organization;
 - (b) the management structure, including the membership of the governing board since last notified to the Authority; and
 - (c) any matter affecting the tax compliance status of the charitable organization,

the Authority shall forward a copy of the application submitted under paragraph (1) to the Commissioner General.

(5) On receipt of the application pursuant to paragraph (4), the Commissioner General shall review the application and indicate, within thirty working days from the date of receipt of the application, whether he objects to the renewal of registration of the charitable organization.

(6) If the Commissioner General objects to the renewal of registration of the charitable organization he shall state the reasons for the objection.

(7) The Authority may subject to paragraphs (3) and (5)—

- (a) approve the renewal of registration of the charitable organization; or
- (b) refuse to approve the renewal of registration of the charitable organization.

(8) A certificate of approval issued under this Regulation may include such terms and conditions as the Authority thinks fit, including any terms and conditions not included on the original certificate of approval or a subsequent renewal thereof.

(9) Where the Authority refuses to renew the registration of the charitable organization, the Authority shall notify the organization, in writing, stating the reasons for the refusal and of the right of appeal conferred by section 37 of the Act.

PART III.—*Protected Charities*

Designation
of protected
charities.

7.—(1) Subject to paragraph (2), where a registered charitable organization is at an increased risk of being misused or exploited, the Minister may designate, in writing a registered charitable organization to be a protected charity and shall cause notice of such designation to be given to the registered charitable organization that is the subject of the designation and the Authority.

(2) The designation by the Minister of a protected charity under paragraph (1) shall be made on the recommendation of the Authority after the carrying out of the relevant risk assessment and inter-agency consultation with—

- (a) the Designated Authority;

- (b) the Commissioner of Police;
- (c) the Tax Administration of Jamaica; and
- (d) any other relevant department, agency or public body engaged in co-operation, co-ordination and information exchange with respect to combating money laundering, terrorist financing and other financial crimes.

(3) The recommendation referred to in paragraph (2) shall be made if the Authority has reasonable grounds to believe that—

- (a) a registered charitable organization is vulnerable and likely to be at a high risk of being misused for the commission of money laundering, the financing of terrorism or other financial crimes; and
- (b) the detection, prevention and mitigation of the high risk referred to in sub-paragraph (a), requires the implementation of more stringent protective measures.

(4) For the purposes of paragraph (3)(a), the Authority in assessing the level of risk of a registered charitable organization, shall consider the increase in risk of misuse associated with the following—

- (a) a registered charitable organization received charitable donations from or provided funding to a listed entity;
- (b) a registered charitable organization received charitable donations from—
 - (i) an entity in a high risk jurisdiction and there are identified strategic deficiencies within the registered charitable organization that require resolution;
 - (ii) an entity in a jurisdiction that is bordering a conflict zone resulting in an increase in the risk of the registered charitable organization being misused for the commission of money laundering, cross-border terrorist financing or other financial crimes; and
 - (iii) politically exposed persons requiring the implementation of more stringent anti-money laundering, counter-terrorism financing and due diligence measures to mitigate the increased risk associated with donations from politically exposed persons;
- (c) the governing board members responsible for the management of the registered charitable organization acted in contravention of the Proceeds of Crimes Act or the Terrorism Prevention Act;

- (d) a person connected with the registered charitable organization is established or resides outside of Jamaica or is a politically exposed person;
- (e) the work for which the registered charitable organization receives donation is done in a conflict zone or is work which exposes the registered charitable organization to an increased risk of being misused for the commission of money laundering, the financing of terrorism or other financial crimes;
- (f) the income, assets and size of the registered charitable organization;
- (g) the frequency and amount of charitable donations received from outside Jamaica by the registered charitable organization;
- (h) the information provided by a donor organization, or the failure or refusal of a donor organization to provide the information requested under paragraph (5); and
- (i) the registered charitable organization's non-compliance with the provisions of the Act and these Regulations.

(5) The Authority may, in writing, request information from an organization which—

- (a) the Authority has determined is a source of information for identifying and assessing the nature, threat and level of risk of a registered charitable organization being misused or exploited; and
- (b) makes charitable donations for the funding of projects of registered charitable organizations,

and the donor organization, upon receipt of a request under this paragraph, shall provide the Authority with the requested information, in such manner as may have been specified in the request made by the Authority.

Regulatory
controls by
protected
charities.

8.—(1) A protected charity shall establish and implement such programmes, policies, procedures and controls to—

- (a) detect, prevent or mitigate the risk of being misused for the commission of money laundering, the financing of terrorism or other financial crimes;
- (b) prevent being exploited as a conduit for the financing of terrorism and the evasion of asset freezing or seizing measures;
- (c) to prohibit the fraudulent diversion of charitable donations intended for legitimate charitable purposes to the financing of terrorism; and
- (d) to prevent the protected charity from receiving charitable donations from or providing funding to a listed entity.

(2) Without prejudice to the generality of paragraph (1), the measures referred to in that paragraph shall include—

- (a) the establishment of identity verification procedures to obtain information to confirm the identity, credentials and good standing of—
 - (i) donors who provide the protected charity with charitable donations;
 - (ii) beneficiaries of charitable donations to the protected charity;
 - (iii) any associate charitable organization, including the governing board members of the associate charitable organization; and
 - (iv) the governing board members of the protected charity;
- (b) the development of systems to monitor listed entities to ensure that the protected charity has not accepted from or made available charitable donations to a listed entity and otherwise has not dealt or is not dealing with any such listed entity;
- (c) the establishment of transaction verification procedures in accordance with regulation 11;
- (d) the development of internal reporting procedures to identify and report to the Designated Authority transactions suspected of—
 - (i) constituting or being related to the commission of money laundering, the financing of terrorism or other financial crimes; and
 - (ii) involving the receipt of charitable donations from or the provision of funding to a listed entity;
- (e) the establishment of record-keeping procedures in accordance with regulation 16;
- (f) the establishment of accounting and financial reporting procedures in accordance with regulation 16(4);
- (g) the establishment of programmes for the training of employees on a continuous basis in accordance with regulation 17;
- (h) arrangement for the conduct of annual independent audits by an auditor who is a registered public accountant or Chartered Accountant to ensure that the measures as aforesaid are being implemented; and
- (i) such other protective measures as may be specified by the Authority.

(3) For the purpose of this regulation, a protected charity shall nominate an officer of the protected charity who performs management functions to be responsible for—

Fourth
Schedule.

- (a) overseeing the implementation of and compliance by employees with the programmes, policies, procedures and controls referred to in paragraph (1); and
- (b) making reports to the Designated Authority in accordance with the form set out in the Fourth Schedule, including the reporting of transactions that are suspected of constituting or being related to the commission of money laundering, the financing of terrorism or other financial crimes.

(4) A protected charity that fails to comply with paragraph (1) or (2) commits an offence and is liable on summary conviction, in a Parish Court to a fine not exceeding one million dollars.

(5) For the purposes of these Regulations a transaction is suspected of constituting or being related to the commission of money laundering, the financing of terrorism or other financial crime where—

- (a) the protected charity is unable to verify the transaction or establish the identity of the principal donor or agent of the donor in relation to any particular donor-recipient relationship or one-off transaction in accordance with the transaction verification and identification procedures in regulation 10, 11, 12, 13, 14 and 15;
- (b) the transaction involves the receipt of charitable donations from or the provision of funding to an entity declared to be listed entity under section 14(4) of the Terrorism Prevention Act; or
- (c) the transaction involves the receipt of charitable donations from an entity in a high risk jurisdiction.

Procedures to
prevent the
commission
of financial
crimes.

9.—(1) No protected charity shall form a donor-recipient relationship, or carry out a one-off transaction, with any donor, unless the protected charity—

- (a) maintains the following procedures in relation to that donor-recipient relationship or one-off transaction—
 - (i) identification procedures and transaction verification procedures in accordance with regulations 10, 11, 12, 13, 14 and 15;
 - (ii) record-keeping procedures in accordance with regulation 16;
 - (iii) internal reporting procedures in accordance with regulation 18;

- (b) takes appropriate measures from time to time for the purpose of making its employees, whose duties include the handling of the protected charity's financial business and the implementation and monitoring of compliance with anti-money laundering and counter-terrorism financing due diligence procedures aware of—
 - (i) the procedures under sub-paragraph (a) which relate to donor-recipient relationships and one-off transactions; and
 - (ii) the provisions of the Act and these Regulations;
- (c) provide such employees, with training in accordance with regulation 17.

(2) A protected charity that fails to comply with paragraph (1) commits an offence and is liable on summary conviction in a Parish Court to a fine not exceeding one million dollars.

Verification
of donor
identity and
update of
donor
information.

10.—(1) Identification procedures maintained by a protected charity under regulation 9(1)(a) are in accordance with this regulation if such procedures require that—

- (a) before receiving charitable donations from a prospective donor or agent authorized to act on behalf of the donor, for the purposes of establishing a donor-recipient relationship or a one-off transaction—
 - (i) the donor or agent authorized to act on behalf of the donor shall submit to the protected charity—
 - (A) in the case of a donor that is an individual proof of identification such as—
 - (i) a passport;
 - (ii) a driver's licence issued by the country of residence;
 - (iii) national identification card; or
 - (iv) any other form of government issued identification accepted by the protected charity;
 - (B) the donor's taxpayer registration number or foreign taxpayer identification number issued by the donor's jurisdiction of tax residence;

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- (C) a copy of the Certificate of Incorporation or Certificate of Registration obtained from the Companies Office of Jamaica and any other international registry of companies (as the case may be), in the case of a donor that is a body corporate;
 - (D) a description of the principal line of business;
 - (E) a copy of the licence or approval to operate, where the principal line of business is one that falls under a regulatory or supervisory authority;
 - (F) address and location of business operations and address (including previous addresses) of registered office, if different from location of business;
 - (G) list of names, addresses and nationalities of each owner, director and shareholder (if any) holding ten percent or more of the voting rights in the body corporate;
 - (H) director's resolution authorizing the body corporate's management to engage in the donor-recipient relationship or a one-off transaction; and
 - (I) proof of source of funds of the proposed charitable donation which may be in the form of a—
 - (i) certified bank statement not older than three months at the date of submission, showing the origin and accumulation of funds, in the case of charitable donations contained in a bank account; or
 - (ii) written declaration of source of funds from the donor or agent of the donor, certified by a Justice of the Peace or Notary Public, accompanied by documentary evidence of

the transaction from which the charitable donations were derived including but not limited to, a certified copy of a property sale agreement, Grant of Probate and Will or Share Purchase Agreement, in the case of charitable donations not contained in a bank account; and

- (ii) the protected charity takes such measures (as are specified in its identification procedures) as will verify the donor's identity;
 - (b) where the protected charity is unable to verify the donor's identity, the intended donor-recipient relationship or the one-off transaction in question shall not proceed and the protected charity shall refuse to accept the donor's charitable donations;
 - (c) as concerns any donor-recipient relationship, donor information is updated—
 - (i) at least once in every five years during the course of the donor-recipient relationship; and
 - (ii) whenever there is any doubt about the veracity or adequacy of previously obtained donor information; and
 - (d) where donor information is not updated as required under sub-paragraph (c) as a result of the donor's failure to notify the protected charity of any change to the information or provide to the satisfaction of the protected charity verification of any change, the donor-recipient relationship in question shall not proceed any further and the protected charity shall return any donations received and refuse to accept any additional donations from the donor.
- (2) For the purposes of paragraph (1)—
- (a) the protected charity shall carry out reasonable due diligence procedures concerning donor information and reasonable risk assessment of money laundering or terrorist financing; and
 - (b) evidence that such procedures and risk assessment have been carried out shall be sufficient to the satisfaction of this regulation.
- (3) Subject to paragraph (4), a protected shall—
- (a) confirm the identity, credentials and good standing of its beneficiaries and associate charitable organizations;

- (b) document the identity of their donors; and
- (c) ensure that the information relating to the donors be treated with confidentiality and made available upon the request of the Authority.
- (4) Paragraph (3) applies in any of the following circumstances—
 - (a) the protected charity receives donations in an amount in total of more than five hundred thousand dollars; or
 - (b) the protected charity receives donations from international donors.

Transaction
verification
procedures.

11.—(1) Transaction verification procedures maintained by a protected charity are in accordance with these Regulations if such procedures require that—

- (a) as concerns any donor-recipient relationship or one-off transaction, the protected charity takes such measures (as specified in its transaction verification procedures) as will produce satisfactory evidence as to the purpose and intended nature of the donor-recipient relationship or one-off transaction in any of the circumstances specified in paragraph (2); and
- (b) where such evidence is not obtained, the donor-recipient relationship or one-off transaction in question shall not proceed any further.

(2) The circumstances referred to in paragraph (1) are as follows—

- (a) where transactions carried out in a single operation or in several operations appear to be linked;
- (b) where a transaction is carried out by means of any wire transfers;
- (c) where there is any doubt about the veracity or adequacy of previously obtained evidence of a donor's identity; and
- (d) where the protected charity is required to report to the Designated Authority transactions that are suspected of constituting or being related to the commission of money laundering, the financing of terrorism or other financial crimes.

Procedures
regarding a
body
corporate
donor.

12. For the purposes of regulations (10) and (11), where a donor to a protected charity is a body corporate—

- (a) any person charged with receiving the donation shall carry out reasonable due diligence procedures (including the procedures referred to in regulation 15(1)(c)(ii) concerning the identification of the body corporate and transaction verification; and
- (b) evidence that such procedures have been carried out shall be sufficient to the satisfaction of this regulation.

Electronic
funds
transfer.

13.—(1) Where a wire transfer or any other electronic funds transfer is conducted by or in respect of a protected charity, the person conducting the wire transfer or other electronic transfer shall ensure that the protected charity receives and includes in its records, accurate and relevant information on funds transfers including the correct name, address, tax identification number and account number (if any), of the persons involved and the instructions given in relation to the transfer.

(2) For the purposes of paragraph (1), “persons involved” means—

- (a) the holder of the account that is the source from which the funds are transferred;
- (b) the person that places the order for the transfer of the funds; and
- (c) every recipient of the funds transferred.

(3) A protected charity that fails to comply with paragraph (1) commits an offence and is liable on summary conviction, in a Parish Court to a fine not exceeding one million dollars.

Identification
procedures
regarding
transactions
on behalf of
another.

14.—(1) This regulation applies where, in relation to any donor-recipient relationship or one-off transaction, a person is, or appears to be an agent of a donor.

(2) Identification procedures maintained by or in respect of a protected charity under regulation 9(1)(a) are in accordance with this regulation if, in a case to which this regulation applies, reasonable measures are required to be taken in relation to the management of the protected charity for the purpose of—

- (a) establishing the identity of the principal donor and the agent; and
- (b) verifying that the agent is authorized to act on behalf of the principal donor.

(3) In determining for the purposes of paragraph (2), what constitutes reasonable measures, regard shall be had to all the circumstances of the case and, in particular, to the identification best practice and due diligence procedures employed by or in respect of a protected charity and which is applicable to those circumstances.

(4) Without prejudice to the generality of paragraph (3), if the conditions mentioned in paragraph (5) are fulfilled in relation to an agent (whether the principal donor is undisclosed or disclosed for reference purposes only) it shall be reasonable to accept a written assurance from the agent to the effect that evidence of the identity of any principal donor on whose behalf the agent may act in relation to any donor-recipient relationship or one-off transaction has been obtained and recorded under procedures maintained by the agent.

(5) The conditions referred to in paragraph (4) are that, in relation to the donor-recipient relationship or one-off transaction in question, there are reasonable grounds for believing that—

- (a) the agent is based or incorporated in, or is formed under the law of, a country in which there are in force in relation to the agent provisions at least equivalent to those mentioned in regulations 9, 10, 11, 12, 13, 15, 16, 17, 18 and 21; and
- (b) the agent—
 - (i) is a person to whom the provisions of regulation 9(1) would apply if the agent was situated in Jamaica; and
 - (ii) acts in the course of a business in relation to which a foreign regulatory authority exercises regulatory functions and control in respect of the provisions referred to in sub-paragraph (a).

(6) An agent acting on the behalf of a principal donor shall disclose to the protected charity whether the principal donor has been declared to be a listed entity under section 14(4) of the Terrorism Prevention Act.

(7) A person who, without reasonable excuse, fails to comply with paragraph (6) commits an offence and is liable on summary conviction in a Parish Court to a fine not exceeding one million dollars or to imprisonment for a term not exceeding twelve months.

Identification
procedures
supplementary
provisions.

15.—(1) For the purposes of these Regulations, evidence of identity is satisfactory if—

- (a) it is reasonably capable of establishing that the donor to the protected charity is the person the donor claims to be;
- (b) the protected charity is reasonably satisfied, in accordance with the identification procedures maintained under these Regulations, that such evidence establishes the fact that the donor is the person the donor claims to be;
- (c) in the case of any transaction involving—
 - (i) a settlement, trust or other type of legal arrangement, it establishes the identity of the settlor, legal owner or other person who exercises effective control of the legal arrangement, as the case may require, and the beneficial owner; and
 - (ii) a body corporate, it establishes the identity of each director, member or shareholder (if any) and includes

in the case of an incorporated body, evidence of incorporation.

(2) For the purposes of regulation 10, in determining the period within which satisfactory evidence of the identity of the donor is to be obtained in relation to any particular donor-recipient relationship or one-off transaction, all the circumstances shall be taken into account, including, in particular—

- (a) the geographical locations of the donor; and
- (b) whether it is practical to obtain the evidence before commitments are entered into between the protected charity and the donor or before any charitable donations are transferred to the protected charity.

Record-
keeping
procedures.

16.—(1) Record-keeping procedures maintained by or in respect of a protected charity under regulation 9(1) (a) are in accordance with this regulation if the procedures requires the keeping of a record for the prescribed period in accordance with paragraphs (2), (3), (4) and (5).

(2) Where evidence of the identity of a donor is obtained under procedures maintained in accordance with regulation 10, 11, 12 or 14 a record shall be kept in accordance with paragraph (3).

(3) The record referred to in paragraph (2) shall indicate the nature of the evidence and shall—

- (a) comprise a copy of the evidence;
- (b) provide such information as would enable a copy of it to be obtained; or
- (c) in a case where it is not reasonably practicable to comply with subparagraph (a) or (b), provide sufficient information to enable the details as to a donor's identity contained in the relevant evidence to be re-obtained.

(4) In relation to charitable donations made to a protected charity, the governing board members shall cause to be established and maintained proper accounting records to demonstrate that all charitable donations received and all monies disbursed by or from the protected charity for the financial year have been used in a manner consistent with the protected charity's purpose, objective and activities.

(5) The accounting records referred to in paragraph (4) shall include—

- (a) entries recording all charitable donations received during the financial year of the protected charity;
- (b) entries recording all monies disbursed by or from the protected charity for the financial year;

-
-
- (c) audited financial statements of the protected charity for the financial year of the protected charity which shall include—
- (i) a statement of income and expenditure of the protected charity for the financial year and the matters in respect of which the income and expenditure relate;
 - (ii) a balance sheet showing the assets, liabilities and funds of the protected charity at the end of the financial year of the protected charity;
 - (iii) a statement of cash flow; and
 - (iv) explanatory notes providing description of the nature and extent of donor-imposed restrictions and conditions on charitable donations reflected in the balance sheet;
- (d) the extent to which the amount of donations received has met any target set by or for the protected charity; and
- (e) the period during which the protected charity is approved to receive tax deductible donations.

(6) Where a protected charity is approved by Commissioner General to collect tax deductible donations for a limited period or of a limited amount, the governing board members shall cause to be maintained separate accounting records for charitable donations received.

(7) For the purposes of this regulation, the prescribed period is a period of not less than seven years commencing on the date on which the relevant transaction was completed or the donor-recipient relationship was terminated, whichever occurs later.

Training.

17.—(1) The governing board members of a protected charity shall cause its employees including relevant officers within six months after the date of commencement of employment and every two years thereafter, to receive training—

- (a) on the requirements and procedures for compliance of the operations of a protected charity with the provisions of the Act and these Regulations;
- (b) in the recognition and handling of transactions—
 - (i) carried out by or on behalf of a listed entity; or
 - (ii) suspected of constituting or being related to the commission of money laundering, the financing of terrorism or other financial crimes; and

- (c) in the identification of potential vulnerabilities in the administration of protected charities to the risks of the commission of money laundering, the financing of terrorism or other financial crimes and the measures to be undertaken to protect against such activities;
- (d) in corporate governance and financial transparency; and
- (e) in risk management and financial control procedures.

(2) For the purposes of these Regulations, an employee of a protected charity is, considered as a relevant officer of the protected charity if, at any time, in the course of his duties—

- (a) the employee has, or may have, access to any information which may be relevant in determining whether any person is engaged in the commission of money laundering, the financing of terrorism or other financial crimes; or
- (b) the employee participates in implementing and monitoring compliance with anti-money laundering or counter-terrorist financing requirements.

(3) A person who provides services to a protected charity as an unpaid volunteer is deemed to be a relevant officer of the charitable organization if, at any time in the course of the volunteer's duties, he has or may have access to any information referred to in paragraph (2) (a), or participates in implementing and monitoring compliance referred to in paragraph (2)(b).

(4) A person who contravenes paragraph (1) commits an offence and is liable on summary conviction in a Parish Court, to a fine not exceeding one million dollars or to imprisonment for a term not exceeding twelve months.

Internal
reporting
procedures.

18. Internal reporting procedures maintained by a protected charity shall include provisions—

- (a) for identifying an officer of the protected charity in accordance with regulation 8(3) (in this regulation referred to as the nominated officer) to whom a report is to be made of any information or other matter which—
 - (i) comes to the attention of an employee handling the protected charity's financial business; and
 - (ii) in the opinion of the employee handling that business, gives rise to some knowledge or suspicion that another employee is engaged in transactions that could constitute or be related to the commission of money laundering, the financing of terrorism or other financial crimes;

Fourth
Schedule.Operation of
anonymous,
fictitious and
numbered
accounts.

- (b) for requiring that any such report be considered in the light of all, other relevant information by the nominated officer, or by another person, acting on behalf of the nominated officer, for the purpose of determining whether or not the information or other matter contained in the report gives rise to such knowledge or suspicion;
- (c) for any person charged with considering a report in accordance with paragraph (b) to have reasonable access to other information that may be of assistance to him and is available to the regulated business; and
- (d) for any person charged with considering a report in accordance with paragraph (b) to make such reports to the Designated Authority in accordance with the form set out in the Fourth Schedule.

19.—(1) A protected charity shall not, in the course of any donor-recipient relationship or one-off transaction, permit any donor to conduct any transaction with the protected charity by means of a numbered account, an anonymous account or any account in a fictitious name.

(2) A protected charity that fails to comply with paragraph (1) commits an offence and is liable on summary conviction in a Parish Court to a fine not exceeding one million dollars.

(3) For the purposes of this regulation—

“anonymous account” means any account for which the protected charity does not have such information as would, when subjected to the identification and transaction verification procedures required by these Regulations, constitute evidence of identity which meets the requirements of regulations 14 and 15;

“fictitious name” means any name which when subjected to the identification procedures required by these Regulations does not constitute, in relation to the person conducting the transaction, such evidence of identity as meets the requirements of regulations 14 and 15;

“numbered account” means an account that is identifiable solely by reference to the number or numbers assigned to that account.

Authority to
provide
guidance for
due diligence
procedures
and training.

20.—(1) The Authority in ensuring compliance with the FATF recommendations, shall provide guidance for the implementation of due diligence procedures and the training of governing board members, relevant officers and other employees of protected charities—

- (a) to prevent or mitigate the risk of the commission of money laundering, the financing of terrorism or other financial crimes; and

- (b) for the proper administration and management of the protected charity in compliance with the provisions of the Act and these Regulations.

(2) The due diligence procedures and training referred to in paragraph (1) shall include—

- (a) identifying potential vulnerabilities in the administration of protected charities to the risks of the commission of money laundering, the financing of terrorism or other financial crimes and the measures that can be undertaken to protect against such activities; and
- (b) promoting transparency, accountability, integrity and public confidence in the administration and management of protected charities.

Application of standards to overseas branches and subsidiaries.

21.—(1) Subject to paragraph (2), the governing board members of a protected charity shall review the activities of its branches and subsidiaries situated outside of Jamaica so that the management and operations of the branches and subsidiaries are in compliance with the provisions of the Act and these Regulations.

(2) Where there is a difference in applicable standards under this Act and the standards of the jurisdiction in which any of the branches or subsidiaries of a protected charity are located, the protected charity shall cause its branches or subsidiaries to comply with the more stringent standard.

(3) Where a governing board member of a protected charity has notice of any instance in which any of its branches or subsidiaries of the protected charity situated outside of Jamaica is unable to conform to the standards, conduct and due diligence procedures under the Act or these Regulations, the governing board members having such notice shall cause—

- (a) enquiries to be made to determine the reason for the inability; and
- (b) the Authority to be notified of the inability of that branch or subsidiary of the protected charity to conform with the standards, conduct and due diligence procedures and the reason therefor.

(4) A person who fails to comply with paragraph (1) or (3) commits an offence and is liable on summary conviction, in a Parish Court to a fine not exceeding one million dollars.

Non-derogation of Authority's power.

22. Nothing in these Regulations shall derogate from the power of the Authority under sections 21 and 22 of the Act to suspend or to revoke the approval for registration of a protected charity, where the protected charity fails to comply with any provision of the Act and these Regulations.

Appeal.

23. A person who is aggrieved by a decision of the Authority in respect of a matter under these Regulations may appeal to the Tribunal in accordance with section 37 of the Act.

PART IV.—*General Provisions with respect to Registered
Charitable Organizations*

Provisions
relating to a
registered
charitable
organization.

24.—(1) Where an institution is a registered charitable organization—

- (a) any person appointed by the Authority to audit or examine (as the case may be) and review the control and management of the administration of the institution shall be allowed to audit or examine the management, operations, finances and accounts of the institution;
- (b) the institution shall not be used by a person for a purpose other than its charitable purpose; and
- (c) one or more officers of the registered charitable organization shall be designated to be a compliance officer with the responsibility to monitor the operations of the registered charitable organization for compliance with these Regulations.

(2) A person who contravenes paragraph (1) (a), (b) or (c) commits an offence and is liable on summary conviction in a Parish Court to a fine not exceeding one million dollars or to imprisonment for a term not exceeding twelve months.

Use of
donations.

25.—(1) Any donation that is accepted by or on behalf of a registered charitable organization shall be applied in accordance with the provisions of this regulation.

(2) Any donation that is made to a registered charitable organization for a lawful purpose specified by its donor, shall be used for that specific charitable purpose.

(3) Where a donor has not specified the particular charitable purpose to which a donation made to a registered charitable organization is to be applied and the donation is—

- (a) a tax deductible, the donation shall be applied by the charitable organization in accordance with the charitable purposes of the organization; and
- (b) not tax deductible, the donation shall be applied by the charitable organization to any activity carried out by the charitable organization in fulfilment of its charitable purposes.

(4) Where a donation, or any part of it, is not applied in accordance with paragraph (3), the registered charitable organization shall—

- (a) refund the donation to the donor; or
- (b) use the donation for such other purpose as may be approved by the governing board members.

(5) Where a registered charitable organization refunds any tax deductible donation, or any part of it, to a donor under paragraph (4), it shall immediately notify, in writing, the Commissioner General of the refund.

(6) A registered charitable organization that fails to comply with paragraph (5) commits an offence and is liable on summary conviction in a Parish Court to a fine not exceeding one million dollars.

Duty to
maintain
donation
records.

26.—(1) A registered charitable organization shall—

- (a) issue receipts for every donation received; and
- (b) keep a record of all donations that have been made to the charitable organization, which shall include—
 - (i) the receipt number;
 - (ii) the name of the donor;
 - (iii) the date on which the donation was received;
 - (iv) the type of donation received and the means by which it is received;
 - (v) the amount or value of the donation received; and
 - (vi) any terms and conditions under which the donation was made.

(2) The record referred to in paragraph (1)(b) shall be maintained for a period of not less than seven years from the end of the year of assessment in which the donation was received.

(3) A registered charitable organization that fails to comply with paragraph (2) commits an offence and is liable on summary conviction in a Parish Court to a fine not exceeding one million dollars or to imprisonment for a term not exceeding twelve months.

Duty to
donor.

27.—(1) A registered charitable organization conducting a fund-raising activity shall provide—

- (a) donors and the general public with accurate information regarding—
 - (i) the name of the registered charitable organization which is to receive the donations;
 - (ii) the charitable purpose for which the donation will be used; and
 - (iii) whether any commercial fund-raiser has been engaged in soliciting the donation; and

- (b) adequate arrangements to solicit donations, including control measures and safeguards for proper accountability and to prevent any misapplication, loss or theft of donations.

(2) Where a commercial fund-raiser is engaged by a registered charitable organization to solicit donations on its behalf—

- (a) the total amount of all donations collected by the commercial fund-raiser shall be paid directly to the registered charitable organization;
- (b) the commercial fund-raiser shall not deduct or set off any payment or expenses due to it from the donations collected; and
- (c) any payment due to the commercial fund-raiser for services rendered from the registered charitable organization shall be paid by the registered charitable organization as a transaction separate from the collection and transfer of donations.

(3) For the purposes of this regulation—

“commercial fund-raiser” means a person or corporation or unincorporated association who is hired by a charity to solicit money or property on the charities’ behalf (whether by direct mail, telemarketing, auction, entertainment, social media, entertainment events or stock exchange;

“fund-raising activity” means any activity undertaken by a charitable organization to raise funds to further its charitable purpose.

Duty to
furnish
documents
and provide
copies of
extracts.

28.—(1) A registered charitable organization shall furnish to the Authority, within three months after the end of each financial year—

- (a) the audited financial statements of the registered charitable organization;
- (b) the auditor’s report on the financial statements;
- (c) the auditor’s report on the use of donation monies and whether such use is in accordance with the charitable purposes of the registered charitable organization;
- (d) the fund-raising activities and expenditure plans for the next financial year; and
- (e) the annual report of the registered charitable organization.

(2) At the request of an inspector during the course of an inspection the charitable organization shall provide to the inspector copies of or extracts from any books, records and documents which the inspector is entitled to inspect pursuant to section 35 of the Act.

Audits and
examination
by Authority.

29. The Authority shall audit and examine, or cause to be audited or examined, the books, records and documents of—

- (a) a registered charitable organization, at least once every two years; and
- (b) a protected charity, at least once every year.

Financial
statements
and audits.

30.—(1) The audited financial statements of a registered charitable organization shall include particulars as to—

- (a) the total amount of tax deductible donations received for the period to which the financial statements relate;
- (b) transactions with connected persons;
- (c) where fundraising activities are sponsored by persons other than the registered charitable organization, the identity of the sponsor and the total amount of sponsorships in cash;
- (d) the total cost or value of any goods and services received from the sponsor, as the case may be, during the period to which the financial statements relate, accompanied by receipts or other documentary evidence in support thereof, if available;
- (e) a statement of income and expenditure of the protected charity for the financial year of the protected charity and the matters in respect of which the income and expenditure relate;
- (f) a balance sheet showing the assets, liabilities and funds of the protected charity at the end of the financial year of the protected charity;
- (g) a statement of cash flow; and
- (h) explanatory notes providing description of the nature and extent of donor-imposed restrictions and conditions on charitable donations reflected in the balance-sheet.

(2) The governing board members of a registered charitable organization shall cause the financial statements and accounts of the registered charitable organization to be audited annually by an auditor who is a registered public accountant or Chartered Accountant.

(3) A registered charitable organization shall change its auditor at least once every five years.

Offences.

31.—(1) Any person who willfully—

- (a) obstructs, hinders, assaults or resists an authorised officer or inspector in the execution of his duties under these Regulations;

- (b) without lawful excuse, fails within a reasonable time to comply with any requirement of an authorised officer or inspector exercising a power conferred on him under these Regulations;
- (c) makes a false statement in any application for a certificate of approval issued under these Regulations;
- (d) provides any false or materially misleading information in any application, report or other document required to be furnished under these Regulations; or
- (e) fails or refuses to produce any document, or other information, which that person is required to produce, under these Regulations, commits an offence.

(2) A person who commits an offence under paragraph (1) is liable on summary conviction in a Parish Court to a fine not exceeding one million dollars or imprisonment for a term not exceeding twelve months.

Offence by
unincorporated
body.

32.—(1) For the avoidance of doubt, where an offence under these regulations has been committed and the registered charitable organization or protected charity, as the case may be, is not incorporated—

- (a) notwithstanding that the provision refers to the commission of the offence by a registered charitable organization or protected charity; and
- (b) without prejudice to the liability of any other person in relation to the commission of the offence, any person who at the time of such commission was a governing board member, officer or employee in respect of that registered charitable organization or protected charity, subject to sub-paragraph (2) be liable to be prosecuted and shall, if on such prosecution it is proved to the satisfaction of the court that he consented to, or connived at, or did not exercise all such reasonable diligence as he ought in the circumstances to have exercised to prevent the offence, having regard to the nature of his functions in that capacity and to all the circumstances, be liable to conviction and punishment.

(2) A person shall not be charged under sub-paragraph (1) except on the direction of the Director of Public Prosecutions.

Transitional
provision for
pre-existing
donors.

33.—(1) Except as otherwise provided in this regulation, the obligations of a registered charitable organization under these Regulations shall apply, in respect of any donor-recipient relationship formed by the registered charitable organization prior to the relevant date, as they apply in respect of a donor.

(2) Subject to paragraph (4), nothing in these Regulations shall require a registered charitable organization to maintain procedures in accordance with

regulations 10 and 14 which require evidence to be obtained in respect of any donor-recipient relationship formed by a registered charitable organization prior to the relevant date, as to the identity of the person with whom that relationship has been formed.

(3) For the purposes of regulation 10, any pre-existing donor-recipient relationship shall be treated as an established donor-recipient relationship.

(4) Notwithstanding paragraph (2), the provisions of regulation 10(1)(c) shall, as of the relevant date apply to the updating of evidence of identity in relation to any donor-recipient relationship formed by a registered charitable organization prior to the relevant date.

(5) In this regulation—

“pre-existing donor-recipient relationship” means a donor-recipient relationship (as defined in regulation 2) formed by a registered charitable organization before the relevant date;

“relevant date” means the date of coming into operation of these Regulations.

FIRST SCHEDULE

FORM I

THE CHARITIES ACT

The Charities Regulations, 2022

(Regulation 3(1))

Application for Registration of Charitable Organization

Name of Applicant: (in the case of an unincorporated charitable organization, a governing board member)		Address:	
Name of Charitable Organization:			
Date of Application: ____/____/____ (dd/mm/yyyy)		Companies Office of Jamaica Registration Number:	Charitable Organization TRN:
Type of Charitable Organization: Charitable Trust ☐ Institution: Incorporated ☐ Unincorporated ☐ Limited Liability Company ☐ Unlimited Liability Company ☐		Under which Act is the Charitable Organization registered: (not applicable to individuals operating unincorporated/unregistered organizations)	
Please indicate the applicable charitable purpose/s below:			
1. The prevention or relief of poverty. ☐ 2. The advancement of education. ☐ 3. The advancement of religion. ☐ 4. The advancement of health or saving of lives. ☐ 5. The advancement of good citizenship or community development. ☐ 6. The advancement of arts, culture, heritage, or science. ☐ 7. The advancement of amateur sport. ☐ 8. The advancement of human rights, conflict resolution, or reconciliation. ☐ 9. The promotion of religious or racial harmony or equality and diversity. ☐ 10. The advancement of environmental protection or improvement. ☐ 11. The relief of those in need because of youth, advanced age, ill-health, disability, financial hardship or other disadvantage (including temporary disadvantages such as effects of a public disaster or public emergency). ☐ 12. The promotion of the efficiency of the armed forces or the efficiency of the police forces. ☐ 13. The advancement of animal welfare. ☐ 14. A purpose specified by the Minister, by order, analogous to paragraphs 1 to 13: (state purpose) _____			
Number of Governing Board Members: _____			

FIRST SCHEDULE, *contd.*FORM I, *contd.*

PARTICULARS OF GOVERNING BOARD MEMBERS at the time of Application for Charitable Status							
Names of Governing Board Members	Date of Appoint- ment to Board	Job Title/Occu- pation	Nationality	TRN	Residential Address:	Email Address(es)	Contact Number

(All Governing Board Members are to complete and attach the fit and proper questionnaire with a certified passport size picture.)

Name of Company Secretary (if applicable):
Explain the charitable purpose and reasons for registration of the charitable organization:
State sections of the Articles of Association and Memorandum of Association (<i>applicable to companies incorporated before 2005</i>) or the Articles of Incorporation (Form 1B), that specify how the assets and liabilities of the charitable organization will be treated upon dissolution:
Where the charitable organization is a body corporate, has a receiver been appointed to manage any of its assets? Yes ☐ No ☐
State sections of the Articles of Association and Memorandum of Association (<i>applicable to companies incorporated before 2005</i>) or the Articles of Incorporation (Form 1B including Schedule 1) (applicable to companies incorporated after 2005), that specify how proper books of account of the charitable organization are to be kept for inspection by an inspector or any person duly authorised by the Charities Authority:
State year of previously Audited Financial Statement (If applicable) _____

FIRST SCHEDULE, *contd.*FORM I, *contd.*

List all major donors and Country of Origin (if applicable)

EXISTING DONORS	COUNTRY OF ORIGIN

State all sources of funding:

- | | |
|----------|----------|
| a. _____ | d. _____ |
| b. _____ | e. _____ |
| c. _____ | f. _____ |

Please specify category for you Charitable Organization

CATEGORIES	TICK ALL THAT APPLY
Benevolent Societies	
Alumni/Past Students' Association	
Church/Church Affiliates	
Other Religious Organizations/Affiliates	
Company Based	
Government Based Entity	
Trusts	
Overseas Based Entity	
Trusts	
Overseas Based Entity	
Schools (Government and Private)	
Unincorporated Entity	
Other (state):	

I HEREBY DECLARE THAT THE INFORMATION SUBMITTED IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Signature of Governing Board Member: _____ Date: _____

FIRST SCHEDULE, *contd.*FORM I, *contd.*

DOCUMENTS ACCOMPANYING THE APPLICATION (originals shall be submitted for verification of copies)		✓ documents submitted
• Application Fee		[]
• Charitable Organization's Tax Registration Number (TRN)		[]
• Certificate of Registration/Certificate of Incorporation		[]
• Fit and proper Questionnaire along with certified passport size photograph to be submitted by all Directors and the Secretary		[]
• Prior year financial statements audited or unaudited*		[]
• Applicable constituent document:- []		
- Articles of Association and Memorandum of Association for companies incorporated before 2005		
- Articles of Incorporated (Form 1B) to include Schedule 1 for companies incorporated after 2005)		
- Trust Deed for a Charitable Trust		
- Registered Rules for Benevolent Societies		
- Vested Act for companies that were incorporated by way of such instruments		
- For unincorporated charitable organizations, constituent document that have been stamped at the Stamp Office and lodged at the Island Records Office at the Registrar General's Department		

FIRST SCHEDULE, *contd.*

FORM II

THE CHARITIES ACT

The Charities Regulations, 2022

(Regulation 3(2))

"FIT AND PROPER" QUESTIONNAIRE FOR GOVERNING BOARD MEMBER		
INSTRUCTIONS: To be completed by each Governing Board Member ¹ of the charitable organization seeking registration in keeping with section 17 of the Charities Act 2013. Submit along with Application for Registration in keeping with Section 15 under the Charities Act 2013. Each Governing Board Member must attach a recent passport-sized photograph, certified by a Justice of the Peace/Attorney at Law/Notary Public.		
SURNAME	FIRST NAME	MIDDLE NAME
OTHER NAMES (IF APPLICABLE)	GENDER ☐ MALE ☐ FEMALE	DATE OF BIRTH (DD-MM-YYYY):
PLACE OF BIRTH:	NATIONALITY:	IF NATURALIZED CITIZEN, INDICATE DATE OF NATURALIZATION AND CERTIFICATION NO.
TAX REGISTRATION NUMBER (TRN):	ID#: Type: ☐ Driver's Licence ☐ Passport ☐ National Identification Card	OCCUPATION:

¹ "Governing Board Member" means a trustee, director or other person who is a member of the governing body (by whatever name called) which is responsible for the management of the charitable organization, whether or not he is an employee of the charitable organization; and (b) the secretary of the charitable organization.

FIRST SCHEDULE, *contd.*FORM II, *contd.*

RESIDENTIAL ADDRESS _____ _____ _____	MAILING ADDRESS (IF DIFFERENT) _____ _____ _____	BUSINESS ADDRESS: _____ _____ _____
CONTACT NUMBER:	EMAIL ADDRESS:	

IF YOU ARE NOT A JAMAICAN, COMPLETE THE FOLLOWING:

Visa Type and No:	Passport Type and No:	Alien Identification No:
Work Permit No:	MARITAL STATUS Single ☐ Married ☐ Divorced ☐ Widowed ☐	
SPOUSE:		
SURNAME	FIRST NAME	MIDDLE NAME:
PLACE OF BIRTH	NATIONALITY	IF NATURALIZED CITIZEN, INDICATE DATE OF NATURALIZATION AND CERTIFICATION NO.
OCCUPATION:	RESIDENTIAL ADDRESS:	MAILING ADDRESS (IF DIFFERENT)
CONTACT NUMBER:	EMAIL ADDRESS:	
No. of DEPENDENTS:	AGE(s):	RELATIONSHIP
Do you have any health conditions which may cause infirmity of body or mind and render you incapable of discharging the functions of a governing board member? Yes ☐ No ☐ If yes, please specify: _____		
Have you ever been in the leadership of an organization that has filed for bankruptcy? Yes ☐ No ☐ If yes, state date(s), place (s), if pending, give details of the circumstances and if not pending, how the matter was resolved: _____ _____ _____		
Have you ever been in the leadership of any organization ordered to cease and desist operations? Yes ☐ No ☐ If yes, then state date (s), place (s) & reason (s): _____		

FIRST SCHEDULE, *contd.*FORM II, *contd.*

Have you at any time been convicted of an offence involving dishonesty whether in Jamaica or elsewhere? Yes ☐ No ☐ If convicted provide details: [date of conviction, full particulars of the offence and penalty imposed]: _____
Have you ever been sued in your personal capacity or against any Organization, or any other business undertaking to which you are connected as a partner, director or manager? If pending, give details of the circumstances, and if not pending state how the matter was resolved. _____ _____
Have you ever been the subject of investigation/disciplinary procedures, censured, disciplined or publicly criticised by any professional body to which you belong or have belonged whether in Jamaica or elsewhere? Yes ☐ No ☐ If so, give particulars: _____ _____
Have you ever been dismissed or requested to resign from any office or employment; as a result of engaging in any business practice appearing to be deceitful, oppressive or otherwise improper whether in Jamaica or elsewhere? Yes ☐ No ☐ If so, give particulars: _____ _____
Have you ever been refused entry to any profession or vocation or been the subject of an investigation/disciplinary procedures by any professional body? Yes ☐ No ☐ If yes, give particulars: _____ _____
Have you ever been disqualified by a court or by virtue of any statutory enactment from being a director or acting in the management or conduct of the affairs of any Organization for the protection of the public against financial loss or any other reason? Yes ☐ No ☐ If yes, give particulars: _____ _____
In connection with the formation or management of any partnership, business undertaking or corporation, have you been adjudged by a Court civilly or criminally liable for any fraud,

FIRST SCHEDULE, *contd.*FORM II, *contd.*

misfeasance or other misconduct towards that corporation or any member or customer thereof whether in Jamaica or elsewhere? Yes ☐ No ☐ If so, give particulars: _____ _____	
Have you ever been convicted of an offence under any Tax Laws in Jamaica or elsewhere? Yes ☐ No ☐ If yes, give particulars: _____ _____	
Is the organization within which you hold a governance position tax compliant? Yes ☐ No ☐ If no, give details: _____ _____ _____	

(Organization(s) in which you gave voluntary service in last five to include serving on the Board of any Charities (registered or otherwise):

DATE		NAME OF GROUP	NATURE OF MAIN BUSINESS	POSITION
From	To			

Commercial or other organization(s) in which you or your immediate family have a business association or interest:

DATE JOINED	NAME OF COMPANY/ ORGANIZATION	ADDRESS	NATURE OF MAIN BUSINESS	NATURE OF INTEREST [Position/ % Shares]

Do you, at all times while acting in your capacity as a Director or Trustee of the Organization undertake to:

a. Act in good faith towards the Organization?
Yes ☐ No ☐

b. Avoid conflict of interest between your other interests and the interests of the Organization?

FIRST SCHEDULE, *contd.*FORM II, *contd.*

Yes ☐ No ☐	
Have you acquainted yourself with and do you understand the rights and powers, as well as your responsibilities and duties as a Director/Trustee of the Organization as outlined in section 29 of the Charities Act, 2013?	
Yes ☐ No ☐	
EMERGENCY CONTACT:	
Name: _____	M ☐ F ☐
Address: _____	
Telephone (s): _____	
TRN: _____	
DECLARATION	
I, _____, declare that this questionnaire and all the attachments, statements, disclosures and supporting documents are true and correct to the best of my knowledge and belief. I further declare that this statement is executed with the knowledge that misrepresentation or failure to reveal information requested may be deemed sufficient cause for the revocation of my appointment as a Governing Board Member of the charitable organization for which this questionnaire is being completed. I further UNDERTAKE that as long as I am a governing board member I will notify the Charities Authority in writing or by electronic format of any material change in the accuracy of any information furnished or required to be furnished, no later than fourteen (14) days from the day the change comes to my attention. I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Voluntary Declarations Act. I hereby authorise the Charities Authority, or its duly authorised representative, to validate the accuracy of the information provided in connection with this fit and proper questionnaire.	
Dated the _____ day of _____ Date Month Year	
Signed by the said _____ _____ _____	))))
Name of Applicant	_____ Signature
in the presence of: _____ _____ _____	))))
Justice of the Peace/Attorney-at-Law	

SECOND SCHEDULE

THE CHARITIES ACT

The Charities Regulations, 2022

(Regulation 5(1))

CERTIFICATE OF REGISTRATION OF REGISTERED
CHARITABLE ORGANIZATION

Name of Charitable Organization:

Charitable Organization Registration Number:

Charitable Organization Address:

Charitable Organization TRN:

This is to certify that the abovenamed organization is a Registered Charitable Organization pursuant to Sections 16 and 24(4) of the Charities Act, 2013 and shall be eligible to obtain tax relief under the Provisional Collection of Tax (Minimum Business Tax) Order, 2014 and the following enactments specified in the Third Schedule of the Charities Act:

- 1 The Customs Act
- 2 The General Consumption Tax Act
- 3 The Income Tax Act
- 4 The Property Tax Act
- 5 The Stamp Duty Act
- 6 The Transfer Tax Act

This certificate is valid for the period indicated below:

Effective Date:

Expiry Date:

Charities Authority
The Department of Co-operatives &
Friendly Societies

Date

Note: this approval is subject to any change in the laws of Jamaica.

SECOND SCHEDULE, *contd.*

DETAILS OF TAX RELIEF

This certificate during its period of validity qualifies a Registered Charitable Organization for the following tax relief:

- (a) Exemption of its income under section 12(h) of the Income Tax Act (Financial Institutions are being advised not to withhold tax on the income of the organization on presentation of this certificate).
- (b) Zero-rated Goods and Services acquired by an approved charitable organization for the charitable purposes of the organization in accordance with Group 9 (Part 7A) of the First Schedule of the General Consumption Tax Act. (Except for motor vehicle).
- (c) Refund of GCT paid under Section 43 of the General Consumption Tax Act (to be claimed within two years of the date on which the tax was paid in respect of the zero-rated supply).
- (d) Exemption from property tax under Section 10 (1) (b) of the Property Tax Act.
- (e) Exemption from transfer tax under Section 17 (1)(c) of the Transfer Tax Act.
- (f) Exemption from import duties under Section 5(2) of the Customs Act.
- (g) Exemption under paragraph 4(1) and (2) of the Provisional Collection of Tax (Minimum Business Tax) Order, 2014.

Note: That the amount of value of donation made to a Registered Charitable Organization is to be allowable expense in the books of the donor under Section 13(1)(q) of the Income tax act (subject to statutory limit).

Note: This approval is subject to any change in the laws of Jamaica.

THIRD SCHEDULE

THE CHARITIES ACT

The Charities Regulations, 2022

(Regulation 6(1))

APPLICATION FOR RENEWAL OF REGISTRATION

NAME OF REGISTERED CHARITABLE ORGANIZATION:		
REGISTRATION CERTIFICATE NUMBER:		
ADDRESS OF REGISTERED CHARITABLE ORGANIZATION:		
CHARITABLE ORGANIZATION REGISTRATION NUMBER:		
PREVIOUS REGISTRATION DATE:	EXPIRATION DATE OF CERTIFICATE OF REGISTRATION:	
REGISTERED CHARITABLE ORGANIZATION TAXPAYER REGISTRATION NUMBER:		
CONTACT NUMBER OF REGISTERED CHARITABLE ORGANIZATION:		
EMAIL ADDRESS OF REGISTERED CHARITABLE ORGANIZATION:		
1. Have there been any changes to the Registered Charitable Organization's Constitutions, Governing Board Members, Governance Structure or Registered address?		Yes No
If yes, were these changes registered with the Charities Authority?		Yes No
2. Were the financial statements for the previous Financial Year filed?		Yes No
3. Was the Annual Returns for the previous calendar year filed?		Yes No

THIRD SCHEDULE, *contd.*

4. Were Fit and Proper Questionnaires with certified passport size picture submitted for all Governing Board Members? Yes No	
NOTE: a) If any of the above-mentioned documents are outstanding, kindly submit documentation(s) required along with unaudited internal year to date Financials. Any changes not filed as per Questions 1, & 5, complete and submit Form 7 "Notice of Change to Charities Authority." b) It is an offence to knowingly provide false information in, or in relation to this Form; and that any misleading information presented may result in the Charities Authority refusal to grant the renewal of the organization's Charities Registration. ✓	
I hereby declare, that the answers provided to the above questions are true to the best of my knowledge, belief and information. It is an offence to knowingly provide false information in, or in relation to this Form; and that any misleading information presented may result in a refusal of the Charities Authority to grant renewal of the Organization's charitable status. Dated the _____ day of _____, Name: _____ Signed: _____ (Governing Board Member)	
SEAL	
FOR OFFICIAL USE ONLY	
Checked by:	Date:
The Registered Charitable Organization has met all the Regulatory and Statutory requirements.	Approved:
	Not approved:
COMMENTS (IF ANY): Charities Authority: Date:	
DEPARTMENT OF CO-OPERATIVES & FRIENDLY SOCIETIES]	
FOR OFFICIAL USE	
Date Application was received by the Charities Authority ____/____/____ (dd/mm/yyyy)	
Date last Charitable Status was approved (if applicable) ____/____/____ N/A ☐	
Checked by: Mrs., Mr., Miss _____	
Forms completed: Yes ☐ No ☐	Document submitted: Yes ☐ No ☐
Approval given: Yes ☐ No ☐	
If no, reason:	

FOURTH SCHEDULE

THE CHARITIES ACT

The Charities Regulations, 2022

(Regulation 8(3)(b) and 18(d))

DESIGNATED AUTHORITY FOR PROTECTED CHARITIES

NAME OF ORGANIZATION: _____				
COMPANIES OFFICE OF JAMAICA REGISTRATION CERTIFICATE NUMBER: _____				
CHARITY ORGANIZATION REGISTRATION NUMBER: _____				
ORGANIZATION TAXPAYERS REGISTRATION NUMBER: _____				
CONTACT NUMBER ORGANIZATION: _____				
EMAIL ADDRESS: ORGANIZATION: _____				
[SUSPICIOUS TRANSACTION] REPORT DUE TO ACTIVITIES DEEMED AS MONEY LAUNDERING, TERRORIST FINANCING ETC.				
NAME OF DONOR	ADDRESS OF DONOR (LOCAL/FOREIGN)	AMOUNT DONATED (APPROXIMATE VALUE IF KIND) (\$)	DATE DONATION RECEIVED (\$)	IDENTIFIABLE REGISTRATION NUMBER OF DONOR (EG. TRN)

Please submit on another sheet of paper if information exceeds space provided. It is an offence to knowingly provide false information in, or in relation to this Form.

I hereby declare that the information provided above is true to the best of my knowledge, belief and information.

Dated the _____ day of _____,

Nominated Officer's Name: _____

Signature: _____



FOURTH SCHEDULE, *contd.*

FOR OFFICIAL USE ONLY	
Checked by:	Date:
The Organization has submitted all the information as required, within stipulated timelines.	Yes:
	No:
COMMENTS (IF ANY):	
Designated Authority: Date:	

Dated this 2nd day of November, 2022.

AUBYN HILL
Minister of Industry, Investment and Commerce.