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BERMUDA
1978 : 64

CHARITIES ACT 1978

ARRANGEMENT OF SECTIONS

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Amended by:
1961 : 3
1966 : 201
1970 : 390
1971 : 22
1972 : 3]

[27 December 1978]

[preamble and words of enactment omitted]

PART I

PRELIMINARY

Interpretation

- 1 In this Act, unless the context otherwise requires —
 - "charitable organization" means any person or body of persons having charitable purposes and relying for its funds substantially upon contributions from members of the public in Bermuda;
 - "charitable purposes" means purposes which are beneficial to the public in general or to a certain section of the public, whether in Bermuda or elsewhere;
 - "the Commissioners" means the Charity Commissioners for Bermuda established by section 3;
 - "the Minister" means the Minister of Health and Social Services;
 - "prescribed" means prescribed by regulations made under section 9;
 - "the Registrar" means the Registrar-General;
 - "the register" means the register of charitable organizations maintained by the Registrar in accordance with section 4.

Savings

- 2 (1) Part II shall not apply to any organization or body established under any other public Act, nor to any school for the time being established in Bermuda.
- (2) Nothing in this Act shall be construed so as to abridge or derogate from the Social Welfare Act 1971 [title 13 item 1].

Minister may appoint persons to serve on Charity Commissioners for Bermuda committee

- 3 (1) There shall be a committee to be called the Charity Commissioners for Bermuda, which shall have the powers and duties con-

ferred upon it by or under this Act.

- (2) There shall be not less than five and not more than seven Commissioners, who shall be appointed by the Minister, and one of whom shall be so appointed as the Chairman of the Commissioners.
- (3) The Chairman shall preside at every meeting of the Commissioners at which he is present but, in his absence, the Commissioners present may elect one of their number to preside. The Chairman or other Commissioner presiding shall have a casting vote in the event of an equality of votes upon any question before a meeting.
- (4) A moiety or majority of the Commissioners present in Bermuda at the time of any meeting shall constitute a quorum.
- (5) The Commissioners shall hold office during the pleasure of the Minister and, subject thereto, for a term of three years, and shall be eligible for re-appointment from time to time.
- (6) Subject to this section, the Commissioners may regulate their own proceedings.

PART II

CHARITABLE ORGANIZATIONS AND APPEALS

Registration of charitable organizations

- 4 (1) The Registrar shall maintain a register in which shall be entered the name and address of every charitable organization approved by the Commissioners together with such other particulars as may be prescribed.
- (2) Every charitable organization in Bermuda wishing to undertake any money-raising activities shall apply to the Registrar to be registered as a charitable organization and the Registrar shall cause every such application to be placed before the Commissioners for their consideration.
- (3) In considering any application for registration submitted by a charitable organization, the Commissioners shall have regard to the declared purposes of the organization, the character and reputation of the persons connected with such organization and any other matter which the Commissioners may consider relevant.
- (4) If the Commissioners are satisfied that any applicant for registration is a fit and proper charitable organization, they shall direct the Registrar to enter in the register its name and address and any other prescribed particulars thereof; and in any other case, they shall refuse to register the charitable organization. The Commissioners may

direct either that the registration of a charitable organization shall have effect indefinitely or that it shall have effect for a period of twelve months at a time.

(5) The Minister may give general directions of a policy nature to the Commissioners, relating to the exercise of their functions under this section, and the Commissioners shall give effect to any such directions.

Cancellation of registration

(1) Where it appears to the Registrar that a registered charitable organization may no longer be a fit and proper organization, he may give notice to that organization at its registered address that its registration will be cancelled within 15 days (or such longer period as he may specify in the notice) unless the organization shows cause to the satisfaction of the Commissioners why its registration should not be cancelled.

(2) Every notice of the kind specified in subsection (1) shall set out the grounds upon which the Registrar relies for the cancellation of the registration.

(3) In determining the question raised by any notice given under subsection (1), the Commissioners shall take into consideration any written representation made by or on behalf of the charitable organization and received by the Registrar within the period specified in the notice or such further period as they may allow and may make such other enquiries and receive such evidence as to the Commissioners appears necessary for the proper determination of the question.

(4) If the charitable organization fails to satisfy the Commissioners that it remains a fit and proper charitable organization, then the Commissioners shall direct the Registrar to cancel the registration and the same shall be cancelled accordingly, without prejudice to the right of the organization to submit a new application for registration at a later date.

Appeals

(1) Where the Commissioners have refused to register a charitable organization under section 4 or have directed the cancellation of its registration under section 5, the organization concerned may appeal to the Minister against such refusal or cancellation and, subject to subsection (2), the Minister's decision thereon shall be final.

(2) Where the charitable organization is dissatisfied with the decision of the Minister under subsection (1) as being erroneous in point

of law, the organization may appeal to the Supreme Court against the decision of the Minister and the Court may allow or dismiss the appeal or may make an order remitting the matter for further consideration by the Minister or the Commissioners as the Court may think fit.

(3) Any appeal under subsection (2) shall be commenced by notice of motion filed within 21 days of the notification of the decision of the Minister; the Minister shall be made respondent to every such appeal and the Attorney-General shall be served with a copy of the notice.

(4) The rules of court governing the conduct of appeals from administrative tribunals generally, made under the Supreme Court Act 1905, shall apply to appeals under subsection (2).

Restrictions on fund-raising activities

(1) No person or body of persons, except for a charitable organization registered under section 4 shall —

(a) solicit members of the public for; or

(b) receive from any member of the public in any public place,

a donation for any charitable purpose or for any professed purpose which is otherwise benevolent:

Provided that nothing in this subsection shall render unlawful the collection of donations from members of the congregation attending a religious service or prohibit or restrict the money-raising activities of an association of parents and teachers, or of former pupils, of any school in Bermuda conducted upon the premises of that school or upon other premises specifically approved for that purpose by the Commissioners.

(2) Any person who contravenes any provision of subsection (1) and any person (other than a donor) who aids and abets any other person in any such contravention commits an offence:

Punishment on summary conviction: imprisonment for 6 months or a fine of \$2,000 or both such imprisonment and fine.

Submission of accounts

(1) Every registered charitable organization shall maintain accounts containing a statement of all moneys received for charitable purposes and the expenditure thereof and containing such other information as may be prescribed.

(2) The treasurer or other person having supervision of the accounts of any registered charitable organization shall submit a true copy of such accounts to the Registrar within six months of the end of each financial year.

(3) The Commissioners may, where they consider it desirable to do so, require that the accounts of any charitable organization for the preceding financial year shall be audited by a person approved by the Minister and the treasurer or other person having the supervision of the accounts of that charitable organization shall comply with any such requirement.

(4) Any neglect or failure of any registered charitable organization to comply with any provision of this section or with any requirement made thereunder shall be an additional ground upon which the Commissioners may proceed to cancel the registration of that organization under section 5.

Minister may make regulations

(1) The Minister may, after consultation with the Commissioners, make regulations for carrying into effect this Part, and without prejudice to the generality of the foregoing, such Regulations may provide —

- (a) for the particulars to be submitted by a charitable organization applying to be registered under section 4;
 - (b) for the notification of any subsequent change in any of the material particulars contained in an application for registration;
 - (c) for the particulars to be entered in the register and for the rectification thereof;
 - (d) for the information and particulars to be included in the accounts maintained under section 8.
- (2) The negative resolution procedure shall apply to regulations made under subsection (1).

PART III

APPLICATION OF PROPERTY CY-PRES

Occasions for applying property cy-pres

(1) Subject to subsection (2), the circumstances in which the original purposes of a charitable gift can be altered to allow the property given or part of it to be applied cy-pres shall be as follows:

- (a) where the original purposes, in whole or in part, —
 - (i) have been as far as may be fulfilled; or
 - (ii) cannot be carried out, or not according to the directions given and to the spirit of the gift; or
- (b) where the original purposes provide a use for part only of the property available by virtue of the gift; or
- (c) where the property available by virtue of the gift and other property applicable for similar purposes can be more effectively used in conjunction, and to that end suitably, regard being had to the spirit of the gift, be made applicable to common purposes; or
- (d) where the original purposes were laid down by reference to an area which was then but has since ceased to be a unit for some other purpose, or by reference to a class of persons or to an area which has for any reason since ceased to be suitable, regard being had to the spirit of the gift, or to be practical in administering the gift; or
- (e) where the original purposes, in whole or in part, have since they were laid down, —
 - (i) been adequately provided for by other means, or
 - (ii) ceased, as being useless or harmful to the community or for other reasons, to be in law charitable; or
 - (iii) ceased in any other way to provide a suitable and effective method of using the property available by virtue of the gift, regard being had to the spirit of the gift.

(2) Subsection (1) shall not affect the conditions which must be satisfied in order that property given for charitable purposes may be applied cy-pres, except in so far as those conditions require a failure of the original purposes.

(3) References in subsections (1) and (2) to the charitable purposes of a gift shall be construed, where the application of the property given has been altered or regulated by a scheme or otherwise, as referring to the purposes for which the property is for the time being applicable.

(4) A trust for charitable purposes places a trustee under a duty, where the case permits and requires the property or some part of it to be applied cy-pres, to secure its effective use for charity by taking steps to enable it to be so applied.

Application cy-pres of gifts of donors unknown or disclaiming

(1) Property given for specific charitable purposes which fail shall be applicable cy-pres as if given for charitable purposes generally, where it belongs—

- (a) to a donor who, after such advertisements and inquiries as are reasonable, cannot be identified or cannot be found; or
- (b) to a donor who has executed a written disclaimer of his right to have the property returned.

(2) For the purposes of this section, property shall be conclusively presumed (without any advertisement or inquiry) to belong to donors who cannot be identified, in so far as it consists—

- (a) of the proceeds of cash collections made by means of collecting boxes or by other means not adapted for distinguishing one gift from another; or
- (b) of the proceeds of any lottery, competition, entertainment, sale or similar money-raising activity, after allowing for property given to provide prizes or articles for sale or otherwise to enable the activity to be undertaken.

(3) The court may by order direct that property not falling within subsection (2) shall for the purposes of this section be treated (without any advertisement or inquiry) as belonging to donors who cannot be identified, where it appears to the court either—

- (a) that it would be unreasonable, having regard to the amounts likely to be returned to the donors, to incur expense with a view to returning the property; or
- (b) that it would be unreasonable, having regard to the nature, circumstances and amounts of the gifts, and to the lapse of time since the gifts were made, for the donors to expect the property to be returned.

(4) Where property is applied cy-pres by virtue of this section, the donor shall be deemed to have parted with all his interest at the time when the gift was made; but where property is so applied as

belonging to donors who cannot be identified or cannot be found, and is not so applied by virtue of subsection (2) or subsection (3).—

- (a) the scheme shall specify the total amount of that property; and
 - (b) the donor of any part of that amount shall be entitled, if he makes a claim not later than twelve months after the date on which the scheme is made, to recover from the charity for which the property is applied a sum equal to that part, less any expenses properly incurred by the charity trustees after that date in connection with claims relating to his gift; and
 - (c) the scheme may include directions as to the provision to be made for meeting any such claim.
- (5) For the purposes of this section, charitable purposes shall be deemed to fail where any difficulty in applying property to those purposes makes that property or the part not applicable cy-pres available to be returned to the donors.
- (6) In this section, unless the context otherwise requires, references to a donor include persons claiming through or under the original donor, and references to property given include the property for the time being representing the property originally given or property derived from it.
- (7) In this section, "the Court" means, in respect of money or property exceeding in value two thousand dollars the Supreme Court, and in any other case, a court of summary jurisdiction.
- (8) This section shall apply to property given for charitable purpose, notwithstanding that it was so given before 9 February 1979.

PART IV

TRANSITIONAL

Saving
12 (1) [omitted] [repeal of 1955:167]

(2) The registration of any charitable organization already registered under the Act hereby repealed shall continue in force notwithstanding such repeal; but shall for all purposes hereafter be deemed to have been effected under section 4 of this Act and this Act shall apply to such charitable organization accordingly.

Commencement
13 [omitted]

[this Act was brought into operation on 9 February 1979 by GN 80/1979]

[see GN 103/1991 for list of charitable organizations registered]

BERMUDA STATUTORY INSTRUMENT

BR 39/1980

REGISTRATION OF CHARITIES REGULATIONS 1980

[made under section 9 of the Charities Act 1978 [title 13 item 10] and brought into operation on 6 June 1980]

ARRANGEMENT OF REGULATIONS

1	Citation	5	Register of charitable organizations
2	Interpretation	6	Accounts
3	Application for registration		
4	Amendment of particulars		

SCHEDULE

Citation

1 These Regulations may be cited as the Registration of Charities Regulations 1980.

Interpretation

2 In these Regulations —

"the Act" means the Charities Act 1978 [title 13 item 10];

"the Commissioners" means the Charity Commissioners for Bermuda constituted by the Act;

"the Registrar" means the Registrar General;

"the Register" means the register of charitable organizations maintained under the Act.

Application for registration

- 3 (1) Every application made by a charitable organization to the Registrar for registration under section 4 of the Act shall be in the Form of the Schedule hereto.
- (2) Every such application shall include full particulars of the following matters relating to the charitable organization concerned—
- (a) the name, title, address and telephone number of each of its principal officers;
 - (b) the main purposes of the organization;
 - (c) the nature of all fund-raising activities which it proposes to undertake in Bermuda;
 - (d) the purposes for which the proceeds of any such fund-raising activities are intended to be applied;
 - (e) the date of the end of its financial year; and
 - (f) the date of the initial foundation of the organization.
- (3) Every such application shall have annexed thereto a legible copy of the constitution, rules, by-laws or any other document regulating the conduct of the charitable organization concerned.
- (4) Every such application shall be signed by a principal officer of the charitable organization concerned.

Amendment of particulars

- 4 Where a charitable organization has been registered under section 4 of the Act and, subsequent to such registration, any of its particulars furnished under regulation 3 have since become altered in any material respect, the secretary or other person having custody of the records of that organization shall notify that alteration within thirty days of having it come to his attention, by writing addressed to —
- (a) the Registrar; and
 - (b) the Chairman of the Commissioners.

Register of charitable organizations

- 5 (1) Upon the registration of a charitable organization pursuant to section 4 of the Act the Registrar shall enter upon the Register —
- (a) the name and address of the charitable organization;
 - (b) the names and addresses of its principal officers;

- (c) the nature of all fund-raising activities which it proposes to undertake; and
- (d) the date of its registration and shall give written notice of registration to the applicant.

(2) Upon receipt of notification of the alteration of any particulars relating to a registered charitable organization submitted under regulation 4, the Registrar shall amend the Register as appropriate in respect of any of the particulars specified in paragraph (1) which are affected by the alteration.

Accounts

- 6 The accounts of every registered charitable organization maintained under section 8 of the Act shall include in respect of each financial year —
- (a) an account showing details of all the income and expenditure of the organization; and
 - (b) a balance sheet sufficient to set out a true and correct statement of the financial position of the organization as of the last day thereof,
- and a copy thereof shall be furnished to the Registrar as required by section 8 of the Act.

SCHEDULE

(Regulation 3)

THE CHARITIES ACT 1978

(Title 13, item 10, Revised Laws of Bermuda)

Application for Registration

TO: The Charity Commissioners for Bermuda

I, the undersigned, being duly authorized to do so, hereby make application Pursuant to section 4 of the charities Act 1978 for the registration of a charitable organization particulars of which are as follows:—

- 1 Name of Organization: [blank]
- 2 Address of Organization: [blank]
- 3 Name, address and telephone number of each principal officer:

- (1) [blank]
- (2) [blank]
- (3) [blank]
- (4) [blank]

4 Main purposes of Organization:

[blank]

5 Nature of all fund-raising activities proposed:

[blank]

6 Purposes for which proceeds of fund-raising will be applied:

[blank]

7 The financial year of the Organization ends on the [blank] day of (month)

8 The initial date of foundation of the Organization was the [blank] day of [blank], 19 [blank].

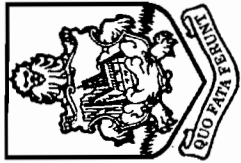
My attention has been drawn to section 8 of the Charities Act 1978 which obliges the treasurer or other person having supervision of the accounts of a registered charitable organization to submit a true copy of those accounts to the Registrar General within six months of the end of each financial year, and in the event of failure to do so, empowers the Commissioners to cancel the registration of the organization in default.

I hereby certify that the aforesaid particulars are true and correct to the best of my knowledge and belief.

Date [blank]

Signed [blank]

(Title with Organization) [blank].



**BERMUDA
1868 : 14**

FRIENDLY SOCIETIES ACT 1868

ARRANGEMENT OF SECTIONS

1	Objects for which friendly societies may be established	12	Appointment of substitute
2	Rules of friendly society	13	Investment of funds
3	Registrar General to be Registrar of Friendly Societies	14	Priority of claims on estate of deceased debtor
4	Approval of rules; powers on registration	15	Officer may be compelled to deliver assets in his hands
5	Application for registration	16	Legal status of friendly society
6	Alteration of rules	17	Summary proceedings as between friendly society and its members or officers
7	Minister may make regulations	18	Payment of moneys due death of member
8	Friendly society to appoint trustees	19	Minors may become members
9	Vesting of property in trustees	20	Officers to account for property of friendly society
10	Appointment of officers	21	Dissolution
11	Giving of security by trustees and officers		