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# **Charitable Associations (Incorporation) Act [Cap 140]**

*Commencement: 1 February 1982*

## **LAWS OF THE REPUBLIC OF VANUATU REVISED EDITION 1988**

### **CHAPTER 140**

#### **CHARITABLE ASSOCIATIONS (INCORPORATION)**

Act 32 of 1981

#### **ARRANGEMENT OF SECTIONS**

##### **SECTION**

1. Interpretation
  2. Incorporation of committee of charitable association
  3. Appeals from refusal of grant of incorporation
  4. Applications for incorporation
  5. Certificate of incorporation
  6. Gazetting of incorporations
  7. Registered Office
  8. Vesting of assets and liabilities
  9. Validity of contracts of committees
  10. Cancellation of certificates of incorporation
  11. Appeals to Supreme Court from cancellations
  12. Disposal of assets on cancellations
  13. Registration of changes
  14. Transfer of interests in land
  15. Inspection of register
  16. Regulations
- SCHEDULE 1-Application for incorporation of the committee of a charitable association
- SCHEDULE 2-Certificate of incorporation of committee of a charitable association

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#### **CHARITABLE ASSOCIATIONS (INCORPORATION)**

**To provide for the incorporation of committees of charitable associations and other purposes incidental thereto.**

## **INTERPRETATION**

1. In this Act, unless the context otherwise requires -

"association" means any association or body or persons;

"charitable purposes" includes objects of a religious, educational, cultural, scientific or sporting nature or for general social welfare and any other object the main purpose of which is not financial profit which the Minister declares to be charitable for the purposes of this Act;

"Registrar" means the Registrar appointed by the Minister for the purpose of this Act.

## **INCORPORATION OF COMMITTEE OF CHARITABLE ASSOCIATION**

2. (1) The Committee, having not less than six members, of any association established for charitable purposes may apply to the Registrar for a certificate of incorporation of the committee as a corporate body.

(2) The Registrar shall either refuse to grant a certificate or if he is satisfied that the application complies with the requirements of this Act and the association is established for charitable purposes grant a certificate.

(3) When granting a certificate the Registrar may attach such conditions in addition to any that may be attached under section 3(4) as he may consider necessary for the proper functioning and welfare of the association.

(4) On the date set out in the certificate of incorporation a committee shall become a body corporate and may sue and be sued and do and suffer to be done all that corporate bodies may do and suffer to be done.

## **APPEALS FROM REFUSAL OF GRANT OF INCORPORATION**

3. (1) When refusing to grant a certificate of incorporation the Registrar shall give reasons for such refusal in writing to the applicant committee.

(2) The Registrar may refuse to grant a certificate for the reason that the objects of the association discriminate against any person, group of persons or class of persons.

(3) A committee which has been refused a certificate of incorporation may appeal in writing to the Minister within 14 days of receiving notification of the reasons for refusal from the Registrar.

(4) The Minister may either refuse the appeal or order the Registrar to grant a certificate of incorporation to the Committee subject to such conditions, if any, as he may consider appropriate.

(5) The decision of the Minister shall be final and may not be questioned in a Court except on a point of law.

## **APPLICATIONS FOR INCORPORATION**

4. (1) Every application to the Registrar under section 2 of this Act shall be in the form and contain the particulars specified in Schedule 1 and shall be signed by not less than half of the members of the Committee making the application.

(2) The application shall be accompanied by a copy of the articles of association or other documents setting up the association.

(3) The Registrar may require evidence to certify the particulars in the application and such other evidence or information as he may consider necessary.

### **CERTIFICATE OF INCORPORATION**

5. (1) A certificate of incorporation hereunder shall be in the form set out in Schedule 2 and such certificate bearing the seal and signature of the Registrar shall be conclusive evidence of the incorporation of the committee named therein and the date thereof.

(2) The Registrar shall not issue a certificate of incorporation in a name he considers undesirable or resembles too closely the name of any already incorporated committee or other body whether incorporated or not.

### **GAZETTING OF INCORPORATIONS**

6. The Registrar shall publish in the Gazette a notice of every incorporation under this Act.

### **REGISTERED OFFICE**

7. A committee incorporated hereunder shall have a registered office at which any legal process may be served.

### **VESTING OF ASSETS AND LIABILITIES**

8. (1) On the date set out in a certificate all assets and liabilities held for the benefit of the association named in the certificate including any interest in land referred to in its application shall vest in its committee.

(2) The Director of Land Records shall register a committee incorporated hereunder as owner of all interest in land listed in an application for incorporation upon the lodging with him of a copy of the application for incorporation of each committee incorporated under this Act certified by the Registrar accompanied by a certified copy of the certificate of incorporation.

### **VALIDITY OF CONTRACTS OF COMMITTEES**

9. (1) All contracts made in writing by a committee incorporated hereunder whether required by law to be in writing or not shall be validly made, varied or discharged if signed by not less than two committee members.

(2) All contracts which under the law may be made orally shall be validly made, varied or discharged orally if so done on behalf of a committee by any person acting with express or implied authority.

### **CANCELLATION OF CERTIFICATES OF INCORPORATION**

10. (1) If the Registrar is of the opinion that -

(a) an incorporation hereunder was obtained by fraud, misrepresentation or mistake;  
or

- (b) any of the objects of an association, the committee of which has been incorporated have become unlawful; or
  - (c) a committee incorporated hereunder or its association is discriminating against any person, group of persons or class of persons; or
  - (d) an association, the committee of which has been incorporated, is being used for an unlawful purpose; or
  - (e) a committee incorporated hereunder or its association is not functioning or by reason of the state of its affairs, able properly to function or has become dissolved; or
  - (f) a committee incorporated hereunder has failed to comply with any of the provisions of this Act,
- he may require the responsible committee by notice in writing to show cause within 30 days as to why its incorporation should not be cancelled.
- (2) A notice under subsection (1) shall if the Registrar is unable to serve it at the registered office of the committee or on one or more of its registered members be properly given if published in the Gazette and broadcast over a national radio network on not less than 3 non-consecutive days.
- (3) If within 30 days of service of a notice a committee fails to satisfy the Registrar he may cancel its incorporation by notice published in the Gazette.
- (4) A cancellation shall take effect at the end of 42 days after the date of publication of the notice of cancellation or on confirmation of cancellation by the Supreme Court under section 11 whichever occurs later.
- (5) Upon a cancellation taking effect a committee shall cease to be a corporate body but without prejudice to liabilities incurred by it before or after cancellation.
- (6) The Registrar may require any member of a committee that has ceased to be incorporated hereunder to return a certificate of incorporation and neglect or refusal to do so shall be an offence, a person convicted thereof being liable to a fine of VT20,000.
- (7) The Registrar shall cancel the incorporation of a committee incorporated hereunder on dissolution of its association.

## **APPEALS TO SUPREME COURT FROM CANCELLATIONS**

11. Within 42 days of a cancellation under section 10 a committee or any member may appeal to the Supreme Court against such cancellation and the Court may confirm, set aside or vary the order of cancellation or make such order as it may consider just.

## **DISPOSAL OF ASSETS ON CANCELLATION**

12. If the articles, rules or constitution of an association, the committee of which has been incorporated hereunder, make inadequate or no provision on cancellation under section 10 or dissolution of the association for the disposal of assets vested in the committee the Minister shall upon cancellation make such order as he shall consider proper.

## **REGISTRATION OF CHANGES**

13. A committee incorporated hereunder shall lodge with the Registrar, within 30 days of any of the following, details thereof -

- (a) change of registered office;
- (b) resignations, removals and appointments of committee members;
- (c) changes in the articles, rules or constitution of association.

## **TRANSFER OF INTERESTS IN LAND**

14. A committee incorporated hereunder shall lodge with the Minister not less than 15 days before the transfer, details of any transfer of any interest in land that it intends to make.

## **INSPECTION OF REGISTER**

15. The Registrar shall make available for inspection his register of committees incorporated hereunder, and documents filed with him in relation thereto, on payment of the fee, prescribed in accordance with section 16(1).

## **REGULATIONS**

16. (1) The Minister for the better carrying out of the provisions of this Act may by Order make regulations not inconsistent with this Act.
- (2) Without derogating from the generality of subsection (1) the Minister may by Order -
- (a) prescribe fees payable on applications for incorporation;
  - (b) repeal or amend the Schedules;
  - (c) prescribe fees for certification of documents by the Registrar.

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## **SCHEDULE 1**

(Section 4)

### **APPLICATION FOR INCORPORATION OF THE COMMITTEE OF A CHARITABLE ASSOCIATION**

We the undersigned committee members of the

.....

apply to the Registrar of Charitable Associations for incorporation in accordance with the [Charitable Associations \(incorporation\) Act](#) Cap. 140 and state as follows -

1. The name of the committee when incorporated shall be  
The ..... Committee (Inc.).
2. The registered office of the .....  
Committee (Inc.) shall be at .....

3. The names, addresses and occupations of the members of the committee are -

(a) .....

.....

(b) .....

.....

(c) .....

.....

(d) .....

.....

(e) .....

.....

(f) .....

.....

(g) .....

.....

(h) .....

.....

4. The members of the committee were elected or appointed in accordance with articles/rules/ constitution of the association on the following date or dates -

NAME ..... DATE-OF ELECTION OR APPOINTMENT

5. The objects of the association are -

(The objects of the association may be given by reference here to specific parts of attachment 6(b)).

6. Attached hereto are -

(a) a statement of the assets and the liabilities of the association signed by us;

(b) a certified copy of the articles/rules/constitution of the association which includes

-

(i) the manner of appointment and removal of committee members;

(ii) the manner of changing the articles/rules/constitution;

(iii) the manner of dissolving the association;

(iv) the manner of disposal of assets on dissolution or cancellation of certificate of incorporation.

DATED this ..... day of ..... 198 .....

Committee member  
Committee member  
Committee member

Committee member

Committee member  
Committee member

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## SCHEDULE 2

(Section 5)

### CERTIFICATE OF INCORPORATION OF COMMITTEE OF A CHARITABLE ASSOCIATION

I HEREBY CERTIFY THAT The committee of the

.....

Association has this day been incorporated under the name, The

.....

Committee (Inc.) under the provisions of the [Charitable Associations \(Incorporation\)  
Act](#) Cap. 140 subject to the conditions contained in the Schedule.\*

DATED this ..... day of ..... 19 .....

**Registrar of Charitable Associations**

## SCHEDULE

### Conditions of Incorporation

\*delete unnecessary wording if no conditions are attached.

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## SUBSIDIARY LEGISLATION

### CHARITABLE ASSOCIATIONS (INCORPORATION) (FEES)

Order 24 of 1982

**To prescribe fees payable in respect of certain matters relating to the Charitable**



**Associations (Incorporation) Act Cap. 140.**

The fees set out under column B shall be payable for the matters set out under column A-

**Column A Column B**

Application for incorporation VT5,000

Certificate of incorporation VT5,000

Certification of documents VT500

Inspection of register and documents  
filed with the Registrar VT500

Change of name VT1,000