

Regulations of Anguilla: 17/2023

Gazette Dated: 26 JUNE, 2023

PROCEEDS OF CRIME ACT, R.S.A. C. P98

NON-PROFIT ORGANISATIONS (AMENDMENT) REGULATIONS, 2023

Regulations made by the Governor under section 168 of the Proceeds of Crime Act, R.S.A. c. P98

TABLE OF CONTENTS

SECTION

1. Interpretation
2. Amendment of section 1
3. Amendment of section 3
4. Insertion of section 3A
5. Amendment of section 4
6. Amendment of section 5
7. Amendment of section 6
8. Amendment of section 7
9. Amendment of section 8
10. Insertion of section 8A
11. Amendment of section 9
12. Insertion of section 9A
13. Amendment of section 10
14. Insertion of section 10A
15. Amendment of section 11
16. Insertion of sections 12A to 12C
17. Insertion of Part 4A
18. Amendment of section 13
19. Insertion of sections 13A to 13C
20. Insertion of Schedule
21. Citation

Interpretation

1. In these Regulations, the “principal Regulations” means Non-Profit Organisation Regulations, R.R.A. P98-2.

Amendment of section 1

2. The principal Regulations is amended in section 1 by deleting the definition of “exempted non-profit organisation”.

Amendment of section 3

3. The principal Regulations is amended in section 3(1) by inserting the following new paragraphs after paragraph (e)—

- “(ea) to provide guidance to registered non-profit organisations and their donors regarding best practices in relation to the potential vulnerabilities of NPOs to terrorist financing abuse and terrorist financing risks, and the measures that NPOs can take to protect themselves against such abuse;
- (eb) to obtain, evaluate and disseminate information in connection with the performance of any of the NPO Supervisor functions under the Regulations;
- (ec) to obtain annually, through annual returns, information on the purposes and activities of the non-profit organisation and the identity of the person who owns, controls or directs the non-profit organisation;
- (ed) to ensure that all non-profit organisations have appropriate internal controls in place including an appropriate system to identify conduct which may involve TF;
- (ef) to receive records upon request;
- (eg) to refer to the Unit for investigation, an NPO that is suspected of operating illegally;
- (eh) to implement a CFT risk-based supervisory and monitoring programme for NPOs;
- (ei) to establish the criteria to be used for determining the TF risk profiles of NPOs, in order to facilitate risk-based supervision.”.

Insertion of section 3A

4. The principal Regulations is amended by inserting the following new section after section 3—

“Powers of the NPO Supervisor

3A. The NPO Supervisor has powers to—

- (a) refuse an application for registration;
- (b) suspend the registration of a non-profit organisation;
- (c) de-register a registered non-profit organisation;
- (d) require the provision of records by—
 - (i) a registered non-profit organisation, and

- (ii) de-registered non-profit organisation;
- to NPO Supervisor;
- (e) institute on-site inspections to monitor compliance with NPO legislation;
- (f) freeze payments to and from a non-profit organisation without giving notice, if there are reasonable grounds to suspect that the non-profit organisation's assets are being used for TF;
- (g) disclose information to the Unit concerning a reasonable suspicion of the involvement of a non-profit organisation in TF;
- (h) require an audit of non-profit organisation accounts on the suspicion of the non-profit organisation being used, or may in the future be used, for or to assist in TF;
- (i) impose an administrative penalty on the non-profit organisation; and
- (j) order the removal of officers from involvement in the non-profit organisation.”.

Amendment of section 4

5. The principal Regulations is amended in section 4—

- (a) in subsection (2) by—
 - (i) inserting the following paragraphs after paragraph (c)—
 - “(ca) whether the non-profit organisation is incorporated or not;
 - (cb) the Incorporation Number, if applicable;
 - (cc) the address for the service of notices and other documents, if not incorporated;
 - (cd) the address where the non-profit organisation keeps its records, if not incorporated;”;
 - (ii) inserting the following paragraph after paragraph (d)—
 - “(da) the date of suspension of a registered non-profit organisation, if applicable;”;
- (b) deleting subsection (4) and substituting the following—
 - “(4) A person may, during normal business hours, require the NPO Supervisor to provide—
 - (a) details of the information entered on the NPO Register; and;
 - (b) a copy of the NPO Register;
 - in respect of a registered, suspended or de-registered non-profit organisation.”;
- (c) inserting the following new subsection after subsection (4)—
 - “(4a) Where a person make a request for a copy of the NPO Register under subsection (4)(b) or a copy of information referred to in subsection (4)(c), such person shall pay the fees specified in Schedule 1, Table 1.”.

Amendment of section 5

6. The principal Regulations is amended in section 5 by—

- (a) deleting subsection (2); and
- (b) by inserting the following new subsection after subsection (3)—

“(3a) A non-profit organisation that makes a representation that such organisation is a registered NPO when it is not so registered is guilty of an offence and is liable on summary conviction to a fine not exceeding \$50,000.”.

Amendment of section 6

7. The principal Regulations is amended in section 6—

- (a) by deleting subsection (1) and substituting the following—

“(1) An application may be made to the NPO Supervisor in the form specified by the NPO Supervisor, to register a non-profit organisation or a proposed non-profit application.”;

- (b) by deleting subsection (2)(c) and substituting the following—

“(c) be accompanied by—

- (i) a government issued photo identification of persons who own, control or direct the non-profit organisation and Senior Officers of the non-profit organisation, and
- (ii) such other documents or information as may be specified by these Regulations or on the application form, and
- (iii) a non-refundable registration fee as set out in Schedule 1, Table 1.”;

- (c) by deleting subsection (3)(a) and substituting the following—

“(a) provide it with such documents and information, in addition to what is specified in subsection (2)(c)(i) and (ii), as it reasonably requires to determine the application and any such documents and information shall be in such form as the NPO Supervisor may require;”;

- (d) by inserting the following new subsection after subsection (2)—

“(2a) Where the applicant wishes to have its application processed in less than 3 working days, the fees specified in Schedule 1, Table 1 shall be paid by such applicant.”;

- (e) by deleting subsection (4) and substituting the following—

“(4) If, before the determination by the NPO Supervisor of an application, or the registration of a non-profit organisation—

- (a) there is a material change in any information or documentation provided by or on behalf of the applicant to the NPO Supervisor in connection with the application; or

- (b) the applicant discovers that any such information or documentation is incomplete, inaccurate or misleading;

the applicant shall, as soon as reasonably practicable, give the NPO Supervisor written particulars of—

- (i) the change in the form specified on website of the Commission or any other public forum operated by the Commission, or
- (ii) the incomplete, inaccurate or misleading information or documentation.”.

Amendment of section 7

8. Section 7 of the principal Regulations is amended by inserting the following subsections after subsection (3)—

“(3a) Where the NPO Supervisor grants an application to register a non-profit organisation under this section, the NPO Supervisor—

- (a) shall issue a certificate of registration to the non-profit organisation; and
- (b) may impose on the non-profit organisation such conditions the Supervisor sees fit, to be complied with.

(3b) Where the certificate of registration referred to in subsection (3a) is lost or damaged, the non-profit organisation shall apply for a replacement certificate and shall pay the fee specified in Schedule 1, Table 1.”.

Amendment of section 8

9. Section 8 of the principal Regulations is amended—

- (a) in subsection (1) by—
 - (i) inserting after paragraph (d) by deleting the phrase “section 10” and substituting the phrase “section 9”,
 - (ii) inserting after paragraph (d) the following new paragraphs—
 - “(da) the non-profit organisation is established for illegal purposes;
 - (db) the information represented on the application for registration of the non-profit organisation is manifestly incorrect;
 - (dc) the name of the non-profit organisation is identical to a name by which a non-profit organisation in existence is already registered or very nearly resembles such name or translated name;
 - (dd) the name of the NPO contains restricted words referred to in subsection (1a);
 - (de) the name of the non-profit organisation is different from the name in which the entity was established if the entity was established as a company, trust, partnership, foundation, or church; and
 - (df) a person involved in the establishment or operation of the non-profit organisation has been convicted of an offence involving dishonesty.”;

(b) by inserting the following new subsection after subsection (1)—

“(1a) A name is deemed to contain restrictive word for the purposes of subsection (1)(dd) where—

- (a) the name contains the words “royal”, “imperial” or “empire” or, other words that in the opinion of the NPO Supervisor suggests, or is calculated to suggest the patronage of His Majesty or of any member of the Royal Family or connection with His Majesty’s Government or any department thereof in the United Kingdom or elsewhere;
- (b) the name contains profane language;
- (c) the name contains the words “gaming”, “lottery”, “bank”, “insurance” or—
 - (i) any similar word which is restricted in use by the laws of Anguilla, or
 - (ii) any other words which in the opinion of the NPO Supervisor connote the activity of “gaming”, “lottery”, “banking”, “insurance” or any of such activities, or
 - (iii) any derivative of any of such words or of such similar words, whether in English or in any other language, or
 - (iv) any such word which in the opinion of the NPO Supervisor suggests or is calculated to suggest any of such activities.”.

Insertion of section 8A

10. The principal Regulations is amended by inserting the following new section after section 8—

“Suspension of registration

8A. (1) The NPO Supervisor shall suspend the registration of a non-profit organisation if, it is proven that the non-profit organisation—

- (a) engaged in or is engaging in activity that amounts to an offence in Anguilla;
- (b) failed, without reasonable cause, to maintain proper financial statements reflecting all monies received and expended; or
- (c) failed, without reasonable cause, to submit annual returns;

and the NPO Supervisor may impose on the non-profit organisation such conditions the Supervisor sees fit, to be complied with during the suspension.

(2) Where the NPO Supervisor or the Attorney-General determines that an inquiry into the operations of a non-profit organisation is required, the NPO Supervisor may suspend the registration of the non-profit organisation during the period of that inquiry.

(3) In any case where the registration of a non-profit organisation has been or is liable to be suspended the NPO Supervisor shall give notice to that non-profit organisation at its registered address stating that—

- (a) its registration has been suspended; or

- (b) its registration is liable to be suspended at the end of 30 days of the date of the notice or within such other period as the NPO Supervisor determines, unless the non-profit organisation shows cause in writing, to the satisfaction of the NPO Supervisor, why its registration should not be suspended.

(4) In circumstances where the registration of a non-profit organisation has been suspended pursuant to subsection (1)(i), the NPO Supervisor shall, as soon as is practicable, notify the Attorney-General of that suspension and the NPO Supervisor may make a recommendation to the Attorney-General that an order be made prohibiting the non-profit organisation from dealing with any money or other property in its control.

(5) Where the registration of a non-profit organisation has been suspended, notice of the suspension shall be published online on the Commission's website or any other public forum operated by the Commission or in the Anguilla Official Gazette."

Amendment of section 9

11. The principal Regulations is amended in section 9 by inserting the following new subsection after subsection (1)—

"(1a) Where a person referred to in subsection (1)(a)(iv) wishes to request that the non-profit organisation be de-registered, he shall make an application in the form specified on website of the Commission or any other public forum operated by the Commission."

Insertion of section 9A

12. The principal Regulations is amended by inserting the following new section after section 9—

"Appeal against refusal or suspension of registration or de-registration

9A. (1) A non-profit organisation may in accordance with section 162 of the Proceeds of Crime Act, apply to the Court for leave to appeal against a decision made under—

- (a) section 8 to refuse an application for registration of;
- (b) section 8A to suspend the registration of; or
- (c) section 9 to de-register;

the non-profit organisation.

(2) Where the non-profit organisation makes an application under subsection (1) the court may allow or dismiss the appeal or make an order remitting the matter for further consideration by the NPO Supervisor.

(3) The NPO Supervisor may revoke the decision to—

- (a) refuse an application to register;
- (b) suspend the registration of; or
- (c) de-register;

a non-profit organisation if it appears to the NPO Supervisor that there has been a change in circumstances which justify the revocation."

Amendment of section 10

13. Section 10 is repealed and replaced with the following—

“Changes in relation to the non-profit organisation to be provided to NPO Supervisor

10. (1) Where there is a change in any information provided to the NPO Supervisor, whether the information was provided before or after its registration, a registered non-profit organisation shall submit to the NPO Supervisor a notice of change form in the form specified on the website of the Commission or any other public forum operated by the Commission, as soon as reasonably practicable.

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

(3) Where the persons who own, control or direct the non-profit organisation intend to cease the operations of the non-profit organisation, such persons shall provide notice of such intention to the NPO Supervisor as soon as reasonably practicable.

(4) A non-profit organisation that fails to notify the NPO Supervisor that the NPO has ceased its operations as a non-profit organisation commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.

(5) Where there is a material change in any information provided to the NPO Supervisor by the non-profit organisation after registration, the non-profit organisation shall pay the fee specified in Schedule 1 Table 1 when submitting a notice of change form.

(6) A “material change” for the purposes of subsection (5) include a change to the non-profit organisation’s Executive Officers, its objectives, its purposes or its activities.”.

Amendment of section 11

15. The principal Regulations is amended by repealing section 11 and substituting the following—

“Records

11. (1) A registered non-profit organisation shall keep—

(a) records of—

(i) its purposes, objectives and activities, and

(ii) the identity of the persons who control or direct its activities, including, as appropriate, senior officers, directors and trustees; and

(b) financial records that—

(i) show and explain its transactions, within and outside Anguilla, and that are sufficiently detailed to show that its funds have been used in a manner consistent with its purposes, objectives and activities,

(ii) disclose at any time, with reasonable accuracy, its financial position,

(iii) show the sources of its gross annual income.

(2) A registered non-profit organisation shall keep the records specified in subsection (1) for a period of at least 5 years.

(3) The financial record referred to in subsection (1)(b) shall show—

- (a) all sums of money received and expended and the matters in respect of which the receipt and expenditure relate;
- (b) all sales and purchases of property;
- (c) all sums of money raised through fundraising;
- (d) non-monetary transactions;
- (e) records of assets, liabilities, income, expenditure, inventory, material and equipment; and
- (f) any other matter that may be prescribed.

(4) A registered non-profit organisation that contravenes this section is guilty of an offence and is liable on summary conviction, to a fine not exceeding \$20,000.”.

Insertion of sections 12A to 12C

16. The principal Regulations is amended by inserting the following new section after section 12—

“Review of financial statements

12A. (1) Where the NPO Supervisor has reason to believe that the registered non-profit organisation is being used, or may in the future be used, for, or to assist in, terrorist financing, the Supervisor may require that financial records of the non-profit organisation be reviewed in accordance with internationally accepted standards on review engagements or such other engagements standards as may be prescribed.

(2) Where the NPO Supervisor determines under subsection (1) that a review is required, the NPO Supervisor shall notify the registered non-profit organisation of such review, no less than 2 weeks before such review is to take place.

(3) A review required under subsection (1) shall be conducted by an independent—

- (a) duly qualified accountant who, neither for profit nor reward, undertakes to perform the review; or
- (b) licenced accountant.

(4) An accountant who has been retained to review the financial statements under this section shall—

- (a) have a right of access to all books, financial statements and documents relating to the registered non-profit organisation which are in the possession or control of a controller or to which a controller has access;
- (b) be entitled to require from a controller of a non-profit organisation, past or present officer or employee of the registered non-profit organisation such information and explanation as the accountant thinks necessary for the performance of his duties; and
- (c) make an internationally accepted report about the financial statements of the registered non-profit organisation and submit a copy of that report to the controller of the registered non-profit organisation.

(5) Where a review of the financial statements by an accountant is required under subsection (1), a controller of a registered non-profit organisation shall ensure that the report resulting from a review of the financial statements is submitted to the NPO Supervisor within 2 weeks of its completion by the accountant.

(6) Where the registered non-profit organisation is unable to submit the review of the financial records on completion of review, the non-profit organisation may make a written request to the NPO Supervisor to extend the period for submitting a report on the review of financial statements by 3 months.

(7) The NPO Supervisor may grant a request made under subsection (6) to extend the period for submitting a report on the review of financial statements where the Supervisor is satisfied that the registered non-profit organisation has reasonable grounds for failing to submit the review on its completion.

(8) The expenses of a review, including the remuneration of the accountant conducting the review, shall be paid by the registered non-profit organisation.

(9) The NPO Supervisor shall, at the request of the Attorney-General, provide the Attorney-General with a copy of a review report prepared on a registered non-profit organisation.

(10) The financial statements relating to a registered non-profit organisation shall be preserved by the registered non-profit organisation for a period of at least 5 years from the end of the financial year unless the registered non-profit organisation ceases to exist.

(11) In this section and section 12, the “gross annual income” of a non-profit organisation includes—

- (a) income received from the provision of goods and services;
- (b) rental income;
- (c) interest on other income derived from investments;
- (d) receipt of donations and money; and
- (e) the award of grants.

(12) A registered non-profit organisation that fails to provide an accountant referred to in subsection (3) with any facility to which is entitled under the Regulations is guilty of an offence and is liable on summary conviction to a fine not exceeding \$50,000.

(13) For the purposes of this section “controller” means a person who own, control or direct the non-profit organisation.

Appeals against a review request

12B. (1) A registered non-profit organisation may in accordance with section 162 of the Proceeds of Crime Act, apply to the Court for leave to appeal against a decision of the NPO Supervisor to request a review in accordance with section 12A(1).

(2) Where a registered non-profit organisation applies for leave to appeal under subsection (1) the court may allow or dismiss the appeal or make an order remitting the matter for further consideration by the NPO Supervisor.

(3) An appeal to the court against a decision of the NPO Supervisor to require a review may be brought by a person who own, control or direct the registered non-profit organisation or by any person who has supervision of the financial statements of the registered non-profit organisation.

Duty to prepare annual returns

12C. (1) A registered non-profit organisation shall ensure that within 6 months of the end of the financial year, annual returns—

- (a) are prepared in relation to the non-profit organisation;
- (b) contain such particulars as may be prescribed; and
- (c) are submitted to the NPO Supervisor in the form specified on the website of the Commission or any other public forum operated by the Commission.

(2) The NPO Supervisor may approve a written request made by a person who owns, control or directs the registered non-profit organisation to extend the period for submitting annual returns by 2 months where the initial six-month period provided under subsection (1) has expired.

(3) A registered non-profit organisations that fails to submit annual return form as required under the section is guilty of an offence and is liable on summary conviction to a fine not exceeding \$20,000.

(4) For the purpose of this section a financial year means a period of not more than 12 months for which the financial records of a non-profit organisation is prepared.”.

Insertion of Part 4A

17. The principal Regulations is amended by inserting the following new Part before section 13—

“PART 4A

ENFORCEMENT ACTION

NPO Supervisor may take disciplinary action

12D. (1) For the purposes of this Part—

- (a) the following shall constitute a disciplinary violation—
 - (i) failure to comply with the requirement to keep records of the identity of the persons who control or direct the activities of the organisation, including as appropriate, senior officers, directors and trustees,
 - (ii) failure to comply with the requirement to keep records of identity, credentials and good standing of beneficiaries and associate NPOs,
 - (iii) failure to comply with requirement to keep a list of donors who have donated to a registered non-profit organisation, for each year,
 - (iv) failure to comply with the requirement to keep financial records and annual returns in accordance with these Regulations,
 - (v) failure to comply with the requirement to register as a non-profit organisation,

- (vi) failure to submit forms, returns and financial statements stipulated by these Regulations, and
 - (vii) failure to notify the NPO Supervisor of changes to particulars in the NPO Register;
- (b) the imposition of an administrative penalty becomes disposed of on the earliest of—
- (i) the payment by the non-profit organisation of the penalty,
 - (ii) the date when, in accordance with section 12F(4), the non-profit organisation is considered to have committed the disciplinary violation, or
 - (iii) the dismissal of any appeal of the non-profit organisation, provided that the time for any further appeal has expired.

(2) The NPO Supervisor may take disciplinary action against a registered non-profit organisation if it is satisfied that the non-profit organisation has committed a disciplinary violation.

(3) Where disciplinary action is taken by the NPO Supervisor against a registered non-profit organisation the NPO Supervisor may impose an administrative penalty on it.

(4) The NPO Supervisor in deciding whether to impose an administrative penalty on a registered non-profit organisation, shall take into account the following matters—

- (a) the nature and seriousness of the contravention;
- (b) whether the registered non-profit organisation has previously contravened these Regulations or any relevant legislation;
- (c) whether the contravention was caused by the negligence of the registered non-profit organisation;
- (d) the ability of the registered non-profit organisation to pay the penalty;
- (e) any gain resulting to the registered non-profit organisation as a result of the contravention; and
- (f) such other matters as the NPO Supervisor considers appropriate.

(5) An administrative penalty imposed on a registered non-profit organisation shall be a penalty imposed on a person who owns, controls or directs the registered non-profit organisation.

(6) The administrative penalty imposed on a registered non-profit organisation in respect of a disciplinary violation shall be a sum no greater than the maximum sum specified below—

The requirement to keep records of the identity of the persons who control or direct the activities of the organisation, including as appropriate, senior officers, directors and trustees	A maximum of \$50,000
The requirement to keep records of identity, credentials and good standing of beneficiaries and associate non-profit organisations	A maximum of \$50,000
The requirement to keep a list of donors	A maximum of \$50,000
The requirement to keep financial records	A maximum of \$50,000
Failure to comply with the requirement to register as a Non-profit organisation;	A maximum of \$50,000
Failure to submit forms, returns and financial statements stipulated by these Regulations; and	A maximum of \$50,000
Failure to notify the NPO Supervisor of changes to particulars in the NPO Register.	A maximum of \$50,000

(7) The NPO Supervisor shall not take disciplinary action against a registered non-profit organisation in respect of a disciplinary violation committed more than 2 years prior to the date upon which it sends a notice to the non-profit organisation under section 12E.

(8) If the conduct or omission that constitutes a disciplinary violation also constitutes an offence, the taking of disciplinary action against a non-profit organisation does not prevent the non-profit organization from being prosecuted for the offence.

Notice of intention to take disciplinary action

12E. (1) If the NPO Supervisor intends to take disciplinary action against a non-profit organisation, it shall send a notice of its intention to the non-profit organisation which—

- (a) sets out the alleged disciplinary violation and the relevant facts surrounding the violation;
- (b) sets out the penalty it intends to impose for the violation; and
- (c) advises the non-profit organisation of its right to make written representations to the NPO Supervisor in accordance with subsection (2).

(2) A non-profit organisation that receives a notice under subsection (1) may, within 28 days of the date upon which it receives the notice, send written representations to the NPO Supervisor disputing the facts of the alleged disciplinary violation or the administrative penalty or both.

Disciplinary action

12F. (1) After the expiration of 28 days from the date that the NPO Supervisor sent a notice under section 12E to a non-profit organisation, the NPO Supervisor may take disciplinary action against that non-profit organisation by sending it a penalty notice stating—

- (a) the disciplinary violation in respect of which the notice is issued;

- (b) the date on which notice of intention to take disciplinary action in respect of that violation was sent to the non-profit organisation;
- (c) the amount of the administrative penalty to be paid by the non-profit organisation for the violation;
- (d) a date, not less than 28 days after the date of the penalty notice, by which the non-profit organisation shall pay the penalty to the NPO Supervisor; and
- (e) that if the non-profit organisation does not pay the penalty or exercise its rights of appeal under section 162 of the Proceeds of Crime Act, it will be considered to have committed the violation and that it is liable for the penalty set out in the notice.

(2) Before taking disciplinary action against a non-profit organisation under subsection (1), the NPO Supervisor shall consider any written representations that it has received from the non-profit organisation and, where it receives such representations, it must provide reasons for the action that it takes.

(3) A non-profit organisation that receives a penalty notice under subsection (1) shall pay the penalty stated to the NPO Supervisor on or before the date specified in the notice or appeal the notice under section 162 of the Proceeds of Crime Act.

(4) If the non-profit organisation pays the administrative penalty, it is considered to have committed the violation and the disciplinary action is over.

(5) A non-profit organisation that neither pays the administrative penalty nor appeals the notice within 28 days is considered to have committed the disciplinary violation and is liable for the penalty.

(6) If the NPO Supervisor imposes an administrative penalty on a non-profit organisation, the NPO Supervisor may, after the imposition of the penalty has become final, advertise the imposition of the penalty by publication on website of the Commission or any other public forum operated by the Commission.

Recovery of administrative penalty

12G. (1) An administrative penalty constitutes a debt to the NPO Supervisor and may be recovered in the court.

(2) The NPO Supervisor may, after the imposition of a penalty has become final, issue a certificate certifying the unpaid amount of any debt referred to in subsection (1) and the registration of the certificate in the court has the same effect as a judgment of the court for a debt of the amount specified in the certificate together with the costs of registration.

Enforcement action by the NPO

12H. Where the NPO Supervisor sees fit, the NPO Supervisor may take one or more of the following additional enforcement actions in relation to a non-profit organisation that has committed a disciplinary violation—

- (a) freezing payments to and from NPO;
- (b) directing the NPO to implement the recommendations of an auditor's report;
- (c) requirement of a new election to be held;
- (d) suspension of registration of the NPO;

- (e) de-registration of the NPO;
- (f) imposition of conditions that shall be complied with during the suspension of the NPO.”.

Amendment of section 13

18. The principal Regulations is amended by repealing section 13 and replacing it with the following—

“Offence, false and misleading information, destruction of information

13. (1) A person who, with intent to deceive or for any purpose of these Regulations—

- (a) provides any information, makes any representation or submits any document or return that he knows to be false or materially misleading or does not believe to be true; or
- (b) recklessly provides any information, makes any representation or submits any document or return that is false or materially misleading;
- (c) fails to make full disclosure to the NPO Supervisor of all material facts required to be disclosed in respect of the NPO under the Regulations;
- (d) wilfully alters, suppresses, conceals or destroys a document that that person is liable by or under the Regulations to produce to the NPO Supervisor;

is guilty of an offence and is liable on summary conviction to a fine not exceeding \$50,000.

(2) A non-profit organisation who fails to require its officers to disclose any previous convictions for AML/CFT and dishonesty offences is guilty of an offence and is liable on summary conviction to a fine not exceeding \$50,000.”.

Insertion of sections 13A to 13C

19. The principal Regulations is amended by inserting the following new section after section 13—

“Letter of Good Standing

13A. (1) Where a registered non-profit organisation wishes to get a letter of good Standing from the NPO Supervisor, the non-profit organisation shall—

- (a) make a request in writing to the NPO Supervisor for such letter; and
- (b) pay the fee specified in Schedule 1 Table 1.

(2) Where a request is made under subsection (1) the NPO Supervisor shall within 7 days of such request issue the non-profit organisation with a letter of good standing.

Publication of approved forms

13B. (1) The NPO Supervisor shall publish on the website of the Commission or any other public forum operated by the Commission, such forms and content as are required under these Regulations.

(2) The NPO Supervisor may alter as needed the forms and data required on the website or other public forum referred to in subsection (1).

Transitional provisions

13C. (1) A non-profit organisation that, prior to the coming into force of these Regulations, was deemed to be an exempt non-profit organisation shall be required to comply with section 5(1) or (2a) before the expiry of 30th December, 2023.

(2) For the purposes of this section and “exempted non-profit organisation” means a non-profit organisation—

- (a) the gross annual income of which does not exceed \$5,000; and
- (b) the assets of which do not exceed \$10,000 in value.”.

Insertion of Schedule

20. The principal Regulations is amended by inserting the following Schedule—

SCHEDULE 1

TABLE 1

FEES

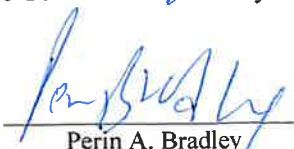
(Section 4, 6, 7, 10A, 13A)

Fee Description	EC\$
Registration fee*	150
Application fee to expedite application within 3 working days	250
Printing information contained in the NPO Register	3.00 per page
Letter of Good Standing	54
Replacement Copy of Certificate of Registration	54
Material Change Fee	54
*Fees to be effective on 1 July 2023	

Citation

21. These Regulations may be cited as the Non-Profit Organisations (Amendment) Regulations, 2023.

Made by the Governor this 22nd day of June, 2023.


Perin A. Bradley
GOVERNOR OF ANGUILLA (ACTING)