



ST. CHRISTOPHER AND NEVIS

CHAPTER 20.59

NON-GOVERNMENT ORGANISATIONS ACT and Subsidiary Legislation

Revised Edition

showing the law as at 31 December 2020

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This edition contains a consolidation of the following laws—

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CHAPTER 20.59
NON-GOVERNMENT ORGANISATIONS ACT

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CHAPTER 20.59

NON-GOVERNMENT ORGANISATIONS ACT

AN ACT TO REGULATE THE OPERATION OF NON-GOVERNMENT ORGANISATIONS WITHIN SAINT CHRISTOPHER AND NEVIS, AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the Non-Government Organisations Act.

Interpretation.

2. In this Act, unless the context otherwise requires—

“Commission” means the Non-Governmental Organisation Commission established under section 17;

“Financial Services Regulatory Commission Act” means the Financial Services Regulatory Commission Act, Cap. 21.10;
(Inserted by Act 4 of 2020)

“FSRC” means the Financial Services Regulatory Commission established pursuant to section 3 of the Financial Services Regulatory Commission Act;
(Inserted by Act 4 of 2020)

“Minister” means the Minister with responsibility for Finance; *(Amended by Act 4 of 2020)*

“NGO” means a Non-Governmental Organisation as described under section 3.

PART II

REGISTRATION

Role and function of NGO.

3. (1) An NGO is a non-profit making non-governmental body whose aims, nature and objectives, are primarily for the benefit of the public and shall include activities that are patriotic, religious, charitable, for scientific inquiry, community development, for sustainable development, human rights, artistic, for protection of animals, social, professional or sporting character, or the like.

(2) Without prejudice to the generality of subsection (1), an NGO shall possess the following attributes and characteristics—

- (a) it shall be independent of Government control or any organ of the State in its operations and management;
- (b) its aims, objects and purposes shall be to achieve sustainable human development on a voluntary, nonprofit basis;

- (c) it shall be formally constituted in terms of a written self-governing and its instrument such as a Constitution or Articles of Association.

(3) A member of the Board of Directors, or an officer or employee of the NGO shall be excluded from using the objects, aims and purposes of the NGO for personal gain or profit.

(4) This Act shall not apply to—

- (a) governmental and quasi-governmental bodies;
- (b) informal organisations that are established for the benefit of the members only;
- (c) any other organisations that may be prescribed by the Minister on the advice of the FSRC.

(Substituted by Act 4 of 2020)

(5) An NGO shall adhere to the provisions of a Code of Good Conduct as may be prescribed by the Minister in Regulations.

Economic activities of NGO.

4. Any economic activities undertaken by an NGO must be in furtherance of its stated objectives within the Memorandum and Articles of Association.

Registrar.

5. The Registrar for NGOs shall be the Registrar of Companies.

Application to Registrar.

6. (1) Subject to the provisions of section 3(4)(b) and (c), every NGO shall be registered pursuant to the provisions of this Act.

(Substituted by Act 4 of 2020)

(2) An application made pursuant to subsection (1) shall be in writing and shall be submitted with the following documents—

- (a) the name and address of the NGO;
- (b) the Constitution or Memorandum and Articles of Association of the NGO, demonstrating that it is a company limited by guarantee;
- (c) a brief statement and details of the aims, objects and purposes of the NGO;
- (d) the organisational structure of the NGO including its membership and management, and how Directors are elected, their duties and powers and terms of office;
- (e) the names, addresses, contact information and occupation of all of the members of the Board of Directors of the NGO;

(Amended by Act 4 of 2020)

- (f) the by-laws, if any, of the NGO;
- (g) the identifying particulars and any supporting documents in respect of the Directors, beneficial owners and any other person with a significant controlling interest in the NGO.

(Inserted by Act 4 of 2020)

Application fee.

7. The application to be registered as an NGO shall be accompanied by an application fee as prescribed by the Minister in Regulations.

(Substituted by Act 4 of 2020)

Grant or refusal of registration.

8. (1) The Registrar shall, within such time as shall be prescribed, if he or she is satisfied after receipt of an application under section 6 that—

- (a) the organisation making the application meets the requirements of section 3;
- (b) the application complies with section 6;
- (c) the programme of activities of the organisation complies with the requirements of section 7,

register the organisation as an NGO and issue to that organisation a Certificate of Registration in the prescribed form, upon payment of the prescribed fee.

(2) The Registrar shall refuse to register an NGO where, in the opinion of the Registrar—

- (a) the name of the NGO is similar to the name of another NGO or other organisation or entity as to be likely to mislead the public as to its true identity;
- (b) the name of the NGO is offensive to good morals;
- (c) the proposed NGO or its Directors, is involved or materially concerned in fraud, organised crime, money laundering, or terrorist financing activities or any other serious offences;

(Amended by Act 4 of 2020)

- (d) the application for registration does not comply with the requirements of this Act or any Regulations made thereunder.

(3) If the Registrar refuses to register a NGO under subsection (2)(d), the Registrar may direct the NGO to resubmit, within such time as may be prescribed, a new application complying with the requirements of this Act.

(4) Any NGO, or a member or officer thereof aggrieved by the Registrar's decision under subsection (2), may appeal to the FSRC.

(Substituted by Act 4 of 2020)

PART III**COORDINATION WITH GOVERNMENT****Coordination between NGOs and the Government.**

9. The Minister shall be responsible for prescribing in Regulations, any special requirements pertaining to establishment of procedures for consultation and coordination between NGOs and Government.

(Substituted by Act 4 of 2020)

Publication of names of NGOs.

10. The names of registered NGOs shall be published in the *Gazette* and at least one newspaper of general circulation by February 20th in each calendar year, and, where applicable, a list of NGOs which were registered in the previous year, but which are no longer registered.

PART IV

ADMINISTRATION AND EXEMPTIONS

Administration.

11. (1) Each NGO registered under this Act, shall, subject to its Memorandum and Articles of Association and its by-laws, have a Board of Directors or other committee or governing body and such Board of Directors, committee or governing body shall be the principal policy-making organ of the NGO.

(2) The composition of the Board of Directors, committee or governing body referred to under subsection (1) shall be as provided for in the Memorandum and Articles of Association of the NGO or its by-laws.

(3) The Memorandum and Articles of Association of the NGO, or its by-laws, shall specify—

- (a) the manner of electing the Chairman of the Board of Directors, committee, or other governing body of the NGO;
- (b) the period for which the Chairman shall be appointed;
- (c) the time and place at which the Board, committee or governing body shall meet to transact the business of the NGO;
- (d) what conditions would disqualify a person from becoming or remaining a Director;
- (e) any allowances which may be paid to the Directors;
- (f) the persons to whom the Board, committee or governing body may delegate its powers in respect of the affairs of the NGO.

(4) The Board of Directors of an NGO may appoint and employ, at such remuneration and subject to such terms and conditions as it thinks fit, a suitably qualified, fit and proper person to be the executive officer of the NGO.

Exemptions.

12. (1) Every NGO registered under this Act shall be exempt from the payment of corporate income tax and the payment of business tax, but subject to the provisions of regulations made under subsection (3), may apply to the Minister of Finance to be exempted from the payment of any other tax, duty or impost levied by the Government as the occasion may arise.

(2) Subject to the Income Tax Act, and the Licences on Businesses and Occupations Act, every corporate person in the state who makes a donation to an NGO registered under this Act shall be eligible, in the financial year when the donation is made, to have such donation treated as tax-deductible for income tax and business tax purposes.

(3) The Minister of Finance may, after consultation with the Minister, make Regulations to give effect to the provisions of this section.

PART V

FINANCIAL PROVISIONS

Income generating activities.

13. (1) Every NGO registered under this Act may engage in any commercial income-generating project on the condition that—

- (a) such project is authorised by its Articles and Memorandum of Association or its By-Laws;
- (b) the monies derived therefrom are credited to its account and are used exclusively for the furtherance of its aims, objects and purposes; and
- (c) no part of the income or monies generated from that project is payable to, or available for, the personal benefit of a proprietor, member, or shareholder.

(2) Subject to subsection (3), where any Non-Governmental Organisation registered under this Act is involved in the management and disbursement of monies on credit for projects to individuals or community based groups, such monies, and any interest derived therefrom, shall not be liable to the taxes, duties and imposts referred to in section 12(1).

(3) Subsection (2) above shall only be applicable where the monies disbursed by the NGO and any interest derived therefrom are approved by the Ministry of Finance to be exempt from the taxes, duties and imposts referred to in section 11(1) above.

Accounting.

14. (1) Every NGO registered under this Act shall keep proper accounts and other records in relation to its business and shall, subject to subsection (2) below, prepare annually a statement of accounts in a form which conforms to the best commercial and accounting standards.

(2) The accounts of every NGO registered under this Act shall be audited annually by an auditor appointed in each year by its Board of Directors, committee or governing body.

(3) The provisions of this section shall be subject to section 6(2)(d).
(Amended by Act 4 of 2020)

(4) Every NGO shall be responsible for retaining its accounts and other records in relation to its business for at least five years.
(Inserted by Act 4 of 2020)

Reporting.

15. (1) By September 30th in each year, within four months after the end of each financial year, every NGO registered under this Act shall cause to be made and submitted to the Registrar—

- (a) a statement of its accounts audited in accordance with section 14(2) above;

- (b) a certified copy of its financial statements;
- (c) a report dealing generally with the programme of activities and policies of the NGO during that financial year.

(2) The documents submitted to the Registrar pursuant to this section shall be open to inspection by any person upon payment of the prescribed fee.

(3) The Registrar shall publish in the *Gazette*, and in at least one local newspaper of general circulation in the State, in the month of September in each year, a copy of the financial statements and other documents submitted to him by each NGO pursuant to subsection (1).

Accountability.

16. (1) Every NGO registered under this Act shall implement internal accounting and administrative procedures necessary to ensure the transparent and proper use of its financial and other resources.

(2) Every NGO registered under this Act shall, in addition to complying with the requirements of subsection (1) above, also comply with the following—

- (a) utilise its financial and other resources for the attainment of its aims, objects and purposes;
- (b) train its officers and employees so that they become efficient and professional in delivering the programme of activities of the NGO;
- (c) any relevant provisions of the Anti-Money Laundering Regulations made under the Proceeds of Crime Act or any other pertinent legislation, to promote good governance and financial accountability and to safeguard against money laundering and financing of terrorist activities.

Role of FSRC.

17. (1) Subject to section 20 of this Act and the provisions of the Financial Services Regulatory Commission Act, an NGO that is registered under this Act shall be subject to the jurisdiction and powers of the FSRC including the following—

- (a) the oversight function of the FSRC as the ultimate regulatory body for financial services and for anti-money laundering activities within Saint Christopher and Nevis;
- (b) maintenance by the FSRC of a general review of the operations of all regulated entities;
- (c) monitoring of compliance by regulated persons with the Proceeds of Crime Act, Cap. 4:28, the Anti-Terrorism Act, Cap. 4:02 and such other Acts, regulations, codes or guidelines relating to money laundering or the financing of terrorism;
- (d) authorisation of the FSRC to examine the affairs or business of a regulated entity for the purpose of satisfying itself that the relevant provisions of the FSRC Act and related enactments are being complied with, that a regulated entity is in a sound financial position and is managing its business in a prudent manner;
- (e) assist any authorised authority in the investigation of any offence against the Laws of Saint Christopher and Nevis which it has reasonable grounds to believe has or may have been committed by a

regulated entity; and cooperate with the Financial Intelligence Unit in the supervision of a regulated entity.

(2) Pursuant to the provisions of subsection (1), an NGO shall make available its premises and relevant records to the inspection of the FSRC.

(Substituted by Act 4 of 2020)

Cooperation and Coordination.

† 18. The Registrar shall cooperate with the FSRC, the FIU, the White Collar Crime Unit, the Comptroller of Inland Revenue and any other competent authorities, both domestic and international, as may be necessary to share information, coordinate and cooperate on matters pertinent to anti-money laundering and counter terrorist financing.

(Inserted by Act 4 of 2020)

Responding to International Requests.

†19. (1) The Registrar shall be the point of contact to respond to international requests for information regarding any NGOs suspected of terrorist financing or involvement in other forms of terrorist support.

(2) Where the Registrar receives a request pursuant to subsection (1), he or she shall respond to such a request in accordance with such terms and conditions as may be prescribed by the Minister in Regulations.

(Inserted by Act 4 of 2020)

Penalties.

20. (1) An NGO that is registered under this Act that fails to comply with the provisions of this Part shall—

(a) have its Certificate of Registration cancelled by the Registrar;

(b) lose all tax exemption privileges granted to NGOs under this Part.

(2) Before making a decision whether to cancel the Certificate of Registration of an NGO under paragraph (a) above, the Registrar shall first make an independent investigation, either on his own motion or at the request of the designated Ministry of Government, and shall allow the NGO to present its case.

(3) Any NGO aggrieved by the Registrar's decision to cancel its Certificate of Registration may appeal to the High Court whose decision thereon shall be final.

International Organisations.

21. (1) Any international, regional or intergovernmental organisation operating in the State as a Non-Governmental Organisation whose programme of activities falls within the definition of "sustainable development" shall be and is hereby required to be registered under this Act.

(2) Any international organisation which intends to operate in the State as an NGO shall not be entitled to any relief from taxes and duties as provided under this Act, unless it is registered hereunder, or unless it operates in the State only with an NGO registered under this Act.

† Sections 17A and 17B inserted by Act 4 of 2020 and renumbered as sections 18 and 19 and all subsequent sections renumbered accordingly.

(3) The Minister may, in consultation with the Commission, exempt any inter-governmental organisation referred to in subsection (1) from registering under this Act.

Regulations.

22. The Minister may make Regulations to give effect to the provisions of this Act and for prescribing anything that is required by this Act to be prescribed.

SCHEDULE

(Sections 3 and 22)

NON-GOVERNMENT ORGANISATIONS REGULATIONS

Citation.

1. These Regulations may be cited as Non-Government Organisations Regulations.

Interpretation.

2. In these Regulations, the expression, “Act” means Non-Government Organisations Act, Cap. 20.59.

Registration of NGO.

3. (1) Where an organisation is registered in accordance with the provisions of the Act, the organisation, or person applying on behalf of the organisation shall apply to be registered as an NGO with the form set out in Schedule 2.

(2) Where the Registrar is satisfied that the organisation has met all of the specified requirements and conditions under the Act, then the organisation shall, on payment of a fee set out in Schedule 4, be issued with a Certificate of Registration, in a form consistent with that which is set out in Schedule 3.

(3) An NGO shall pay an initial application fee to the Registrar as set out in Schedule 4, and thereafter an annual fee for each year as provided for in that Schedule.

(4) Where an NGO fails to maintain its status as a non-profit company limited by guarantee in accordance with the provisions of section 6(2)(b) of the Act, the NGO shall automatically lose its status as an NGO.

Commission.

4. The NGO Commission shall be constituted and function in accordance with the terms set out in Schedule 1.

SCHEDULE 1*(Regulation 4)***COMMISSION****Appointment and Membership.**

1. (1) The Commission shall consist of the following persons who shall be appointed by the Minister—

- (a) a senior officer in the Ministry of Finance, who shall be the chairperson;
- (b) a representative from the Ministry responsible for Community Affairs;
- (c) a representative from the Chamber of Industry and Commerce;
- (d) a senior representative from the Ministry responsible for Community Affairs in Nevis;
- (e) a representative from the Ministry of Sustainable Development.

(2) The Commission shall elect from among its members a Deputy Chairperson who shall, in the absence of the Chairperson, preside at meetings of the Commission.

(3) Every member of the Commission appointed by the Minister shall be appointed by instrument in writing which shall be published in the *Gazette*.

(4) The functions, powers, rights and obligations of the Commission shall not be affected by any vacancy in its membership.

Powers and Functions.

2. (1) The Commission shall, subject to section 17 of the Act, have such powers as are reasonably necessary for the carrying out of its functions or incidental to their proper discharge.

(2) The Commission may, in connection with the carrying out of its functions—

- (a) consult and seek the advice of such persons or bodies whether inside or outside Saint Christopher and Nevis as it considers appropriate;
- (b) publish, in such manner as it considers appropriate, such information relating to its functions as it thinks fit;
- (c) make recommendations arising out of any information received;
- (d) issue guidelines pertaining to non-governmental organisations; and
- (e) advise the Minister.

Terms of Appointment of Commissioners.

3. (1) A Commissioner shall hold and vacate office in accordance with the terms of his or her instrument of appointment.

(2) A Commissioner may at any time resign his or her office by giving not less than one month's notice in writing to the Chairperson, except that in the case of the Chairperson he or she shall tender his or her resignation in writing to the Minister.

- (3) If the Minister is satisfied that a Commissioner—
- (a) has been absent from three consecutive meetings of the Commission without excuse or the permission of the Commission;
 - (b) has become bankrupt;
 - (c) is incapacitated by physical or mental illness; or
 - (d) is unable or unfit to discharge the functions of a Commissioner, he or she may terminate the appointment of the Commissioner.

(4) There shall be paid to the Commissioners such remuneration as the Minister may determine.

(5) Pursuant to section 14 of the Act, proper accounting records would include underlying documentation evidencing a clear financial history of the NGO such as invoices and contracts and should reflect details of the following—

- (a) all sums of money received and expended and the purposes for such receipt and expenditure;
- (b) sales and purchases and other related transactions; and
- (c) the assets and liabilities of the relevant NGO.

Tenure and Conditions of Member of Commission.

4. The tenure of office and other terms and conditions of office of the members of the Commission shall be set out in the instrument of appointment.

Disclosure of Interest.

5. (1) Where a Commissioner has any direct or indirect personal interest in the outcome of the deliberations of the Commission in relation to any matter—

- (a) he or she shall disclose the nature of his or her interest at a meeting of the Commission in person or by means of a written notice brought to the attention of the Commission;
- (b) the disclosure shall be recorded in the minutes of the Commission; and
- (c) he or she shall withdraw from any deliberations of the Commission in relation to that matter and not vote upon it.

(2) For the purposes of this paragraph, a general notice given by a Commissioner that he or she is a member or director of a particular organisation and is to be regarded as interested in any matter concerning that organisation, is sufficient disclosure in relation to any such matter.

Procedure at Meetings.

6. (1) The meetings of the Commission shall be held at such times and at such places as are from time to time agreed upon by the members of the Commission or as the Minister may direct.

(2) At a meeting of the Commission—

- (a) a simple majority of the Commissioners shall form a quorum;
- (b) each Commissioner shall have one vote on each matter for deliberation; and
- (c) in the event of an equality in the votes the Chairperson of the meeting shall have a casting vote.

(3) The Commission may determine its procedure and for that purpose may make rules of procedure, including rules relating to the convening of meetings and the conduct of business at meetings and may alter the rules.

Secretariat of Commission.

7. The Commission shall be serviced by a secretariat from the Ministry of Finance.

Transaction of Business Without Meeting.

8. A decision is a valid decision of the Commission, even though it was not passed at a meeting of the Commission, if—

(a) it is signed or assented to by a majority of the Commissioners; and

(b) proper notice of the proposed decision was given to all Commissioners.

Minutes of Meetings.

9. The Commission shall keep proper minutes of its proceedings.

SCHEDULE 2*(Regulation 3)*SAINT CHRISTOPHER AND NEVIS
NON-GOVERNMENT ORGANISATIONS ACT**APPLICATION FOR REGISTRATION**

1. Name of Applicant
2. Address of Applicant
3. Contact Information Tel Nos.:.....
E-Mail
4. Name of proposed NGO
5. Proposed address (if any) of NGO
6. General Description of business of the
NGO

Enclosed herewith are the following documents:

- Constitution and Memorandum and Articles of Association of NGO, including the fact that the NGO is a company limited by guarantee
- Statement and details of the aims, objects and purposes of NGO
- Organisational structure of NGO including its membership and management
- Names, addresses and occupations of Board of Directors of NGO
- Any existing by-laws of NGO

I of hereby certify that the information contained herein is true to the best of my knowledge, information and belief.

.....
Signature of Applicant

.....
Date

SCHEDULE 3

(Regulation 3)

SAINT CHRISTOPHER AND NEVIS
NON-GOVERNMENT ORGANISATIONS ACT

CERTIFICATE OF REGISTRATION

Certificate No.:

This is to certify that,
(Name of NGO)

of
(Address)

is a registered Non-Governmental Organisation pursuant to the provisions of the
Non-Government Organisations Act.

Signed by:
(Signature of Registrar)

SCHEDULE 4

(Regulation 3)

FEEES

	\$
Application Fee	100.00
Annual Fee	20.00
Certificate of Registration.....	50.00
Fee for inspection of records of NGO.....	5.00
<i>(Schedule to the Act inserted by S.R.O. 4/2011)</i>	
