



GOVERNMENT OF BERMUDA

Ministry of Home Affairs

Registry General

Pursuant to the Registry General's oversight of the charitable/not for profit sector in Bermuda, these Guidance Notes have been produced to assist those that administer Privately Funded Charities/ Charitable Trusts. These Guidance Notes provide the minimum standards necessary for compliance with the legal duties and responsibilities under the recent amendments made to Charities Act 2014 ("the amended Act").

The amended Act came into force August 10th 2018 and provides for the establishment of a new register for Privately Funded Charities/Charitable Trusts. These Guidance Notes address each of the new amendments and are designed to provide clarity to trustees regarding their legal duties and what approach they must (legal requirement) or should (good practice) take for their charity and its work.

The primary purpose of the recent amendment is the establishment of a new separate private register in respect to charities or charitable trusts that are privately funded. These entities previously enjoyed exemption from registration if they were completely privately funded, did not solicit funding from the Government of Bermuda and did not solicit funds from the Bermudian public.

Pursuant to the amended Act section 2:

"Charity that is privately funded" means a charity that does not solicit funds from the Bermuda public, does not receive funding from the Bermuda Government, or from Bermuda public sources;"

Section 17 of the Charities Act has been amended as follows:

"There shall be a separate part of the register in respect of charities that are privately funded in which the Registrar shall enter such information as he may determine in relation to such charities."

The newly formed register will be kept separate from the publicly funded charity register. The information provided in this register will be kept confidential and will not be subject to public inspection or subject to the Public Access to Information Act.

The newly included section 17(a) also mandates that Privately Funded charities must within one (1) month of formation do the following:

1. Notify the Registrar of its establishment;
2. Provide the name of the charity or trust, date of establishment and whether the charity or trust qualifies for exemption under section 18(4) of the Charities Act;
3. Specify the condition in section 18(4) pursuant to which they are exempted.

4. Supply the Registrar with documents and information confirming compliance with the above condition. This may take the form of a letter from your trust or cooperate service provider along with a copy of their incorporation documents.

The amended Act at section 18 (4) repeals the exemption previously afforded to privately funded entities. Specifically the amended section:

1. Deleted the words “does not solicit funds from the Bermuda public, does not receive funding from the Bermuda Government or from Bermuda public sources,”;
2. Repealed paragraphs (a) and (b) and substituted the following—
 - a. in the case of a Trust, at least one of the Trustees is licensed under the Trusts (Regulation of Trust Business) Act 2001;
 - b. in the case of a company or other legal person, it has a registered office with and is subject to compliance by a person licensed under the Corporate Service Provider Business Act 2012 with respect to applicable laws, regulations or other requirements.”.

The Registry General would also like to remind the public that it is an offence to provide misleading or false information. Specifically section 45 of the Charities Act:

45. (1) It is an offence for a person knowingly or recklessly to provide the Registrar or the Committee with information which is false or misleading in a material particular if the information is provided—
 - (a) in purported compliance with a requirement imposed under this Act; or
 - (b) otherwise than as mentioned in paragraph (a) but in circumstances in which the person providing the information—
 - (i) intends; or
 - (j) could reasonably be expected to know, that it would be used by the Registrar or the Committee for the purpose of discharging any of their functions under this Act.
- (2) It is an offence for a person wilfully to alter, suppress, conceal or destroy any document which the person is or is liable to be required, under this Act, to produce to the Registrar or the Committee.
- (3) A person guilty of an offence under this section is liable—
 - (a) on summary conviction, to a fine not exceeding \$5,000; or
 - (b) on conviction on indictment, to a fine not exceeding \$10,000, or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

If your private charity/ charitable trust is not being administered by either a licenced Cooperate Service provider or trust provider then you must register with the Registry General department within 3 months of the amended Act coming into force.

Please ensure that all applications are marked “ Private and Confidential” and are addressed to the Legal and Compliance Officer.

If you have any question regarding any of the information contained above please email charitabletrustinfo@gov.bm.