



## **ADMINISTRATION OF THE CHARITIES ACT 2013**

### **RATIONAL FOR THE ACT**

- What was the driving force behind the establishment of a Charities Act.
- Purpose of the Charities Act 2013.

**ACTS**



## RATIONAL FOR THE ACT

Charitable Organizations are therefore required to be registered in order to obtain the tax relief relating to the following taxes:-

- Customs Act,
- General Consumption Act,
- Income Tax Act,
- Stamp Duty,
- Property Act
- Transfer Tax Act.



## OBJECTIVES OF THE CHARITIES ACT

Section 5 of the Act seeks to:-

- Maintain, protect and enhance public trust and confidence in charitable organizations in Jamaica.
- Promote compliance by governing Board members with the legal obligation in relation to the management of charitable organizations.
- Enhance the accountability of charitable organizations to donors, beneficiaries and the general public.

## CHARITABLE ORGANIZATION

Entities as per the Act who can be registered are:

- A Trust .
- Any institution established whether incorporated or not incorporated.
- Excluded bodies are not applicable.



## CHARITABLE PURPOSE ( First Schedule )

- The prevention or relief of poverty
- The advancement of education
- The advancement of religion
- The advancement of health or saving of lives
- The advancement of good citizenship or community development
- The advancement of arts, culture, heritage or science
- The advancement of amateur sport



## CHARITABLE PURPOSE ( First Schedule)

- The promotion of efficiency of the armed forces or the efficiency of the police forces.
- The advancement of animal welfare
- A purpose specified by the Minister, by order, subject to negative resolution of the House of Representatives, as being analogous to a purpose mentioned in bullets above.



## EXCLUDED BODIES – Section 2 Interpretations

- Political party or a Body that promotes a political party or a candidate of a political party.
- A Trade Union
- Representative body of Employers.
- A Chamber of Commerce or other body that promotes the interests of commercial entities.



## EXCLUDED BODIES contd.

- A body that promotes purposes that are unlawful, prejudice to public order or safety.
- A body that is in support of terrorism or terrorist activities, whether these activities occur in Jamaica or outside of Jamaica or for the benefit of an organisation, being a member of which is unlawful.



## KEY PLAYERS

**Charities Authority** - Department of Co-operatives and Friendly Societies designated by Minister under Section 6 of the Act.



**Commissioner General** - Tax Administration of Jamaica



**Registrar of Charities** - Companies Office of Jamaica designated by Minister under Section 23 of the Act



## DCFS-ROLE AS CHARITIES AUTHORITY

### Section 7



- Process Applications for registration under the Act.
- Provides information to persons wishing to register
- Provide the Registrar of Charities with information to facilitate the keeping of the Register
- Publish such information concerning Registered Charitable Organisation (RCO) in keeping with the Act.



## (DCFS) CHARITIES AUTHORITY



- Monitor RCO and their activities to ensure same in keeping with standards.
- Monitor and promote compliance to Act and any Regulations made.

**COMMISSIONER GENERAL**  
**TAX ADMINISTRATION OF JAMAICA**

Reviews application made for registration under the Act and indicates to the Authority whether there is non-objection or an objection to the registration.



**REGISTRAR OF CHARITIES**  
**COMPANIES OFFICE OF JAMAICA**



- Registers the charitable Organisation by noting their particulars in the Register once the Authority directs the registration of the Charitable Organisation.
- Maintain an up-to-date Register of Charitable Organisation in keeping with Part III- Sections 24,25 & 26 of the Act.

## DUTIES OF CHARITABLE ORGANIZATIONS

### Sections 27, 28, 29

#### Duties of the Registered Charitable Organizations

- Keep proper records
- Enable true and fair financial statements to be prepared and to be audited
- Furnish to the Authority such particulars with regard to its accounts and other records as the Authority may require.
- Notify Authority of certain matter relating to change of name, address, persons appointed to the Board, changes to its constitution etc.

## REGISTRATION UNDER THE ACT

For any entity to be eligible to receive Registered Charitable Organization status the following must be met in keeping with Section 17 of the Act; Governing Board Members must be Fit and Proper with regard to the registration process.



## REGISTRATION UNDER ACT

- The Organization must be established for charitable purpose exclusively.

Charitable purpose based on First schedule note also that the following is also considered -

- ✦ A purpose specified by the minister, by order, subject to negative resolution of the House of Representatives, as being analogous to a purpose mentioned.

## REGISTRATION UNDER ACT

- Has no part of its net income or assets enuring to the personal benefit of any governing Board member or settlor thereof, or any other private individual.

**NB.** It is recommended that when seeking registration at the Registrar of Companies - Item 12 of Article of Incorporation should be reviewed and reworded as Section 44 of Table B Companies Act 2004, is in conflict with the Charities Act as it speaks to Directors getting remuneration.

## REGISTRATION PROCESS

- ❖ International Charitable entities seeking to get charitable status must be incorporated locally at Companies Office of Jamaica. (as an overseas based entity)



## REGISTRATION PROCESS

- A main Church can apply on behalf of all its branches as long as they have branch TRN. Where an application is made by the main Church for its branches, Fit and Proper Questionnaires should be submitted for all the members of the Boards of these Branches and Audited Financial.
- Where there exist a consolidated Audited Financial, same will suffice for all the branches.

## REGISTRATION PROCESS



### INCORPORATED ENTITIES

- Application Form
- Fit and Proper Questionnaires along with certified Passport Size Photos.
- Statement of Income and Expenditure/Prior Year Audited Financials
- Form 1B - Articles of Incorporation
- Memorandum of Association
- Articles of Association
- Certificate of Incorporation
- Tax Registration Number (TRN)

## REGISTRATION PROCESS



### UN-INCORPORATED ENTITIES

- Application Form
- Fit and Proper Questionnaires along with certified Passport Size Photos.
- Statement of Income and Expenditure
- Objects and Powers
- Tax Registration Number (TRN) – the DCFS will assist with the preparation of a letter to the NIS Office advising of the application for registration under the Charities Act 2013

## REGISTRATION PROCESS

### State Agencies (Infirmaries/Homes)

- Fit and Proper Questionnaires
- Income & Expenditure Statement to be submitted from the Principal Financial Officer.
- Application Form

## REGISTRATION PROCESS

- Upon receipt of an Application the Authority may cause inspection to verify information furnished is accurate .
- Application along with other relevant documents forwarded to Tax Administration of Jamaica for review.
- Indication of a non-objection or an objection regarding registration must be forthcoming within fourteen (14) days from TAJ. If an objection is made the reason for same must be stated.



## DENIED REGISTRATION

- Should the entity re-submit amended documentation within sixty (60) days of rejection, all other documentation previously submitted that have no changes will remain relevant.
- Any application being submitted after sixty (60) days will be treated as new and the process is restarted.

## REGISTRATION PROCESS

- Where approval is not granted, based on Sections 17 and 18 of Act; or, where the registration of an organisation under the Act is refused as in the opinion of the Authority, such registration would not be in the public interest; an Appeal can be made to the Charities Appeal Tribunal as per Section 38 of the Act.



## CHARITIES APPEAL TRIBUNAL

The Tribunal consists of a panel of five members appointed by the Minister and shall be guided by Fourth Schedule and Part VI of the Act.

Appeals to the Tribunal should be made by notice within twenty-eight (28) days of the date of the decision of the Authority or within a longer period as the Tribunal in special circumstances allows.

## REGISTRATION

- Where approval of an application is granted the Registrar of Charities is directed to upload the particulars in the Register in accordance with Section 24.
- Where registration is effected it is valid for two (2) years and shall be non-transferable.

## INCOME TAX ACT

- Provides for the exemption of Income tax on the income of a registered charitable organisation.
- Extend the allowable expense for donations to include property. The new Section provides for:-
  - Money not exceeding 5% of statutory income or
  - any property, not exceeding 5% of the written down value of the property or 5% of statutory Income whichever is less.

## PROPERTY TAX ACT

Extends exemption to all buildings and land belonging to and used by an approved Registered Charitable Organisation.

## **STAMP DUTY ACT**

Relieve up to 50% of stamp duty payable in respect of conveyances made by or to a Registered Charitable Organisation.

## **TRANSFER TAX ACT**

Provides that transfer by way of gifts to Registered Charitable Organisations are exempt from transfer tax.



## SUSPENSION OF APPROVAL

### SECTION 21:

If the RCO :

- Failed to pay any fees or other charges required by this Act or any Regulations made hereunder it is in breach.
- Void any term or condition subject to which the approval was granted;

## SUSPENSION OF APPROVAL CONT'D

- Or any governing Board member who is an employee of the RCO, has been charged with an offence under Proceeds of Crime Act or the Terrorism Prevention Act or any offence involving fraud or dishonesty.
- Is conducting its affairs in a way harming or jeopardizing public trust and confidence in charitable organizations.

**IF ANY OF THESE CONDITIONS EXIST IT  
COULD LEAD TO SUSPENSION OF THE  
REGISTRY**

## REVOCATION OF APPROVAL

### SECTION 22:

- If false information was received at the time of registration.
- If The charitable organization after registration contravened a provision of the act.
- Resolution passed for voluntary winding up.
- The charitable organization request in writing for the revocation of the approval.

## SELECTED SECTION OF ACT

### SECTION 11:

Obligation to Secrecy – protection against civil or criminal action. Requires submission of an Annual Report to the Minister.

## SELECTED SECTION OF ACT

**SECTION 13:** Reports and Returns by the Authority to the Minister within six (6) months of end of financial year.

**SECTION 13, SUB SECTION 4:** Authority shall furnish the Minister with such Returns, Accounts and other information.

## SELECTED SECTION OF ACT

### **SECTION 30**

- Restrictions on alteration of charitable purpose
- Written approval from the Charities Authority must be requested by the RCO before any such changes can be made and registered with the Companies Office of Jamaica

## Jamaica Annual Return Under the Charities Act, 2013

1. Name of Registered Entity or Individual: \_\_\_\_\_
2. Registration Number: \_\_\_\_\_
3. Date of Registration: \_\_\_\_\_
4. Taxpayer Registration Number: \_\_\_\_\_
5. Registered Office: \_\_\_\_\_
6. Contact Number: \_\_\_\_\_
7. Fax Number: \_\_\_\_\_
8. Number of Branches: \_\_\_\_\_

## JAMAICA ANNUAL RETURN UNDER THE CHARITIES ACT, 2013

9. # of members \_\_\_\_\_ No. of Males: \_\_\_\_\_ No. of Female: \_\_\_\_\_
10. Type of Entity: Limited  Unlimited
11. Total Contribution/ Donation received for the year ended :  
\$ \_\_\_\_\_
12. Total Contribution /Donation disburse for the year ended : \$ \_\_\_\_\_
13. Attach list of major donors and value received from  
each: \_\_\_\_\_
14. Amount expended during the  
period: \_\_\_\_\_
15. Amount expended during the period  
\_\_\_\_\_
16. State # of Volunteers: \_\_\_\_\_

**JAMAICA**  
**ANNUAL RETURN UNDER THE CHARITIES ACT, 2013**

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17. Attach list of all persons who are in receipt of payment through the Organization (Contractor (s), consultant (s) and staff)

1. \_\_\_\_\_

2. \_\_\_\_\_

18. State Statutory Deductions made during the period being reviewed

\_\_\_\_\_

19. For which year was the last statutory paid: \_\_\_\_\_

**JAMAICA**  
**ANNUAL RETURN UNDER THE CHARITIES ACT, 2013**

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20. Particulars of Secretary

Name	Address	Email Address	TRN	Contact #

**JAMAICA**  
**ANNUAL RETURN UNDER THE CHARITIES ACT, 2013**



21. Particulars of Directors

Name	Address	Date of Appoint.	Nationality	Contact #

**JAMAICA**  
**ANNUAL RETURN UNDER THE CHARITIES ACT,**  
**2013**



A copy of the Auditor's Financial Statement for the year ended \_\_\_\_\_ attached hereto. The Audit for the year has been conducted by

\_\_\_\_\_ of

\_\_\_\_\_

whose calling or professions are respectively \_\_\_\_\_ who were appointed Auditors by

\_\_\_\_\_.

Dated \_\_\_\_\_ 20 \_\_\_\_\_ Secretary

\_\_\_\_\_ Secretary's address

**JAMAICA  
RENEWAL PROCESS  
UNDER THE CHARITIES ACT, 2013**

The following criteria now applicable to all Registered Charitable Organisations, seeking to renew their Charitable Status.

- 1) Registered Charity Organisations renewal process will be accepted at least two (2) months prior to the expiration date of certificate.
- 2) The time lag between issuance of new certificate and the last one obtained will be zero.

**JAMAICA  
RENEWAL PROCESS  
UNDER THE CHARITIES ACT, 2013**

- 3) The validity of the re-issued certificate will also be for two years.
- 4) The renewal process will be automatic should there be no change in any of the following:
  - Constitutive Documents
  - Governance Structure
  - Tax Registration Number (TRN) , also, the RCO would have filed its prior year Annual Returns and Audited or Certified Financials.

**JAMAICA  
RENEWAL PROCESS  
UNDER THE CHARITIES ACT, 2013**

- 5) Where there are changes to:
- The Constitutive documents,
  - Governance structure (except change in Directors)
  - or any matter affecting the tax status of the entity; the documents will be sent to TAJ.
- 6) Where the documents have to be sent to TAJ, the turnaround time will be no more than thirty (30) working days.

**JAMAICA  
RENEWAL PROCESS  
UNDER THE CHARITIES ACT, 2013**

- 7) Where there are no changes the renewal process will be no more than fifteen (15) working days.
- 8) The renewal process requires the RCO to write requesting the renewal of the Registered Charitable Organisation status.

The Charities Authority will endeavour to make the process a smooth and efficient one. All Registered Charitable Organisations are therefore encouraged to start the renewal process within the two (2) months window.



**JAMAICA  
RENEWAL PROCESS  
UNDER THE CHARITIES ACT, 2013**

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**RENEWAL OF CHARITABLE STATUS  
UNDER THE CHARITIES ACT, 2013**

NAME OF ORGANIZATION: \_\_\_\_\_

REGISTRATION CERTIFICATE NUMBER: \_\_\_\_\_

ADDRESS OF ORGANIZATION: \_\_\_\_\_

CHARITY ORGANIZATION REGISTRATION NUMBER: \_\_\_\_\_

PREVIOUS REGISTRATION DATE : \_\_\_\_\_ EXPIRATION DATE OF CERTIFICATE: \_\_\_\_\_

ORGANIZATION TAXPAYERS REGISTRATION NUMBER: \_\_\_\_\_

TELEPHONE: ORGANIZATION: \_\_\_\_\_ APPLICANT: \_\_\_\_\_

EMAIL ADDRESS: ORGANIZATION: \_\_\_\_\_ APPLICANT: \_\_\_\_\_

**RENEWAL OF CHARITABLE STATUS Cont.**

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1. Have there been any changes to the Organization's Constitution?	Yes.....	No .....
If yes, were these changes registered with the Charities Authority?	Yes.....	No .....
2. Is there any change(s) on the Organization's governance structure?	Yes.....	No .....
If yes, were these changes registered with the Charities Authority?	Yes.....	No.....

**RENEWAL OF CHARITABLE STATUS Cont.**

3. If yes, were these changes registered with the Charities Authority? Yes..... No .....
4. Were the financial statements for the previous Financial Year filed? Yes..... No .....
5. Was the Annual Returns for the previous calendar year filed? Yes..... No .....
6. Were Fit and Proper Questionnaires submitted for all Directors? Yes..... No.....

**NOTE: If any of the above is outstanding, kindly submit documentation required along with unaudited internal year to date Financials. Any changes not filed as per Questions 1, 2, & 5 complete and submit Form 7 'Notice of Change to Charities Authority'**

**RENEWAL OF CHARITABLE STATUS Cont.**

**I hereby declare** that the answers provided to the above questions are true to the best of my knowledge, belief and information. It is an offence to knowingly provide false information in, or in relation to this Form; and that any misleading information presented may result in a refusal of the Charities Authority to grant renewal of the Organisation's charitable status.


Dated the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

Name: \_\_\_\_\_


Signed: \_\_\_\_\_



### RENEWAL OF CHARITABLE STATUS Cont.



FOR OFFICIAL USE ONLY	
Checked by: .....	Date: .....
The Organisation has met all the Regulatory and Statutory requirements.	Approved:.....
	Not approved:.....
COMMENTS (IF ANY):	
Charities Authority: .....	Date: .....
<b>DEPT. OF CO-OPERATIVES &amp; FRIENDLY SOCIETIES</b>	

- ### ISSUES
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1. What is meant by an un-incorporated Institution in the context of the Act?
  2. Fit and Proper Questionnaire seem too personal and lengthy.
  3. Powers and Objects of organisations are too vague and there is often times no nexus between the two.

## ISSUES

4. Audited Financial Statements were not being prepared annually yet this is a requirement for registration under the Charities Act; can this requirement be circumvented during the initial implementation of Act?
5. Treatment of outstanding documents requested from applicants, when not received within time specified.

## QUESTIONS

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