I assent,

LS

MARCELLA ALTHEA LIBURD

Governor-General.

17th July, 2024.

SAINT CHRISTOPHER AND NEVIS

No. 16 of 2024

AN ACT to amend the Foundations Act, Cap. 5.19.

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BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the National Assembly of Saint Christopher and Nevis, and by the authority of the same as follows:

1. Short Title.

This Act may be cited as the Foundations (Amendment) Act, 2024.

2. Interpretation.

In this Act, unless the context otherwise requires, the expression, "Act" means the Foundations Act, Cap. 5.19.

3. Amendment of section 10.

The Act is amended in section 10 by replacing subsection (2) as follows

"(2) Where a foundation changes its name under this section, the councillors or secretary shall notify the Rgistrar within 21 days and the Registrar shall:

(a) enter the new name on the Register in place of the former name;

(b) issue a certificate of establishment altered to meet the circumstances of the case; and

(c) issue an altered certificate with the change of name which shall have effect from the date that it is issued.".

4. Amendment of section 18.

The Act is amended in section 18 as follows:

(a) in subsection (1) by inserting the expression, "founders", immediately after the expression, "a register of its";

(b) by replacing subsection (4) as follows:

"(4) Where an inspection required under this section is refused, or if there is a failure to comply with subsection (1), the foundation and every councillor of the foundation who is in default shall be liable to pay a penalty to the Registrar of ten thousand dollars and to two hundred dollars for each day that the act of non-compliance continues."; and

(c) by inserting immediately after subsection (4), a new subsection (5) as follows:

"(5) Where there is a failure to comply with subsection (1), or where an inspection required under this section is refused, both the councillors and the secretary of the foundation commit an offence and shall be liable on summary conviction as follows

(a) in respect of subsection (1), to a fine not exceeding eighty thousand dollars; and

(b) in respect of a refusal of inspection, to a fine not exceeding one hundred thousand dollars.

5. Amendment of section 49.

The Act is amended in section 49 in subsection (2) by replacing paragraph (a) as follows and renumbering accordingly

" (a) the Registrar gives the foundation not less than 30 days' notice, addressed to its registered office, of the proposed dissolution, stating the reasons for the proposed dissolution, and giving the foundation an opportunity to be heard within that time as to why it should not be dissolved;".

6. Amendment of section 63.

The Act is amended in section 63 subsection (3) by replacing the subsection as follows:

" (3) The by-laws may, unless otherwise provided in the articles, be amended or replaced by the councillors, guardian or the secretary of the foundation who shall notify the Registrar within 21 days of any changes to the by-laws.".

7. Amendment of section 66.

The Act is amended in section 66 by

(a) by replacing subsection (3) as follows:

"(3) Where default is made in compliance with subsection (1) or (2) every councillor of the foundation shall be liable on summary conviction to a fine not exceeding one hundred thousand dollars and, in the case of non-compliance under subsection (1)(b), to a fine not exceeding two hundred and fifty dollars for each day that the non-compliance continues.”; and

(b) by inserting immediately after subsection (3), a new subsection (4) as follows:

"(4) Where the secretary is not compliant with subsection (1) or (2), he or she commits an offence and shall be liable on summary conviction to a fine not exceeding eighty thousand dollars, and in the case of non-compliance under (1)(b), to a fine not exceeding one hundred dollars for each day that the non-compliance continues.".

8. Amendment of section 68.

The Act is amended in section 68 subsection (3) by replacing the expression, "2500.00" with the expression, "fifty thousand dollars".

9. Amendment of section 75.

The Act is amended in section 75 by replacing the section as follows:

“ 75. Penalty.

(1) Where, contrary to the provisions of this Act for which no specific penalty is set, a councillor, secretary or the foundation fails within a specified period, to deliver or to file with the Registrar any document, the Registrar may impose and collect from the councillor, secretary or the foundation

(a) upon the issuance of a first notice informing of the non-compliance, a penalty not exceeding five thousand dollars and in the case of a continuing offence, to a fine not exceeding one hundred dollars for each day on which the non-compliance so continues;

(b) upon the issuance of a second notice, to a penalty not exceeding ten thousand dollars and in the case of a continuing offence, to a fine not exceeding one hundred and fifty dollars for each day on which the non-compliance so continues;

(c) upon the issuance of a third notice, to a penalty not exceeding twenty-five thousand dollars and in the case of a continuing offence, to a fine not exceeding two hundred and fifty dollars for each day on which the non-compliance so continues.

(2) Where the Registrar has issued a third notice pursuant to the provisions of subsection (2) and there has been no rectification of the non-compliance then the Registrar may exercise the powers of dissolution set out in section 49.”.

(3) The form and timing of the notices referred to in subsection (2), shall be on such terms as may be prescribed by the Minister in regulations.".

LATOYA JONES
Deputy Speaker

Passed by the National Assembly this 5th day of July 2024.

TREVLYN STAPLETON
Clerk of the National Assembly

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