

Government of the Virgin Islands

Ministry of Health and Social Development

# Guide to the Non-Profit Organisations Act, 2012



*This practical guide is based on the Non-Profit Organisations Act, 2012. It summarises and/or paraphrases some of the major provisions of the Act. It is strongly recommended that this guide be used in conjunction with, and not as a replacement for, the Non-Profit Organisations Act, 2012.*

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## Background

Non-profit organisations play an essential and complementary role in the social and economic development of society. Their efforts complement the activity of the government and business sectors in providing essential services, comfort and hope to those in need. The ongoing international campaign against terrorist financing has demonstrated that terrorist organisations exploit the non-profit sector to raise funds, among other things.

The Government of the Virgin Islands recognises this fact and seeks to facilitate the work and contribution of non-profit organisations through enactment of an appropriate legal and regulatory framework that provides stability and certainty for non-profit organisations and increases public confidence in the work and programmes of such organisations. The Government of the Virgin Islands will support initiatives that increase public understanding of the role and contributions of non-profit organisations.

By creating an environment in which nonprofit organisations can flourish, and freely and independently engage in activities for the benefit of the general public the Government of the Virgin Islands seeks to increase the understanding of philanthropy in the Virgin Islands, thereby promoting the betterment of Virgin Islands society, while protecting the non-profit sector from terrorist abuse.

In 2012, the FATF published its revised International Standards on Combating Money Laundering and the Financing of Terrorism and

Proliferation. The FATF Recommendations are used by more than 180 governments around the world to guide their efforts to combat terrorist financing and money laundering and provide a benchmark to assess each country's terrorist financing and anti-money laundering regime through a process of mutual evaluations.

Recommendations 8 of the FATF International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation concerns non-profit organisations. It requires countries to review the adequacy of laws and regulations that relate to entities that can be abused for the financing of terrorism.

It is against this background that the Non-Profit Organisations Act, 2012 is premised. The Act seeks to register and monitor the operations of non-profit organisations in the Virgin Islands.

# Guide to the Non-Profit Organisations Act, 2012

## **Introduction**

The Non-Profit Organisations Act, 2012, (The Act) was passed by the House of Assembly on 11<sup>th</sup> October, 2012 and assented to by His Excellency the Governor on 12<sup>th</sup> November, 2012. The Governor signed a Proclamation on 19<sup>th</sup> December, 2012 to bring the Act into effect on January 1, 2013.

Essentially, the Act provides a registration facility for NPOs providing certain minimum establishment requirements and annual reporting requirements.

## **Objects of the Act**

The Act is aimed at creating an environment which will enable NPOs to flourish. Thus it will establish a regulatory framework within which NPOs can conduct their affairs and encourage NPOs to maintain adequate standards of governance, transparency and public accountability.

## **NPO Registration Board**

The Act provides for the establishment of the Non-Profit Organisations Registration Board (Board) whose role is to register and monitor the operations of non-profit organisations in the Virgin Islands.

## **Limitations on Administrative Action**

In several instances, the Act specifically limits the time periods in which administrative action should take place and the nature of further information the Board may request. These limitations are designed to reduce bureaucratic discretion and abuse. For example, within 30 working days of receiving a registration application from an NPO, the Board must consider it and if satisfied that the applicant complies with the requirements for registration, approve the application (**Section 12 (4)**).

## **Registration of NPOs**

“Non-profit organisation” or “organisation” means a body of persons whether incorporated or unincorporated, established solely or primarily for the promotion of charitable, religious, cultural, educational, social or fraternal purposes, or other activities or programmes for the benefit of the public, or a section of the public and which raises or disburses funds in pursuance of its objectives primarily within the Territory. (**Section 2**)

## **Requirements for Registration**

A Non-Profit Organisation cannot operate in the Virgin Islands unless it is registered (**Section 11 (1)**). An application for registration (**Appendix A**) should be submitted to the Board through the Registrar and comply with the following requirements (**Section 12 (2)**).

It must be:

- (a) signed by a person acting on behalf of the organisation; and
- (b) accompanied by
  - (i) a copy of the constitutional documents of the organisation;
  - (ii) a statement of the purpose, objectives and activities of the organisation; and
  - (iii) the fee prescribed in Schedule 2 (**Appendix B**).

The constitutional documents of the organisation should include:

- (a) the name of the organisation;
- (b) the officers of the organisation;
- (c) the manner of electing the governing body of the organisation;
- (d) the organisational structure of the organisation;
- (e) the duties and powers of the governing body;
- (f) provisions limiting the objects of the organisation to
  - (i) pursue solely or primarily charitable or non-profit purposes and requiring the organisation to apply its income primarily to promoting those purposes; and
  - (ii) prohibit the organisation from distributing any part of the dividends generated to members or shareholders (**Section 12 (3)**).



## Fees

1. The fees for registration of an NPO (**Schedule 2 – Appendix B**) are:

Description	Fees
(a) for newly formed organisations	<b>\$100</b>
(b) for existing organisation	
(i) where gross annual income does not exceed two hundred and fifty thousand dollars	<b>\$50</b>
(ii) where gross annual income exceeds two hundred and fifty thousand and dollars	<b>\$100</b>

2. The renewal fees are as follows:

Description	Fees
(a) where gross annual income does not exceed two hundred and fifty thousand dollars	<b>\$50</b>
(b) where gross annual income exceeds two hundred and fifty thousand dollars	<b>\$100</b>
To replace a certificate of registration or for an additional certificate of registration.	<b>\$25</b>
For a certified copy of a document	<b>\$25</b>
For an uncertified copy of a document	<b>\$10</b>

## **Power of Board to Grant or Renew Registration**

The Board may, refuse to register or renew the registration of a non-profit organisation (**Section 14 (1)**) if:

- (a) the application for registration does not comply with the requirements of this Act or any regulations made under it;
- (b) the organisation does not qualify to be an organisation within the meaning of this Act;
- (c) it is contrary to the public interest for the organisation to be registered;
- (d) where on the advice of the Agency it determines that the organisation is used for financing terrorism or money laundering or it is intended or likely to be used for financing terrorism or money laundering; or
- (e) where the organisation, having been previously registered under this Act has been deregistered under Section 15.

## **The Effect of Registration**

A NPO which is in existence at the commencement of this Act shall apply for a certificate of registration in accordance with the provisions of this Act, within ninety days of the coming into force of this Act (**Section 31 (1)**).

The certificate of registration is sufficient proof that the NPO is registered.

- A certificate of registration will be issued for a period of one year.

- An application for the renewal of a certificate of registration should be made no later than one month after the certificate expires. (**Appendix A**)

A NPO remains registered until it is deregistered. The Board shall deregister a non-profit organisation when it does not comply with any of the provisions of the Act, if the organisation requests in writing to be deregistered and if the organisation no longer exists (**Section 15 (1)**).

## **Registered NPOs Duty to Keep Accounting Records and Information**

Once registered, an NPO is obligated to maintain accurate records of the organisation transactions and notify the Board of any changes to the organisation (**Section 22 & 23**).

The NPO must:

- Notify the Board in writing of any change in information within 14 days (**Section 22 (1) (2)**); and
- Keep revenue and expenditure records for a period of at least five years (**Section 23 (5)**).

The NPO must keep the following records to show (**Section 23**):

- the purposes, objectives and activities of the organisation;
- the identity of persons who control or direct its activities including senior officers, board members, directors and trustees;
- and explain the organisations' transactions, within and

outside the Virgin Islands and that are sufficiently detailed to establish that its funds have been used in a manner consistent with its purposes, objectives and activities; and

- the sources of its gross annual income.

The NPO is obligated to comply with the following regulations and provisions:

- The Anti-money Laundering Regulations, 2008 and the Anti-money Laundering and Terrorist Financing Code of Practice, 2008 (**Section 23 (2)**);
- NPO with five or fewer employees, the Board may exempt that organisation from the requirement to appoint a Money Laundering Reporting Officer (**Section 23 (3)**);

## **Duty of Registered NPOs to Provide Reports and Information**

Once registered, an NPO is obliged to comply with various information reporting provisions and formalities (**Section 24**).

The NPO must submit annually to the Board:

- (a) financial statements of the organisation's revenue and expenditure (**Section 24 (1)**);
- (b) financial statements, certified by an accountant, where the gross annual income of the organisation exceeds two hundred fifty thousand dollars (**Section 24 (2)**);

- (c) report of income and expenditure in a form approved by the Board, where the gross annual income of the organisation does not exceed two hundred fifty thousand dollars (**Section 24 (2)**);

The financial statements required by subsection (2) shall include:

- (a) a list of donors who have donated in excess of ten thousand dollars as a single donation or cumulatively, during the year;
- (b) a breakdown of any funds raised, or donations received, and disbursed, by any association of persons operating under and subject to the control of the organisation.

Financial statements should be submitted, within six months after the end of the year, unless prior written approval of an extension has been granted by the Board (**Section 24 (4)**).

## **Public Access to Information**

The Registrar of NPOs will maintain a register containing the name, address in the Virgin Islands and telephone number of the NPO; its purpose, objectives and activities and the identity of persons who are in control of or who direct activities of the NPO. The register will be open to inspections by members of the public during regular working hours, 8:30 am – 4:30 pm.

The Registrar is required to keep and annually publish in the Gazette and in a local newspaper a register of all NPOs which are registered and deregistered (**Section 17**).

# **Supervision and Monitoring of Non-Profit Organisations**

The Financial Investigation Agency (Agency) is responsible for the supervision and monitoring of non-profit organisations (**Section 18 (1)**).

Under the Act, the Agency has powers to:

- (a) enter premises and inspect records (**Section 19**); and
- (b) institute an inquiry (**Section 20 (1)**).

The Agency may, by written notice request the organisation to provide specified information, which the organisation is required to keep all of the records (**Section 20 (2)**).

## **Offences**

### **Offences Liable to a Fine/Imprisonment**

Any person who operates an unregistered NPO in the VI will be liable on summary conviction to a fine not exceeding US\$10,000 or imprisonment for a term not exceeding six months or both (**Section 11 (1) (2)**).

### **Offences Liable to Administrative Penalties**

Administrative penalties may be imposed on a person who fails to comply with a requirement imposed by the Act (**Section 25 (1) (Appendix C)**):

A person who receives a penalty notice may make representation to the Agency within twenty-one days from the date of notice as to

why he/she should not be required to pay or why the penalty should be reduced(**Section 26 (2)**).

Uncontested penalties should be paid within period determined by the Agency (**Section 26 (6)**).

The Agency may agree to the payment of a penalty in instalments over a period of time (**Section 26 (7)**).

A person who is aggrieved by a decision of the Agency imposing a penalty should utilize the appeal procedure under **Section 28**.

## **How do NPOs Register?**

Application forms can be obtained from the Ministry of Health and Social Development or the Government's Help Desk which are located in the West Atrium of the Central Administration Complex. Electronic copies can also be obtained on the homepage of [www.bvi.gov.vg](http://www.bvi.gov.vg) or an email request can be sent to the Registrar at [npoboard@gov.vg](mailto:npoboard@gov.vg).

Completed application forms should be sent to the Registrar of NPOs, Ministry of Health and Social Development: **First Floor, West Atrium Central Administration Complex, 33 Admin Drive, Road Town, TORTOLA VG1110, British Virgin Islands. Tel: (284)468-3701 ext. 2174.**



## REGISTRATION FORM

**Non-Profit Organisation (NPO)**  
**Application for Registration**  
(In Accordance with the NPO Act, 2012)

(Tick One) Is this a...

- ☐ **New Application** (complete sections 1 through 3 only) (\$50 or \$100)
- ☐ **Renewal Application** (complete all sections) (\$50 or \$100)
- ☐ **Change Information Application** (Section 1 and all applicable sections) (\$0)

**1. ORGANISATION'S CONTACT DETAILS      DATE:**

Name (or Proposed Name) of NPO			
Contact Details for the Organisation	Office Telephone	Cell Phone	Email
	Address		Website (if any)
Contact Person	Name		Position in the Organisation
	Telephone (if different from above)		

**2. ORGANISATION'S OPERATING DETAILS**

NPO Mission Statement	NPO Vision Statement



--	--

**In full detail, please describe the PURPOSE (or intended purpose) of the NPO:**

--

**In full detail, please describe the ACTIVITIES (or intended activities) of the NPO:**

--

**Please provide a copy of the organisation's CONSTITUTION (or intended constitution).**

Is your Organisation incorporated?		YES/NO
Does your Organisation have subsidiary Organisation(s)? (Example- Girls' Brigades is a subsidiary organisation of the Methodist Church)		YES/NO
Name these Subsidiary Organisations:		
1. _____	9. _____	
2. _____	10. _____	

- |          |           |
|----------|-----------|
| 3. _____ | 11. _____ |
| 4. _____ | 12. _____ |
| 5. _____ | 13. _____ |
| 6. _____ | 14. _____ |
| 7. _____ | 15. _____ |
| 8. _____ | 16. _____ |

**NOTE:** If your organisation has subsidiary organisations, in addition to completing sections 4-6 for your organisation, please copy and complete sections 4-6 for each subsidiary organisation.

What are the criteria (s) for becoming a member?

Total Members \_\_\_\_\_

# of Adults \_\_\_\_\_

# of Children under 16 \_\_\_\_\_ Please attach a sample of your parental consent form.

Sample of proof of Membership (*circle and attach at least one*)

- Membership Certificate/Card
- Official Letter given to Members
- Annual Membership Registration List
- Other

\_\_\_\_\_

**Names of Executive Body**

**Date of Election:**

President: \_\_\_\_\_

Vice President: \_\_\_\_\_

Treasurer: \_\_\_\_\_

Secretary: \_\_\_\_\_

Other: \_\_\_\_\_

*Note: Any Changes to the Executive Body must be reported within 14 days of the change to avoid penalty fee.*

How often does the organisation have the following meetings?

Membership Meeting: \_\_\_\_\_

Executive Body: \_\_\_\_\_

Board of Directors: \_\_\_\_\_

### 3. ORGANISATION'S EXPENDITURE REPORT

*Organisations that earn \$250,000 or more are asked to attach a certified copy of their financial statements in addition to completing sections 3-6 of this form.*

A. When is the organisation's Financial Year End?

Is there a first time Membership Fee? YES/NO Yes, how much?

Is there an Annual Membership Fee? YES/NO Yes, how much?

Does your organisation have operational Costs? YES/NO  
If yes, please complete the fields below.

Name of Operational Cost (All non-income payments, ex. Rent, gas, electricity etc),	Total Annual Cost Incurred
1.	
2.	
3.	
4.	
5.	
6.	
7.	

*Please attach a separate sheet of paper if additional space is required.*

3B. Are any wages, salaries, and/or personal emoluments paid by the organisation? YES/NO

If yes, please complete the fields below.

Name	Position	Hourly Wage/Annual Salary/Personal emolument
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
What percentage % of funds raised is used towards wages, salaries, and/or personal emoluments? _____		
<i>Please attach a separate sheet of paper if additional space is required</i>		

#### 4. REPORT ON FUNDS RAISED ANNUALLY

**NOTE:** If an activity, for example a bake sale is held more than once in the period under review; indicate the total funds collected from all sales instead of listing individually.

Total funds raised in your last calendar year?	Total Amount	Total amount raised from <b>within</b> the BVI	Total amount raised from <b>outside</b> the BVI

  

Details of Fundraising			
Date	Event(s)	Purpose of Event	Amount Raised
1.			
2.			
3.			
4.			

5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			
15.			
16.			
17.			
18.			
Please attach a separate sheet of paper if additional space is required			

5. FUNDS RECEIVED THROUGH DONATIONS

If \$10,000 is donated by one individual at one time or collectively throughout the year, the name of the donor(s) should be listed in this section.

Total funds received through donation in your last calendar year?	Total Amount	Total amount received through donations <b>within</b> the BVI	Total amount received through donations <b>outside</b> the BVI
Details of Donations			
Date	Reason for donation	Name of Donor	Amount Donated
1.			
2.			
3.			

4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			
15.			
16.			
<i>Please attach a separate sheet of paper if additional space is required</i>			

**6. REPORT ON FUNDS DISTRIBUTED ANNUALLY**

Total funds distributed in your last calendar year?	Total Amount	Total amount distributed <b>within</b> the BVI	Total amount distributed <b>outside</b> the BVI
Details of Distributions			
Date	Event	Purpose	Amount Distributed
1.			
2.			
3.			
4.			
5.			
6.			

7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			
15.			
<i>Please attach a separate sheet of paper if additional space is required</i>			

### Annual Earning - United States Dollar

**NOTE:**

**“Funds”** means assets of every kind, whether tangible or intangible, movable or immovable. Example, money, property, vehicles, furniture, artwork, etc.

**“Raised”**, in respect to the funds of an NPO, includes funds given to the NPO but does not include-

- a. income earned on the funds of the NPO, i.e. bank interest etc; or
- b. new or remaining members fees.

**“Distributed”**, in respect of the funds of an NPO, does not include the disbursement of funds paid to the NPO by person to become or remain members of the NPO if those funds only benefits members of the NPO

Summary of Annual Financial Report	
Total Funds Raised (section 4)	_____
<b>Plus</b>	+
Total Funds by Donation (section 5)	_____
<b>Equals</b>	_____
<b>TOTAL ANNUAL INCOME</b>	_____

Total Operational Cost (section 3A)	_____
<b>Plus</b>	+
Total Emoluments (section 3B)	_____
<b>Plus</b>	+
Total Funds Distributed (section 6)	_____
<b>Equals</b>	_____
<b>TOTAL ANNUAL EXPENDITURE</b>	_____
<b>TOTAL ANNUAL INCOME</b> _____	
<b>Minus</b>	-
<b>TOTAL ANNUAL EXPENDITURE</b>	_____
<b>Equals</b>	_____
<b>TOTAL YEAR END BALANCE</b>	_____

Please use this area to provide any additional information you think might help the Board when reviewing your application.

I \_\_\_\_\_ certify that the information provided in this application is true. I understand that false or incomplete statements are grounds for refusal of registration.

I also understand that knowingly providing false information on this registration form is an offence under section 12(5) of the Non-profit



Organisation Act 2012 and if convicted, I may be liable to a fine \$5,000 dollars or to imprisonment for a term not exceeding one year, or both.

Signature \_\_\_\_\_

Name in BLOCK Letters \_\_\_\_\_

Position Held in NPO \_\_\_\_\_

Date \_\_\_\_\_

OFFICE USE ONLY
<div>SAMPLE</div>

## SCHEDULE 2

[Sections 12 (2),  
13 (2)]

### FEES

(1) Application for registration	
(a) for newly formed organisations	<b>\$100</b>
(b) for existing organisations	
(i) where gross annual income does not exceed two hundred and fifty thousand dollars	<b>\$50</b>
(ii) where gross annual income exceeds two hundred and fifty thousand dollars	<b>\$100</b>
(2) Application for renewal of registration	
(a) where gross annual income does not exceed two hundred and fifty thousand dollars	<b>\$50</b>
(b) where gross annual income exceeds two hundred and fifty thousand dollars	<b>\$100</b>
(3) to replace a certificate of registration or for an additional certificate of registration	<b>\$25</b>
(4) for a certified copy of a document	<b>\$25</b>
(5) for an uncertified copy of a document	<b>\$10</b>

**SCHEDULE 3**

**[Sections 20(8),  
21(3), 22(3), 23(3),  
26(4)(5)(6)]**

**ADMINISTRATIVE PENALTIES**

<b>Section of Act Breached</b>	<b>Type of Breach</b>	<b>Penalty Range</b>
Section 20	(a) Failure to comply with Notice as required by the Act where the Agency decides to institute an inquiry  (b) Failure to provide explanation of records produced, where required to do so	\$3,000 up to \$20,000  \$3,000 up to \$20,000
Section 21	Supplying inaccurate or misleading information or withholding of information	\$3,000 up to \$20,000
Section 22	Failure to notify the Board of changes to registration information	\$1,000 up to \$10,000
Section 23	Failure to maintain any records required to be maintained	\$1,000 up to \$10,000