

Non-Profit Organisations – FAQs

Q1: What entities are considered non-profit Organisations in the Cayman Islands?

A1: In the Cayman Islands the new legislation defines a non-profit organization (**NPO**) as ‘a company or body of persons, whether incorporated or unincorporated, or a trust –

- a) Established or which identifies itself as established primarily for the promotion of charitable, philanthropic, religious, cultural, educational, social or fraternal objectives, or other activities or programmes for the public benefit or a section of the public within the Islands or elsewhere; and
- b) Which solicits contributions from the public or a section of the public within the Islands or elsewhere.

Q2: If I want to start a non-profit organization what do I need to do?

A2: Firstly you will need to create an entity (i.e. company, partnership, trust, unincorporated association of persons, or other), then you will need to register this entity with the appointed Registrar (i.e. General Registry) under the new NPO legislation using the prescribed application form and submitting the required documents outlined in the new NPO law, regulations, and guidance. (See **Q17** and **A17** below)

Q3: My entity is already registered as a Section 80 company, what do I need to do?

A3: Your entity will be required to register under the new NPO legislation (see Q16 & A16 below).

Q4: Will any duty waivers and/or exemptions my organization currently enjoys change?

A4: No, if you currently have a waiver or exemption approved by the Ministry of Finance or under any other law this will not change upon registration under the new NPO legislation however we do ask, if possible, that you provide a copy of this waiver/exemption with your registration application.

Q5: Can I find out which NPOs operate in the Cayman Islands?

A5: A list of all NPOs and their basic information will be publicly available.

Q6: Why is this legislation necessary?

A6: This legislation is necessary for three reasons:

- a) Firstly to foster and promote the good works undertaken by NPOs while ensuring appropriate measures and mechanisms are in place to mitigate against terrorism & proliferation financing risks that these entities are susceptible to globally;
- b) Secondly to ensure that NPOs are operating in the public interest of the Cayman Islands; and
- c) Thirdly to streamline processes and increase efficiency of registration and other processes.

Q7: Will there be any new fees?

A7: No, there will be no new fees with the implementation of this legislation. Fees currently in place are being significantly reduced.

Q8: Are there any filing requirements?

A8: Yes, NPOs will be required to file an annual return using the prescribed annual return form in the new NPO regulations. This filing is due within 6 months of the NPO's financial year end.

Q9: Are annual audits required for all NPOs?

A9: No, audits are **only** required for NPOs in years for which their gross income is in excess of CI\$250,000 **and** where over 30% of that amount is sent outside the Cayman Islands. Where applicable, audits will be required to be conducted in accordance with international accounting standards and may be conducted by a duly qualified accountant or a licensed accountant. These audits should then be submitted to the appointed Registrar within 9 months of the NPO's financial year end.

Q10: Will there be any penalty fees?

A10: Yes, there will be penalty fees for failing to register, failing to maintain books and records, failing to submit an annual return, failing to submit audit report (i.e. See Q9 above), or failing to provide information for an inquiry by the Honourable Attorney General.

Q11: How much is the penalty fee?

A11: The penalty fee is up to a maximum of US\$3,000.

Q12: Will there be an appeals process?

A12: There are appeals processes in the new legislation for the following:

- Registration of an NPO refused, cancelled, or suspended by the Registrar;
- Inquiry by the Honourable Attorney General;
- Examination (i.e. audit) request for an NPO whose gross profit is less than CI\$250,000; and
- Administering of a fine against an NPO.

Q13: Where can I find the new forms (i.e. Application form, and Annual return form)?

A13: Forms and guidance on the completion of these forms can be found in on the Registrar's website or can be picked-up at the Registrar's office.

Q14: Is it possible to be exempted from registering under this legislation?

A14: Yes, under Section 21(2)(c) Cabinet may approve that a NPO being exempted from registration under the legislation.

Q15: Who can be a controller(s)?

A15: A non-profit organisation registering under the legislation must appoint at minimum 1 controller. Controller is defined in the legislation and will be the only person(s) authorised to and responsible for filing the required documents on behalf of the NPO.

Q16: For entities that register under the Law, is relief provided for the conditions or requirements of the governing entity legislation (e.g. Companies Law (2016 Revision), Trusts Law (2011 Revision), etc...)

A16: Registering under the Non-Profit Organisations Law, 2017 only provides relief for the conditions imposed on an association registered under Section 80 of the Companies Law (2016 Revision). The conditions imposed on an association registered under Section 80 of the Companies Law (2016 Revision) shall not apply to that association if it is registered under the Law. All other entities that register under the Law remain subject to the conditions, fees, and requirements of that respective entity's governing legislation. For example, following registration under the Law an ordinary company would remain subject to the conditions of the Companies Law (2016 Revision) as well as the conditions of the Non-Profit Organisations Law, 2017.

Q17: What entity type can be used where persons are operating as an unincorporated association of members?

A17: The Non-Profit Organisations Law, 2017 allows for the registration of non-profit organisations that are established in various methods. Therefore it is not necessary for non-profit organisations that currently operate as unincorporated association of persons to convert to a traditional entity type such as a company, trust, or partnership. An unincorporated association of persons is an organisation set up through an agreement between a group of people who come together for a reason other than to make a profit (for example, a voluntary group or a sports club). An unincorporated association of persons does not need to be registered in the Cayman Islands and there are no specific fees associated with creating one.

Q17: How and what do I need to register?

A17: The registration process can be done both electronically by visiting the General Registry's website and manually by visiting the General Registry's offices. Registration requires the following:

- Registration form completed by appointed controller (See Guidance Notes for assistance in completing);
- Copy of your organisation's constitutional document (i.e. Memo and Articles of Association/Trust Deed/Partnership Agreement/Bylaws/Charter/Constitution);
- Certified copy of government issued photo identification for controller(s), director(s), senior officer(s), and member(s) of management personnel; and
- Payment of appropriate registration fee (Note: Fee of CI\$300 is due if registering after 31 July 2018).