

REPRINT

CHARITABLE TRUSTS ACT (CAP. 55)

As in force at: 1 October 2009

STATUS: HISTORICAL

This version is that in force at the date stated above. It does not include amendments made since that date.

For list of amendments see Endnotes

AN ACT TO PROVIDE FOR THE INCORPORATION OF THE TRUSTEES OF CHARITABLE AND OTHER TRUSTS, FOR THE EXTENSION OF CHARITABLE TRUSTS, AND FOR PURPOSES INCIDENTAL THERETO AND CONNECTED THEREWITH

CHARITABLE TRUSTS ACT (CAP. 55)

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CHARITABLE TRUSTS ACT (Cap. 55)

As in force at: 1 October 2009

1 Short title

This Act may be cited as the *Charitable Trusts Act*.

2 Interpretation

In this Act, unless the context otherwise requires:

“**association**” means any body or association of persons;

“**charitable purpose**” includes any of the following purposes, that is to say:

- (a) the supply of the physical wants of sick, aged, destitute, poor or helpless persons, or of the expenses of funerals of poor persons;
- (b) the education (physical, mental, technical, or social) of the children of the poor or indigent;
- (c) the reformation of criminals, prostitutes, or drunkards;
- (d) the employment and care of discharged criminals;
- (e) the provision of religious instruction, either general or denominational, for the people;
- (f) the support of libraries, reading-rooms, lectures, and classes for the instruction of the people;
- (g) the promotion of athletic sports and wholesome recreations and amusements of the people;
- (h) encouragement of skill and industry;
- (i) rewards for acts of courage and self-sacrifice;
- (j) the erection, laying-out, maintenance, or repair of buildings and

places for the furtherance of any of the purposes herein mentioned;

- (k) such other purpose as may be declared by the Prime Minister to be a charitable purpose;

“**trustees**” includes executors or administrators, and any person or persons, body corporate, or association in whom any property is vested for religious, educational, literary, scientific, social or charitable purposes.

PART II INCORPORATION OF TRUST BOARDS

3 Incorporation of trust boards

It shall be lawful for the trustees or trustee for the time being of any association for religious, educational, literary, scientific, social or charitable purposes, to apply to the Registrar of Companies for a certificate of registration of the trustees of any such association as a corporate body; and if the Registrar of Companies, having regard to the extent, nature and objects and other circumstances of the association, shall consider such incorporation expedient, he may grant such certificate accordingly, subject to such conditions or directions as he may in his discretion insert in such certificate relating to the qualification and number of trustees, their tenure or avoidance of office, the mode of appointing new trustees, and the custody and use of the common seal; and thereupon the said trustees shall become a body corporate under the name set forth in the certificate.

4 Application for incorporation

- (1) Every application to the Registrar of Companies for a certificate under this Act shall be in writing, signed by the person or persons making the same, and shall contain the several particulars specified in the First Schedule to this Act, or such of them as shall be applicable to the case.
- (2) The Registrar of Companies may require such declaration or other evidence in verification of the statements and particulars in the application, and such other particulars, information, and evidence, if any, as he may think necessary or proper.

5**Nomination of trustees and filling up vacancies**

Before a certificate of incorporation is granted, trustees of the association shall be effectually appointed to the satisfaction of the Registrar of Companies; and where a certificate of incorporation has been granted vacancies in the number of the trustees of such association shall from time to time be filled up so far as shall be required by the constitution or settlement of the association, or by any such conditions or directions as aforesaid, by such legal means as would have been available for the appointment of new trustees of the association if no certificate of incorporation had been granted, or otherwise as shall be required by such conditions or directions as aforesaid; and the appointment of every new trustee shall be certified by or by the direction of the trustees to the Registrar of Companies within one month of such appointment.

6**Certificate of incorporation**

- (1) A certificate in the form in the Second Schedule to this Act, purporting to be signed by the Registrar of Companies, shall be conclusive evidence in all courts that the trustees therein named (hereinafter in this Act called the board of trustees) have been duly incorporated, and of the date of such incorporation.
- (2) The Registrar of Companies shall not issue a certificate when the name of the proposed board of trustees, in his opinion, resembles too closely the name of any existing board of trustees.

7**Registered office and service of notices**

- (1) Every board of trustees incorporated under this Act shall have a registered office and shall notify the Registrar of Companies of the address thereof.
- (2) A board of trustees may from time to time change its registered office by filing in the office of the Registrar of Companies a notice under its seal intimating the change and the new address.
- (3) Any notice or legal process shall be deemed to be served upon the board if left at its registered office.

8 Powers of the board

Every board of trustees incorporated under this Act shall have perpetual succession and a common seal, and may hold real and personal property of whatsoever nature, sue and be sued in all proceedings civil or criminal, and do and suffer to be done all that corporate bodies may do and suffer to be done.

9 Vesting of property

All property, whether personal or real, and of what nature or tenure soever, belonging to or held by any person or persons in trust for any association, shall, forthwith upon the incorporation under this Act of the Trustees of that association, vest in that board of trustees:

Provided that where any such property consists of an estate or interest in land registered under the *Land and Titles Act*, it shall not vest in the board of trustees until the board has been registered as the owner of the estate or interest.

10 Deeds and contracts

Deeds may be made by any board of trustees under its common seal, attested by the trustees or any two of the trustees for the time being constituting the board of trustees; and all other contracts may be made in writing, signed by any person in the name and on behalf of the board of trustees acting under a resolution in writing passed at a meeting of the board of trustees.

11 Acts *prima facie* valid

All acts or deeds done or made by any person acting *bona fide* as such trustee shall be valid notwithstanding any defect that may afterwards be found in his appointment, and the signature of any person purporting to act as such trustee shall be *prima facie* evidence of his being such trustee.

12 Cancellation of incorporation of Board of Trustees

- (1) If in the opinion of the Registrar of Companies:
 - (a) the incorporation under the provisions of this Act of trustees

was obtained by fraud, misrepresentation or mistake; or

- (b) any of the objects of an association being an association of which the trustees have been incorporated under the provisions of this Act, has become unlawful; or
- (c) such an association or its board of trustees has been or is being used for any unlawful purpose; or
- (d) the board of trustees of such an association is not functioning or has become dissolved; or
- (e) the board of trustees of such an association is not, by reason of the state of its affairs, able properly to exercise its functions or any of them,

he may by notice in such manner as he may determine, and in such other manner as he may consider to be adequate or most effective for the purpose of bringing such notice to the attention of the trustees, require the trustees to show cause, within thirty days of the publication of the notice why the incorporation under this Act of the board of trustees should not be cancelled, and if within such period of thirty days the trustees fail to satisfy the Registrar of Companies that the incorporation of the board of trustees should not be cancelled, the Registrar of Companies may, by notice published in the manner aforesaid, cancel such incorporation.

- (2) Without prejudice to the provisions of subsection (1), where he considers it reasonably practicable so to do, the Registrar of Companies shall as soon as possible within the aforesaid period of thirty days, cause to be served upon each trustee a copy of the notice first mentioned in subsection (1).
- (3) Upon the cancellation of the incorporation of a board of trustees such board of trustees shall cease to exist as a corporate body but without prejudice to any liability incurred by such board or its assets whether such liability is incurred before or after the date of such cancellation.
- (4) Upon the cancellation of the incorporation of a board of trustees, any person who last held the office of trustee shall, within fourteen days of demand made upon him by the Registrar of Companies transmit to the Registrar of Companies the certificate of incorporation issued

to the board of trustees.

(5) If any person shall fail to comply with the demand of the Registrar of Companies given in accordance with the provisions of subsection (4), he shall be guilty of an offence and liable to a fine of fifty penalty units.

13 Appeal against cancellation of incorporation

Notwithstanding the cancellation of the incorporation of any board of trustees under the provisions of section 12, any member of such board may, within thirty days of such cancellation, appeal to the High Court against the decision of the Registrar of Companies and the High Court may confirm or set aside such cancellation or make such other order as in the circumstances seems just and equitable.

14 Action may be taken under Part III

Where the incorporation of a board of trustees has been cancelled under the provisions of section 12, the Registrar of Companies, the board, any trustee or any person who has contributed to the funds of the trust may, notwithstanding such cancellation, take action under the provisions of sections 16 and 17 and thereupon the provisions of Part III of this Act shall *mutatis mutandis* apply.

PART III EXTENSION OF CHARITABLE TRUSTS

15 Property held for certain charitable purposes may be disposed of for other charitable purposes

In any case where it becomes impossible or impracticable to carry out the trusts upon which any property held for particular purposes of a charitable nature is held, or the amount available proves inadequate to carry out the original charitable purpose, or such purpose has been already effected, or such purpose is illegal or uncertain, then the property so held or any part or residue thereof may be disposed of for some other charitable purpose, or a combination of such purposes, in the manner and subject to the provisions hereinafter contained.

16 Trustees may prepare a scheme

Where the trustees of any such property are desirous that the same shall be dealt with subject to this Part of this Act, they may prepare or cause to be prepared a scheme for the disposition of the property in accordance with this Part of this Act.

17 Scheme to be laid before Attorney-General

Every scheme prepared under this Part of this Act shall be submitted to the Attorney-General, together with full information of all the facts upon which it is proposed to make such disposition, and with copies of any instruments necessary to explain the scheme so prepared; and the Attorney-General shall in respect of every such scheme have the powers and duties hereinafter mentioned:

- (a) he may remit the proposed scheme to the trustees for amendment if he considers that it will not properly carry out the objects contemplated, and in so doing shall state in writing the objections which he entertains to the scheme as proposed;
- (b) he may report on the scheme submitted, and such report shall be laid before a Judge under the provisions of this Part of this Act, or he may decline to make any such report, and allow the scheme to be laid before a Judge to be dealt with as hereinafter provided;
- (c) every report by the Attorney-General on any such scheme, and such scheme, with or without any such report, shall be filed in the office of the Registrar of Companies, and such report and scheme, or the scheme alone if there is no report, shall be open to inspection by the public without any fee or charge.

18 Notice of reference to Court to be published

Notice of the reference to the Court of any scheme shall be given in such manner as the Registrar of Companies shall direct before such scheme shall be considered by the said Court.

19 Judges to have jurisdiction

Every Judge shall have jurisdiction and authority to hear and

determine all matters relating to such scheme, and all proceedings therein shall be had in a summary manner, and the Judge may decide what persons shall be heard before him in support of or in opposition to the scheme.

20 Judge if satisfied, shall make order

If a Judge is satisfied that a scheme proposed is proper and not contrary to law, public policy, or good morals, he shall make an order approving of the scheme, with any modification or variation he thinks fit; but if he is satisfied that such scheme is not proper or is contrary to law, public policy, or good morals, and is not capable of amendment, he shall upon recording his reasons therefor refuse to make any order in respect thereof.

21 Judge may adopt Attorney-General's report

Where the Attorney-General has made a report on a scheme submitted to him as aforesaid, the Judge before whom the same is laid may adopt such report, and make order thereon accordingly.

22 Order to be filed

Every order made by a Judge under this Part of this Act shall be filed with the Registrar of Companies.

23 No fee payable to Registrar

No fee shall be payable to the Registrar of Companies or to the Court in respect of any report, scheme, order, inspection or other proceeding filed or made under this Part of this Act.

24 Order of the Judge to be published

Notice that the Judge has made an order in respect of any scheme submitted as aforesaid, or has refused to make any such order, shall be published by exhibition at the Public Office of the Registrar of Companies by the Registrar of Companies and in the case of a refusal to make any such order, shall contain a statement of the grounds for such refusal.

25 Scheme may be varied or altered

Every scheme adopted as aforesaid may from time to time be varied or altered, and the provisions of this Part of this Act relating to the adjustment of a scheme shall, *mutatis mutandis*, apply to any variation or alteration of such scheme, whether as originally adjusted or as varied or altered.

26 Scheme may provide for payment of expenses

The trustees may provide in their scheme that all reasonable expenses of preparing a scheme to be submitted to the Attorney-General for report under this Part of this Act, or that may be laid before a Judge as aforesaid, shall be paid out of or be a charge on the property affected.

27 Trustees to transfer property in accordance with scheme

- (1) The trustees in whom any property is vested with respect to which a scheme has been approved by a Judge under this Act shall convey, transfer or pay over the same, with all profits or interest which may have accrued thereon, to the institution, body or person designated to hold or receive the same under such scheme, and upon so doing shall no longer be liable in respect of any express or implied trust upon which they held such property, except for wilful negligence or misappropriation thereof.
- (2) Such trustees may execute all instruments and do all acts necessary for giving effect to this section.

PART IV MISCELLANEOUS

28 Inspection of records

Subject to such conditions as may be imposed by the Registrar of Companies and on payment of a fee, which shall be assessed at the rate of fifty cents in respect of each board of trustees, any member of the public may inspect the records held by the Registrar of Companies under the provisions of this Act for the purpose of ascertaining whether or not trustees have been registered, the names of the trustees and the address of the registered office of the board of trustees.

FIRST SCHEDULE

(Section 4.)

We hereby apply to be incorporated under the provisions of the *Charitable Trusts Act*.

(1) The name of the Board to be the

..... Trust Board (Incorporated)

..... Registered Trustees (Incorporated)

(2) The registered office of the Board.....to be at

..... Trustees

(3) The names, addresses and description of the trustees are:

(a).....

(b).....

(c).....

(d).....

(e).....

(4) The said trustees were duly appointed by

(method of appointment) on the day of

19 .

(5) The proposed device of the common seal is

(6) The objects of the association are

(7) Attached hereto is:

- (a) a statement of the property, real and personal, which is possessed by or belonging to or held on behalf of the association;
- (b) a certified copy of the deed of settlement, will, or other document constituting the association, and any regulations made thereunder.

Dated at this day of 19

.....
Trustee

.....
Trustee

.....
Trustee

.....
Trustee

.....
Trustee

SECOND SCHEDULE

(Section 6.)

I hereby certify that the

Trust Board (Incorporated) has/have been duly

Registered Trustees (Incorporated)

incorporated under the provisions of the *Charitable Trusts Act*,
subject to the several conditions and directions endorsed hereon.

Dated at this day of 19

Registrar of Companies.

CONDITIONS AND DIRECTIONS.

ENDNOTES

1 KEY

amd = amended	Pt = Part
Ch = Chapter	rem = remainder
Div = Division	renum = renumbered
exp = expires/expired	rep = repealed
GN = Gazette Notice	Sch = Schedule
hdg = heading	Sdiv = Subdivision
ins = inserted	SIG = Solomon Islands Gazette
It = long title	st = short title
LN = Legal Notice	sub = substituted
nc = not commenced	

NOTE

This Reprint comprises the Act and amendments as in force on 1 March 1996 and published as Chapter 55 of the Revised Edition of the Laws of Solomon Islands, together with amendments made to the Act from that date to 1 October 2009.

2 LIST OF LEGISLATION

Charitable Trusts Act (Cap. 55)

Constituent legislation: 13 of 1964 (Commenced 29 December 1964)
5 of 1966
LN 46A of 1978

Penalties Miscellaneous Amendments Act 2009 (No. 14 of 2009)

Assent date 29 July 2009
Gazetted 1 October 2009
Commenced 1 October 2009

3 LIST OF AMENDMENTS

s 12 amd by Act No. 14 of 2009