

CHAPTER 17.16

NATIONAL COMMUNITY FOUNDATION ACT

Revised Edition

Showing the law as at 31 December 2022

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• Act • Subsidiary Legislation •

ACT

(Acts 26 of 2002 and 4 of 2016)

Act 26 of 2002 .. in force 24 October 2002 (S.I. 1/2003)

Amended by Act 4 of 2016 .. in force 8 February 2016

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**CHAPTER 17.16
NATIONAL COMMUNITY FOUNDATION ACT**

AN ACT to establish the National Community Foundation as a non-profit and autonomous institution to provide direct support services to enhance the quality of life of the poor and needy and for related matters.

Commencement [24 October 2002]

**PART 1
PRELIMINARY**

1. Short title

This Act may be cited as the National Community Foundation Act.

2. Interpretation

In this Act—

"Board" means the Board of the National Community Foundation appointed under section 10;

"Chairperson" means Chairperson appointed under section 11;

"Christian Council of Saint Lucia" means the Christian Council of Saint Lucia established under the Christian Council of Saint Lucia (Incorporated) Act;

"company" means a body corporate wherever incorporated, but does not include a partnership or an unincorporated body of persons; (*Inserted by Act 4 of 2016*)

"contributor" means any person, corporation or organisation providing financial or non-financial support to the Foundation;

"Deputy Chairperson" means Deputy Chairperson appointed under section 12;

"Foundation" means the National Community Foundation established under section 3;

"Minister" means the Minister responsible for national insurance;

"National Insurance Board" means the National Insurance Board established under the National Insurance Corporation Act;

"National Insurance Corporation" means the National Insurance Corporation established under the National Insurance Corporation Act;

"Poverty Reduction Fund" means the Poverty Reduction Fund established under the Poverty Reduction Fund Act;

"Saint Lucia National Youth Council" means the Saint Lucia National Youth Council established under the National Youth Council (Incorporation) Act.

PART 2
ESTABLISHMENT AND OBJECTIVES OF FOUNDATION

3. Establishment of Foundation

(1) The National Insurance Board hereby establishes a body to be known as the National Community Foundation which shall be an autonomous institution.

(2) The Foundation may exercise any of the functions entrusted to it by or in accordance with this Act and may perform any other duties incidental or ancillary to, or consequential upon, the performances of its functions.

4. Body corporate

(1) The Foundation is a body corporate to which section 19 of the Interpretation Act applies.

(2) The seal of the Foundation shall be authorised by the signatures of the Chairperson and the Executive Director or other Director authorised by the Board of Directors to act for that purpose and the Seal thus authenticated shall be judicially and officially noticed.

(3) All documents made by the Foundation other than those required by a law to be made under seal, shall be signified under the hand of the Chairperson and the Executive Director or by a Director and the Executive Director.

(4) The principal office of the Foundation shall be in such place in Saint Lucia as the Board may decide.

(5) The Board may establish regional or local offices in any location in Saint Lucia as it considers necessary.

5. Objectives of Foundation

(1) The objectives of the Foundation include the following—

- (a) to receive and distribute philanthropic funds for the benefit of targeted individuals, groups, organisations or other charitable causes in a manner consistent with specific interests of contributors and the objectives of the Foundation;
- (b) to facilitate the empowerment of individuals and groups living in challenging circumstances;
- (c) to provide philanthropic leadership and help create, sustain and promote efforts among citizens to improve the quality of life within the wider community;
- (d) to provide support to poor, needy or disadvantaged persons;
- (e) to advocate for such shifts in public policy and in public attitude that would support the aims and objectives of the Foundation.

6. Functions of Foundation

(1) The Board shall—

- (a) mobilise resources from private citizens and local, regional or international contributors;
- (b) evaluate and help coordinate the services of community-based agencies so as to ensure that the support provided by the Foundation is being used effectively to fulfil the most critical needs within the community;
- (c) identify and creatively address established needs in the areas of education, social services, community development and environment and civil affairs.

- (2) In performing its functions under section (1), the Board may—
- (a) make grants directly to approved institutions;
 - (b) make funds available through an intermediary;
 - (c) accept grants that may be distributed according to specific wishes of the contributor;
 - (d) operate programmes directly; or
 - (e) offer grants for research that is relevant to the work of the Foundation.

PART 3 APPOINTMENT OF STAFF

7. Appointment of staff

(1) The Board may appoint and employ an Executive Director at such remuneration and subject to such terms and conditions as it considers fit.

(2) The Board may appoint and employ, at such remuneration and subject to such terms and conditions as it thinks fit, such other officers, employees and agents as it considers necessary for the proper performance of the functions of the Foundation.

8. Duties of Executive Director

- (1) The Executive Director is responsible to the Board and—
- (a) shall assist the Board in the formulation of policy;
 - (b) is responsible to the Board for implementation of approved policy;
 - (c) shall manage the day-to-day operations of the Foundation including—
 - (i) the organisation of the staff to perform the functions of the Foundation in accordance with general terms and conditions of service established by the Board,
 - (ii) subject to subsection (2), ensuring the keeping of accurate financial records of the Foundation,
 - (iii) subject to subsection (2), ensuring the submission of necessary reports to contributors and other interests,
 - (iv) promoting the work of the Foundation among potential contributors and other interested or influential groups.
- (2) The Executive Director has the authority—
- (a) to sign jointly with another Director, reports, balance sheets and other financial statements;
 - (b) to delegate his or her powers provided in paragraph (a) with the consent of the Board of the Foundation to another senior officer of the Foundation.

PART 4 ADMINISTRATION

9. Board of Directors

There shall be a Board of Directors of the Foundation constituted as provided in section 10 and which shall be the policy making organ of the Foundation.

10. Composition of the Board

(1) The Board of Directors of the Foundation shall consist of the following—

- (a) a representative of the National Insurance Corporation;
- (b) two representatives of Government named by the Minister after consultation with Cabinet;
- (c) a representative from the private sector;
- (d) a representative of the Christian Council of Saint Lucia;
- (e) a representative of the Poverty Reduction Fund named by the Minister responsible for the Poverty reduction Fund;
- (f) a representative of the Saint Lucia National Youth Council;
- (g) a representative selected from women's groups;
- (h) a representative of service clubs;
- (i) a representative of the trade unions; and
- (j) the Executive Director, *ex officio*.

(2) The Directors referred to in subsection (1) shall be appointed by the National Insurance Board after consultation with the Minister for a term of 2 years, and subject to subsection (3) and section 13, any such Director is eligible for reappointment on the expiration of his or her term of office.

(3) A Director appointed under subsection (1), except the Executive Director shall be appointed on the basis of rotation and is eligible for reappointment if there is no other representative of the specified organisation who is willing to serve as Director of the Foundation.

(4) Subject to subsections (5) and (6) the National Insurance Board shall appoint the Chairperson of the Board after consultation with the Minister and the Chairperson shall hold office for a period of 2 years.

(5) The first Chairperson of the Foundation shall be the representative of the National Insurance Corporation.

(6) The Chair shall be rotated biennially.

(7) The Directors shall elect from their members a Deputy Chairperson who shall hold office for a period of 2 years and he or she is eligible for reappointment.

(8) Where for any reason, the Chairperson is unable to preside at any meeting of the Board—

- (a) the Deputy Chairperson shall preside if he or she is present; and
- (b) if the Deputy Chairperson is absent, then the Directors present shall elect one of their number to preside.

11. Duties of the Board

(1) The duties of the Board shall include the following—

- (a) to ensure that all segments of the wider community have equal access to the resources of the Foundation;
- (b) to formulate and approve policies to guide the work of staff and committees;
- (c) to ensure the Foundation's accountability to contributors;
- (d) to determine the investments of the Foundation;

- (e) to establish rules and regulations to guide the operations of the Foundation;
 - (f) to consider and approve requests for funding.
- (2) The Board may establish the following—
- (a) a disbursement and monitoring committee with responsibility to assess requests for assistance, monitor the impact of grants made in the past and recommend to the Board the allocation of discretionary income resources to approved causes, consistent with the terms of the rules of the Foundation;
 - (b) an investment committee with responsibility to—
 - (i) recommend to the Board an investment policy which will *inter alia*, endeavour to maximise the total return on investments made by the Foundation,
 - (ii) oversee the implementation of investment policies according to the rules of the Foundation,
 - (iii) monitor and advise on the day-to-day investments of the Foundation.

12. Disqualification as Director

(1) A person shall not be appointed or remain as a Director who is a member of the Parliament of Saint Lucia.

(2) The National Insurance Board may after consultation with the Minister terminate the appointment of the Chairperson or any other Director only if the Chairperson or the Director as the case may be—

- (a) by writing under his or her hand addressed to the National Insurance Board, resigns his or her office;
- (b) becomes subject to disqualification specified in subsection (1);
- (c) becomes bankrupt or insolvent, compounds with his or her creditors, or benefits under the law for the relief of a bankrupt, or makes any assignment in whole or in part of his or her income for the benefit of such creditors;
- (d) is convicted of an offence involving dishonesty or any other offence punishable with imprisonment whether or not the convicted person is awarded such sentence;
- (e) becomes totally or permanently incapable of performing his or her duties;
- (f) is guilty of misconduct;
- (g) absents himself or herself from 3 consecutive meetings of the Board without leave of the Board.

(3) The names of all members of the Board as first constituted, their terms of office and every change in the membership shall be published in the Gazette.

13. Meetings of the Board

(1) The Board shall meet as often as its business requires but not less frequently than once every month.

(2) The Chairperson, or in his or her absence the Deputy Chairperson, shall summon a special meeting of the Board within 7 days of a requisition for that purpose addressed to him or her in writing by any 3 Directors.

(3) A quorum for any meeting of the Board shall be 5 Directors;

(4) Decisions of the Board shall be by majority of votes cast provided that in any case in which the voting is equal, the person presiding at the meeting shall have a second casting vote.

(5) The Board shall employ the services of an official or other member of the staff as Secretary and shall ensure that records are kept of its acts and decisions.

14. Meetings of the Foundation

The Foundation shall hold an annual general meeting once every year within 15 months of the date of the last annual general meeting.

15. Delegation of powers

(1) The Board may, in respect of any particular matter or class of matter, and in writing delegate to the Executive Director or to any other Director or Committee any of its functions under this Act except this power of delegation and the following functions—

- (a) approving annual budgets or programme of activities;
- (b) making regulations;
- (c) carrying out activities which require expenditure not provided in the budget.

(2) Subject to any general direction given to him or her by the Board the person or persons to whom any powers are so delegated may exercise these powers in the same manner and with the same effect as if they had been conferred in him or her directly by this Act and not by delegation.

(3) Every person purporting to act pursuant to a delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

(4) Every delegation under this section shall be revocable and no such delegation shall prevent the exercise of any power by the Board.

16. Protection of Foundation

No action, prosecution or other proceedings shall be brought or instituted against the Foundation or any Director thereof in respect of any act or omission done *bona fide* in pursuance of execution or intended execution of this Act.

17. Rules of the Foundation

(1) The Board may make rules for the Foundation not inconsistent with this Act for all or any of the following purposes—

- (a) regulating its proceedings;
- (b) providing for the custody of the property of the Foundation, and the custody and use of the seal of the Foundation;
- (c) regulating the terms and conditions of employment of persons appointed under this Act;
- (d) the preparation of semi annual or quarterly audits of the Foundation; and
- (e) providing for such other matters as may be necessary or expedient for the better carrying out of the functions of the Foundation.

(2) Notice in writing of every proposed resolution to make rules under this section or for the amendment or revocation of any rule so made, including a copy of the proposed rule, amendment, or revocation shall be given to every Director not less than 21 days before the meeting at which such proposal is to be moved but an inadvertent

failure to comply with this subsection shall not invalidate the making, amendment or revocation or any rule of that meeting.

PART 5 FINANCIAL PROVISIONS

18. Revenue of the Foundation

The revenue of the Foundation shall consist of monies donated by individuals, corporations or otherwise lawfully contributed, donated or bequeathed from any other source.

19. Expenses of the Foundation

The expenses of the Foundation including the remuneration of the members of staff thereof, shall be paid out of the funds and resources of the Foundation.

20. Prohibition on borrowing

The Foundation is normally prohibited from borrowing except for purposes that are established as revenue generating.

21. Accounts and audit

(1) The Executive Director shall keep accounts and other records in relation to the business of the Foundation and shall prepare annually a statement of accounts in a form which shall conform to the established commercial and accounting standards and principles.

(2) The accounts of the Foundation shall be audited annually by an auditor appointed in each year by the Board.

22. Annual report

Within 4 months after the end of each financial year, a statement of the accounts audited in accordance with section 21(2) shall be laid by the Minister before the House of Assembly and the Senate and published in the Gazette and in at least 2 local newspapers.

PART 6 MISCELLANEOUS

23. Validity of the Board's acts

An act done or proceeding taken under this Act shall not be questioned on the ground—

- (a) of the existence of any vacancy in the membership, or of any defect in the constitution of the Board; and
- (b) of any omission, defect or irregularity.

24. Exemption from income tax, property tax and stamp duty

(1) The Foundation is exempt from the payment of income tax and property tax.

(2) All instruments executed by or on behalf of the Foundation are exempt from stamp duty.

(3) Despite any law or enactment in force, all gifts, property or financial securities donated to the Foundation by a company shall be allowed as a tax deduction up to the

full value of such donation for the purpose of income or estate taxes, as the case may be. *(Substituted by Act 4 of 2016)*

25. Regulations

The Minister may, following consultations with the Board, make regulations as he or she considers necessary or expedient for the better carrying out of the provisions of this Act.

**CHAPTER 17.16
NATIONAL COMMUNITY FOUNDATION ACT**

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
