A BILL

entitled

CHARITIES AMENDMENT (NO. 2) ACT 2026

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WHEREAS it is expedient to amend the Charities Act 2014;

Be it enacted by The King's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act, which amends the Charities Act 2014 ("the principal Act"), may be cited as the Charities Amendment (No. 2) Act 2026.

Amends section 2

2 Section 2 of the principal Act is amended by—

(a) deleting the definition of "AML/ATF regulated financial institution"; and

(b) inserting in their appropriate alphabetical order the following definitions—

" "beneficiary", in relation to a charity, means a person, or group of persons, receiving charitable, humanitarian or other types of assistance through the services of the charity;

"financial crime" means any offence which involves—

(a) fraud;

(b) "money laundering" as defined in section 7(1) of the Proceeds of Crime Act 1997; or

(c) "terrorist financing" as defined in section 2 of the Anti-Terrorism (Financial and Other Measures) Act 2004;

"officer", in relation to a charity, includes an employee of that charity;

"partner", in relation to a charity, means a person that is funded to implement a project or deliver aid or any other service on behalf of the charity;".

Amends section 11

3 Section 11(1) of the principal Act is amended by repealing paragraphs (da) and (db) and substituting—

"(da) implementing a focused, proportionate and risk-based oversight or, where appropriate, monitoring programme for charities with respect to financial crime;

(db) establishing, in consultation with the NAMLC, the criteria to be used for determining the risk profiles of charities with respect to financial crime, in order to facilitate proportionate risk-based oversight or, where appropriate, monitoring;".

Amends section 17

4 Section 17 of the principal Act is amended by—

(a) in subsection (1A), after "privately funded", inserting "but are not exempted under section 18(4),"; and

(b) after subsection (1A), inserting—

"(1B) The separate part of the register referred to in subsection (1A) shall not be open to public inspection.".

Amends section 17A

5 Section 17A of the principal Act is amended by—

(a) in subsection (1)—

(i) after “the charity trustees shall”, inserting “, within this time period, apply in such form as may be prescribed to the Registrar to be confirmed and recorded as an exempted charity”;

(ii) in paragraph (c), deleting “specify” and substituting “specifying”; and

(iii) in paragraph (d), deleting “supply” and substituting “supplying”;

(b) after subsection (1), inserting—

“(1A) An application under subsection (1) shall contain such particulars, and meet such other requirements as may be prescribed.

(1B) In the case of a charity which is a company or other legal person referred to in section 18(4)(b), the documents and information referred to in subsection (1)(d) shall include a copy of the service agreement between the charity and the person who carries on a corporate service provider business licensed under the Corporate Service Provider Business Act 2012.

(1C) Where the charity trustees of a charity that is privately funded—

(a) believe that it is not by virtue of section 18(4) an exempted charity, the charity trustees shall apply for registration under section 17(3) within the time period specified in subsection (1); or

(b) have applied to be recorded as an exempted company under subsection (1) but confirmation of its exemption from registration has been refused by the Registrar, the charity trustees shall apply for registration under section 17(3) within 30 days of being informed in writing of the refusal.”;

(c) in subsection (2)—

(i) after “and apply”, deleting “or write”;

(ii) deleting “the earlier of” and substituting “, as the case may be,”; and

(iii) in paragraph (a), after “registration” inserting “under section 17”; and

(d) after subsection (2), inserting—

“(2A) The Registrar shall keep and maintain a record of all charities that are privately funded whose exemption from registration has been confirmed under subsection (2)(b) in such form and containing such information as he may determine.

(2B) The charity trustees of a charity recorded under subsection (2A) shall notify the Registrar of any change in circumstance that affects its eligibility to qualify for an exemption under section 18(4).”.

Amends section 18

6 Section 18 of the principal Act is amended by—

- (a) in subsection (4)(a), in both subparagraphs (ii) and (iii), deleting "that is" and substituting "it is";
- (b) in subsection 4(b)—
  - (i) in both subparagraphs (i) and (ii), deleting "that the" and substituting "the"; and
  - (ii) in subparagraph (ii), by deleting "demonstrate that an adequate level of AML/ATF" and substituting "demonstrate to the Registrar that an adequate level of financial crime risk management"; and
- (c) in subsection (5), repealing paragraph (aa).

Amends section 21

7 Section 21 of the principal Act is amended by—

- (a) in subsection (1), deleting "The following" and substituting "Subject to subsection (4), the following"; and
- (b) repealing subsection (4) and substituting—

"(4) For the avoidance of doubt, in respect of charities that are privately funded—

- (a) the part of the register referred to in section 17(1A);
- (b) the record of exempted charities maintained under section 17A(2A);
- (c) statements of accounts submitted under section 37; and
- (d) annual reports submitted under section 38,

are not available for public inspection.".

Amends section 23

8 Section 23 of the principal Act is amended by repealing subsection (1B) and substituting—

"(1B) The Registrar may only exercise the power to freeze payments to and from a charity, pursuant to subsection (2)(c), without giving notice, if he has reasonable grounds to suspect that the charity's assets are being used for financial crime, and any charity which is subject to such a freezing order without notice may appeal the Registrar's decision within seven days of the order being issued to the Supreme Court.".

Amends section 32

9 Section 32 of the principal Act is amended by—

(a) in subsection (5), deleting "money laundering or the financing of terrorism" and substituting "financial crime"; and

(b) in subsection (6)(aa), deleting "money laundering, the financing of terrorism or other financial crimes" and substituting "financial crime".

Amends section 37

10 Section 37 of the principal Act is amended by inserting after subsection (5)—

"(6) Subsection (5) does not apply to charities that are privately funded.".

Amends section 38

11 Section 38 of the principal Act is amended by—

(a) in subsection (1)—

(i) in subparagraph (a)(iia), deleting "prescribed" and substituting "determined"; and

(ii) repealing subparagraph (a)(iv) and substituting—

"(iv) if required by the Registrar in respect of that charity, giving information on the charity's financial crime risk management systems and controls;"; and

(b) repealing subsection (3).

Repeals section 47

12 Section 47 (regulations for detecting and preventing money laundering and terrorism financing) of the principal Act is repealed.

Amends section 47A

13 Section 47A of the principal Act is amended by—

(a) in subsection (1)—

(i) deleting "in the amount" and substituting "in an amount";

(ii) in paragraph (a), deleting "$200" and substituting "not more than $5000"; and

(iii) in paragraph (b), deleting "$100" and substituting "not more than $5000";

(b) in subsection (1A), deleting "$200" and substituting "not more than $5000";

(c) in subsection (2)(b), deleting "the ability" and substituting "the total assets and overall financial position of the charity, the ability";

(d) in subsection (2A), deleting "the amount of $200" and substituting "an amount of not more than $5000";

(e) repealing subsection (2AA) and substituting—

"(2AA) Where a charity has failed to notify the Registrar of its establishment as a charity that is privately funded within one month of its establishment, the Registrar may impose a civil penalty in an amount of not more than $5000."; and

(f) in subsection (2B)—

(i) deleting "and where a charity has failed to register as an exempt charity under section" and substituting "or under subsection";

(ii) deleting the full stop at the end of paragraph (c) and substituting "; and"; and

(iii) after paragraph (c), inserting—

"(d) the total assets and overall financial position of the charity.".

Repeals section 47F

14 (1) Section 47F (charities exemption) of the principal Act is repealed.

(2) For the avoidance of doubt, a charity which is exempted from retaining specified records by section 47F, immediately before its repeal by subsection (1), shall comply with the obligation to retain such records under the principal Act from the date of commencement of this section.

Amends section 48

15 Section 48 of the principal Act is amended by—

(a) in subsection (1)(e), deleting "affiliates" and substituting "partners"; and

(b) after subsection (1), inserting—

"(1A) The Minister may, after consulting with the Registrar and the Committee, make such regulations as he thinks appropriate in respect of charities for the purposes of detecting and preventing financial crime.

(1B) Without prejudice to the generality of subsection (1A), such regulations may—

(a) require charities to establish and maintain procedures relating to the identification of donors and beneficiaries, the keeping of records, the making of reports, the vetting of employees, the verification of the effective design and operation of systems to detect and prevent financial crime, and the training of employees; and

(b) provide for a contravention of such regulations to be an offence, subject to the limitation that no such offence shall be punishable with more than—

(i) on summary conviction, a fine of $50,000; or

(ii) on conviction on indictment, a fine of $750,000, or imprisonment for a term of two years, or both such fine and imprisonment.".

Amends section 50

16 Section 50(1) of the principal Act is amended by deleting "any other Act" and substituting "any other public Act".

Repeals Charities (Anti-Money Laundering, Anti-Terrorist Financing and Reporting) Regulations 2014

17 The Charities (Anti-Money Laundering, Anti-Terrorist Financing and Reporting) Regulations 2014 are hereby repealed.

CHARITIES AMENDMENT (NO. 2) BILL 2026

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Charities Act 2014 ("the principal Act") to shift from an AML/ATF-specific framework to a broader financial crime one and adopt an oversight and monitoring approach to charities that is more risk-based and proportionate. It also clarifies the distinction between registered charities and exempted charities, the procedure for exemptions from registration, and the treatment of privately funded charities including confidentiality protections. The Bill also repeals the Charities (Anti-Money Laundering, Anti-Terrorist Financing and Reporting) Regulations 2014 and provides a new regulation-making framework for financial crime controls in the charitable sector.

Clause 1 gives the title and is self-explanatory.

Clause 2 amends section 2 of the principal Act (interpretation). The clause removes the definition of "AML/ATF regulated financial institution" and inserts definitions of "beneficiary", "financial crime", "officer" and "partner". The new definition of "financial crime" consolidates references throughout the Act to money laundering, terrorist financing and fraud. The definition of "beneficiary" is broadened to reflect that beneficiaries are not limited to natural persons.

Clause 3 amends section 11 (Registrar's general functions). The clause replaces references to money laundering and terrorist financing risk-based oversight with broader references to financial crime. It also requires the Registrar to implement a focused, proportionate and risk-based oversight or monitoring programme and, in consultation with the National Anti-Money Laundering Committee, establish risk criteria to facilitate such oversight.

Clause 4 amends section 17 (registration of charities). The clause clarifies that the separate part of the register maintained in relation to privately funded charities applies only to privately funded charities that are required to be registered and does not include exempted charities. It also expressly provides that this separate part of the register is not open to public inspection. These amendments reinforce the distinction between registered charities and charities whose exemption from registration has been confirmed by the Registrar.

Clause 5 amends section 17A (notification of establishment of certain charities). The amendments establish a clearer distinction between the registration of charities and the recording of charities that are exempt from registration. The amendments: clarify how a privately funded charity that claims exemption from registration applies to the Registrar to be confirmed and recorded as an exempted charity; empower the Minister to prescribe requirements for such applications; require certain corporate charities to provide a copy of their corporate service provider agreement; clarify that privately funded charities that do not qualify for exemption, or whose application for confirmation of exemption is refused, must apply for registration; require the Registrar to maintain a record of charities whose exemption has been confirmed; and require exempted charities to notify the Registrar of any change in circumstances affecting their eligibility for exemption.

Clause 6 amends section 18 (charities required to be registered unless exempted). The clause replaces references to anti-money laundering and anti-terrorist financing systems and controls with references to financial crime risk management systems and controls. The clause also removes a provision now relocated to section 17A concerning documents required from privately funded charities seeking recognition of their exempt status.

Clause 7 amends section 21 (public inspection). The clause clarifies that records relating to privately funded charities are not available for public inspection. In particular, it provides that the following are not open to public inspection in relation to privately funded charities: the separate part of the register maintained under section 17(1A); the record of exempted charities maintained under section 17A(2A); statements of accounts; and annual reports. The amendment ensures that the confidentiality protections applicable to privately funded charities extend consistently to both registered and exempt charities.

Clause 8 amends section 23 (remedial or protective action). The clause replaces references to money laundering, terrorist financing and other financial crimes with references to financial crime, thereby ensuring consistency with the new definition inserted in section 2.

Clause 9 amends section 32 (permitted disclosure). The clause also replaces references to money laundering, terrorist financing and other financial crimes with references to financial crime, thereby ensuring consistency with the new definition inserted in section 2.

Clause 10 amends section 37 (submission of statement of accounts). The clause adds a subsection which provides that the requirement for statements of accounts submitted to the Registrar to be available for public inspection does not apply to charities that are privately funded.

Clause 11 amends section 38 (annual reports). The clause replaces the existing requirement to report on anti-money laundering and anti-terrorist financing systems and controls with a requirement, where requested by the Registrar, to provide information on financial crime risk management systems and controls. This amendment support a more targeted, risk-based approach. The clause also repeals subsection (3), which makes Regulations made under the section subject to the affirmative resolution procedure. Such Regulations will therefore be subject to the negative resolution procedure as provided in section 48(2).

Clause 12 repeals section 47. Section 47 currently empowers the Minister to make regulations concerning anti-money laundering and anti-terrorist financing controls. The clause repeals that section because equivalent powers, updated to refer to financial crime generally, are re-enacted in section 48.

Clause 13 amends section 47A (civil penalties). The clause significantly expands the Registrar's discretion in relation to civil penalties by increasing the maximum penalties from fixed amounts of $100 and $200 to amounts not exceeding $5,000. The clause also:

creates a revised penalty for failing to notify the Registrar of the establishment of a privately funded charity; updates references to reflect the distinction between registration and exemption; and adds a requirement for the Registrar to consider the charity's overall assets and financial position when determining penalties. These amendments are intended to provide a more effective and proportionate enforcement regime.

Clause 14 repeals section 47F. Section 47F currently provides certain exemptions for smaller charities. The repeal removes those exemptions so that all charities will be subject to the relevant record-keeping requirements established under the principal Act and regulations made under it.

Clause 15 amends section 48 (general regulation-making power). The clause replaces the term "affiliates" with the defined term "partners". It also inserts a new power enabling the Minister, after consulting the Registrar and the Committee, to make regulations for the detection and prevention of financial crime. The new provisions substantially replicate the former section 47, but broaden the focus from money laundering and terrorist financing to financial crime generally. The regulations may require charities to implement donor and beneficiary due diligence, record-keeping, reporting, employee vetting, systems testing and training measures.

Clause 16 amends section 50 (savings). The clause restores the reference to entities established by another public Act, rather than another Act generally. The amendment clarifies that Parts 3 and 5 of the principal Act continue to apply to charities established by private Acts unless otherwise provided.

Clause 17 repeals the Charities (Anti-Money Laundering, Anti-Terrorist Financing and Reporting) Regulations 2014. The repeal forms part of the transition from the existing anti-money laundering and anti-terrorist financing regime to the new financial crime framework established under the Bill.