



AN ACT TO FURTHER AMEND THE ASSOCIATIONS LAW AS AMENDED, TITLE 5, OF THE LIBERIAN CODE OF LAWS REVISED, BY ADDING THERETO A NEW PART VI, CHAPTER 60, PROVIDING FOR THE ESTABLISHMENT OF PRIVATE FOUNDATIONS.

APPROVED JANUARY 8, 2002

**PUBLISHED BY AUTHORITY
MINISTRY OF FOREIGN AFFAIRS
JUNE 19, 2002**

AN ACT TO FURTHER AMEND THE ASSOCIATIONS LAW AS AMENDED, TITLE 5, OF THE LIBERIAN CODE OF LAWS REVISED, BY ADDING THERETO A NEW PART VI, CHAPTER 60, PROVIDING FOR THE ESTABLISHMENT OF PRIVATE FOUNDATIONS.

It is enacted by the Senate and House of Representatives of the Republic of Liberia, in Legislature Assembled:

Section 1. Amendment to Title 5. That from and immediately upon the passage of this Act, the Associations Law, Title 5 of the Liberian Code of Laws Revised is hereby further amended by the addition of new Part VI, Chapter 60, as herein below recited, word for word, to read as follows:

PART VI.

Chapter 60: ESTABLISHMENT OF PRIVATE FOUNDATIONS

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§ 60.1. Short Title.

This Act shall be known as the Private Foundation Law.

§ 60.2. Definitions and Interpretations.

1. *Definitions.* In this Law, unless the context shall otherwise require:

“*Assets*” means the property in whatever form from time to time of a private foundation vested in that foundation, which property shall not be the property of the donor or the beneficiary;

“*Authorized signatories*” means:

- (a) The persons authorized by a private foundation in accordance with the memorandum of endowment and the management articles to sign, singly or jointly as resolved by the officers from time to time, on behalf of, and thereby to bind the foundation, to the extent so resolved; or

- (b) All the officers for the time being of a private foundation signing jointly;

“**Beneficiary**” means a person:

- (a) Designated as such in the memorandum of endowment of a private foundation; or,
- (b) Where no beneficiary is so designated, a person identified as such:
 - (i) By the body appointed for this purpose by the donor in the memorandum of endowment; or
 - (ii) In the absence of such a body, by the officers of the private foundation;

“**Donor**” means:

- (a) The person who subscribes to the memorandum of endowment establishing a private foundation acting either for himself or on behalf of another; or
- (b) In the case of establishment of a foundation by the duly executed will of a deceased donor, that person acting alone for himself, and

who endows that foundation by irrevocable transfer of title with its initial assets;

“**To endow**” means to pass, or irrevocably covenant to pass, the title in property absolutely, with or without consideration, to a private foundation so that the property is the asset of that foundation and includes whatever act may be necessary in relation to any particular property effectively and irrevocably to so transfer title;

“**Governing bodies**”, in relation to a private foundation, means:

- (a) The officers;
- (b) The supervisory board; and

(c) Any other supervisory person or persons specified or identified by the memorandum of endowment or the management articles,

acting jointly or singly, as may be required by the memorandum of endowment or the management articles;

“***Index***” means the index of private foundations to be kept by the Registrar in compliance with section 60.59;

“***Initial assets***” means assets endowed by the donor or donors, as the case may be, at the time of establishment of a private foundation and vested in and being the property of that foundation;

“***In writing***” and “***written***” shall be interpreted in accordance with the Electronic Transactions Law;

“***Management articles***” means the regulations provided for in section 60.7;

“***Memorandum of endowment***” means the deed or duly executed will, as the case may be, provided for in section 60.6;

“***Model Management Articles***” means the management articles provided for in section 60.7(3) and prescribed by the Registrar;

“***Model Memorandum of Endowment***” means the memorandum of endowment provided for in section 60.6(3) and prescribed by the Registrar;

“***Officer***”, in relation to a private foundation, means the person for the time being appointed in accordance with the memorandum of endowment of that foundation and this Law as an officer and acting in that capacity;

“***Private foundation***” means the legal entity, defined in section 60.3, established and registered under this Law;

“***Register***” means the register of private foundations to be kept by the Registrar in compliance with section 60.59;

“***Registered***” in relation to a foundation means registered as a private foundation under this Law;

“**Registered agent**” means a person satisfying the requirements of Chapter 3 of Part I of this Title;

“**Registrar**” means the Registrar as defined in section 1.2 of Chapter 1 of Part I of this Title;

“**Remaining beneficiary**” means that person who, according to the memorandum of endowment or the management articles of a private foundation, or the application of either, shall be entitled to receive any assets remaining after the dissolution or winding up of a private foundation;

“**Schedule**” means the details, procedures and provisions for re-domiciliation, reregistration and de-registration, and merger and consolidation of a private foundation provided for under section 60.51;

“**Secretary**” means the person appointed in accordance with section 60.12;

“**Signature**” and “*signed*” shall be interpreted in accordance with the Electronic Transactions Law;

“**Supervisory board**” means the supervisory board of a private foundation, if any, and to which sections 60.14 and 60.15 apply.

2. *Interpretations.* For the purposes of sections 60.10, 60.12, 60.14 and 60.16:

“**Direct line of relationship**” means a relationship of parent, child, grandparent, grandchild and further levels of such relationships in direct line; and

“**Side line of relationship**” means uncle or aunt, niece or nephew or cousin,

and shall include the spouse of such person and “parent” and “child”, etc. shall include a parent or child by adoption as well as by birth and shall include the spouse of a parent or child and the parent or child of the spouse.

3. *Application of provisions of Business Corporation Act.* Except there is a specific provision to the contrary in this Law, sections 1.4 and 1.5 of Part I of Chapter 1 of Part I of this Title shall have effect in relation to filing and certification provided for in this Law.

4. *Notarization and acknowledgment.* Section 13.11 of the Electronic Transactions Law shall apply to any requirement in this Act that a document be notarized or under oath.

§ 60.3. Definition of Private Foundation.

1. *Definition.* A foundation:

- (a) Established by a memorandum of endowment; and
- (b) Holding assets which have been irrevocably transferred to that foundation by one or more donors for the purpose set out in sub-section 4; and
- (c) Which has been registered,

shall be a private foundation within the meaning of this Act.

2. *Status of foundation.* A private foundation satisfying sub-section 1 shall be:

- (a) A legal entity;
- (b) Able to sue and be sued in its own name.

3. *Status of assets.* Assets transferred to a private foundation shall be the assets of that foundation and shall cease to be the assets of the donor and shall not become the assets of a beneficiary unless distributed in accordance with the provisions of the memorandum of endowment and this Law.

4. *Management of assets.* The assets transferred by the donor shall be managed, including being realized, applied, administered, invested and disbursed in accordance with the memorandum of endowment and this Law for the attainment of the objects:

- (a) Specified in the memorandum of endowment by the donor or donors, as the case may be; and
- (b) Permissible under this Law.

§ 60.4. Limitation on Objects of Private Foundation.

1. Permitted objects. Subject to sub-section 2, the permitted objects of a private foundation shall not include:

- (a) Carrying on of trade, that is to say any trade, manufacture, adventure or concern in the nature of trade;
- (b) Being or becoming:
 - (i) A partner in a partnership other than a limited partner in a limited partnership; or
 - (ii) A shareholder or a member in a company other than a limited company;
 - (iii) A director of a company;
- (c) Carrying on of an activity otherwise prohibited in or from within Liberia;
- (d) Carrying on any activity to which the Banking Law or the Insurance Law applies;
- (e) Without prejudice to paragraph (d), carrying on in or from within Liberia of any activity:
 - (i) In respect of which a license or authorization under any Law is required; and
 - (ii) In the absence of the grant of that license or authorization to the foundation.

2. Limitation to prohibition of sub-section 1. A private foundation may in the course of the management of its assets do such things as are necessary for their proper administration, including but not limited to the buying and selling of such assets, but such activity shall be incidental to the objects.

3. Charitable object not mandatory. An object of a private foundation need not be, but may be, charitable.

4. *Application to court to liquidate.* A private foundation which carries on an activity in breach of sub-section (1) shall be in default and the provisions of section 60.52.5 shall apply.

§ 60.5. Mode of Establishment of Private Foundation.

1. *Method of establishment by memorandum of endowment.* A person or persons may, by subscribing his name or their names, as the case may be, to a memorandum of endowment of a private foundation and otherwise complying with the requirements of this Law, establish a private foundation as a legal entity having separate personality.

2. *Method of establishment by will.* A private foundation may be established by means of a duly executed will and in that case:

- (a) Subject to sub-section 13, there shall be one donor only, who shall be the testator;
- (b) In this Law, where the context so requires, reference to the will shall be substituted for reference to the memorandum of endowment; and
- (c) The procedure set out in sub-sections 4 to 12 shall apply.

3. *Procedural requirements.* The formation and establishment of a private foundation shall not be completed until:

- (a) The memorandum of endowment has been filed and thereby registered under the provisions of this Act;
- (b) The registered agent has been appointed; and
- (c) The Certificate of the Registrar has been issued in accordance with section 60.22.

4. *Obligations of executor.* Where the memorandum of endowment of a foundation is the will of the donor, the executor of the estate of the donor shall:

- (a) Act as if he were the donor for the purpose of appointing officers and registering the foundation; and

- (b) As soon as may be appoint officers in accordance with the memorandum of endowment and this Law.

5. *Executor to report to officers.* The executor referred to in sub-section 4 shall periodically, and in any case at intervals of no more than 60 days, keep the officers appointed according to that sub-section informed of the progress of probate of the will constituting the memorandum of endowment.

6. *Appointment of administrator where delay in registration.* Where the provisions of section 60.21 in respect of registration cannot be satisfied at the end of a period of 12 months after the death of the donor, an application shall be made:

- (a) By the executor; or
- (b) If no application is made by the executor, by a person named or identified in the will as an officer of the proposed foundation,

to the court for the appointment of a person to act as administrator for the purpose of ensuring:

- (c) The proper appointment of officers;
- (d) The endowment of property to be the assets of the private foundation in accordance with the provisions of the memorandum of endowment; and
- (e) The registration of the private foundation under this Law,

and the court may appoint a fit and proper person as the administrator.

7. *Supervision of the court.* An administrator appointed under sub-section 6 shall be subject to the supervision of the court.

8. *Administrator to appoint supervisory board.* Where provision is made in the memorandum of endowment of the private foundation for the appointment of a supervisory board in respect that foundation, the administrator appointed under sub-section 6 shall appoint a supervisory board in accordance with the memorandum of endowment and the provisions of this Law.

9. *Duties of administrator.* Where an administrator is appointed under sub-section 6 he shall:

- (a) If no officers have been appointed in accordance with sub-section 4, appoint:
 - (i) The persons specified in the memorandum of endowment as officers of the private foundation, or,
 - (ii) Where neither the memorandum of endowment nor the management articles specify either by name or by some other identifying description the persons to be appointed officers, as officers fit and proper persons qualified under the terms of this Law to be officers of a private foundation;
- (b) Take steps, including, if, in his opinion, it is necessary, the institution of legal proceedings in Liberia or elsewhere, to ensure that the requirements of section 60.21.2(c) in respect of the property specified in the memorandum of endowment as the assets of the private foundation may be satisfied;
- (c) Administer, or cause to be administered, in a proper manner and to the best advantage to conserve and improve without undue risk the property to be the assets of the private foundation until such time as the requirements of section 60.21.2(c) are satisfied and the property is vested in the private foundation; and
- (d) Take such steps as are, in his opinion, necessary to ensure that title in the assets is properly vested in the private foundation.

10. *Termination of appointment of administrator.* The court, as soon as it is satisfied that:

- (a) The documents specified in sub-section 2 of section 60.21 are available; and
- (b) The application for registration under sub-section 1 of that section has been made,

shall cause the appointment of the administrator under this section to terminate.

11. *Costs.* The costs of the administrator appointed under this section, including his remuneration, approved by the court, shall be met by the executor:

- (a) Out of the property specified in the memorandum of endowment as the assets of the private foundation; or
- (b) In the event that the foundation is not registered, out of the property of the estate of the donor.

12. Death of donor before registration. Where a donor dies after subscribing to a memorandum of endowment but before the registration of the foundation under this Law, notwithstanding that the donor was not the sole donor, the provisions of sub-sections 4 to 11 shall apply *mutatis mutandis* as if the memorandum of endowment was contained in his will.

13. Mutual wills. Where two or more testators have made mutual wills and those wills take effect simultaneously, the testators shall be deemed to be one donor for the purpose of complying with sub-section 2(a).

§ 60.6. Memorandum of Endowment of a Private Foundation.

1. Mandatory contents of memorandum of endowment. The memorandum of endowment of a private foundation, shall state:

- (a) The name of the foundation with words “Private Foundation” as the last words of the name;
- (b) Details of the donor, that is to say:
 - (i) The name and address of the donor; and
 - (ii) Where the donor is a legal person, the number and place of registration of that legal person;
 - (iii) The registered address of the foundation in Liberia and the name and address of the registered agent; and
 - (iv) The address for service of documents on the donor;
- (c) The objects of the foundation;
- (d) The endowment of the assets to be the initial assets of the foundation and a statement of those assets;

- (e) The designation of the beneficiary or the identification of a body by which the beneficiary is to be ascertained, except where a foundation has been formed to benefit the public at large;
- (f) A statement of whether the foundation is established for an indefinite period or a definite period and, where it is established for a definite period, that period;
- (g) The name and address of the secretary to the foundation.

2. *Optional contents of memorandum of endowment.* Subject to the provisions of this Law, the memorandum of endowment of a private foundation may include provisions:

- (a) For the appointment, removal, period of office and representative authority of officers of the foundation, including the number and descriptions of such persons;
- (b) For the appointment, removal and period of office of the auditor, if any, to the foundation and may provide that the appointment of an auditor is at the discretion of the supervisory board;
- (c) For the appointment of a supervisory board or other supervisory persons for the maintenance of the objects of the foundation and the appointment of persons to carry out particular duties on behalf of the foundation;
- (d) Specifying the circumstances in which it may be necessary to appoint a supervisory board, and, where it proves necessary to appoint a supervisory board, for the appointment, removal, period of office and representative authority of the members of that board;
- (e) Permitting amendment to the memorandum of endowment and specifying circumstances in which it may be amended;
- (f) Requiring or permitting the making of management articles;
- (g) Providing for the endowing of supplementary assets of the foundation in addition to the initial assets;

- (h) Providing for the circumstances, if any, in which the foundation may be re-domiciled or de-registered upon registration as another legal entity registered in Liberia, and the conditions to be satisfied in respect of such re-domiciliation or de-registration;
- (j) Except where the memorandum of endowment is contained in a will and subject to sub-section 5, reserving the right of revocation of the foundation before registration.

3. *Model memorandum of endowment.* The memorandum of endowment of a private foundation may adopt all or any of the provisions contained in the Model Memorandum of Endowment and, in so far as the memorandum of endowment does not exclude or modify the provisions contained in that Model, those provisions shall, so far as applicable, be the terms of the memorandum of endowment of the private foundation in the same manner and to the same extent as if they were contained in the memorandum.

4. *Provisions of Law apply where memorandum silent.* In the absence from the memorandum of endowment of a provision on any of the matters specified in sub-section 2, the provisions of this Law in respect of that matter shall apply.

5. *Restriction on revocation.* A donor which is a legal person may not reserve the right to revoke the foundation before registration.

6. *Form of memorandum of endowment.* Except as is provided for in sub-section 7, the memorandum of endowment of a private foundation shall be in the form of a deed and shall:

- (a) Where a donor is a natural person, be signed by each such donor in the presence of at least one witness who shall attest the signature, or
- (b) Where a donor is a legal person, be signed on behalf of such donor by the person or persons authorized for that purpose.

7. *Form of memorandum of endowment where foundation established on death of donor.* The memorandum of endowment of a private foundation established on the death of the donor shall be in the form of a duly executed will and shall comply with sub-section 8.

8. *Filing of memorandum of endowment.* When delivered to the Registrar for filing the memorandum of endowment of a private foundation shall be:

- (a) Printed;
- (b) Divided into paragraphs numbered consecutively;
- (c) Notarized and apostilled.

9. *Fee on filing.* On filing a memorandum of endowment the fee prescribed in section 60.66 shall be paid to the Minister of Finance and a receipt therefor shall accompany the documents presented for filing.

§ 60.7. Management Articles.

1. *Registration of management articles.* Where the memorandum of endowment of a private foundation provides that management articles:

- (a) Shall be made; or
- (b) May be made,

there may, but need not, be registered, with the memorandum of endowment, management articles of the foundation signed by the subscribers to the memorandum of endowment and specifying regulations for the foundation.

2. *Contents of management articles.* Management articles of a private foundation may include regulations:

- (a) Concerning distributions of assets made, or to be made, by the governing bodies of the foundation;
- (b) More specifically identifying any beneficiary, or supplementary beneficiaries, of the foundation;
- (c) Determining the minimum level of assets of the foundation in the absence of which no distribution to any beneficiary may be made;
- (d) Providing for the identification of the remaining beneficiary upon a winding up of the foundation;
- (e) Providing for the regulation of any governing bodies of the foundation.

3. *Model management articles.* The management articles of a private foundation may adopt all or any of the regulations contained in the Model Management Articles, and, where there is a requirement in the memorandum of endowment that management articles are to be made, in so far as the management articles do not exclude or modify the provisions contained in that Model, those provisions shall, so far as applicable, be the terms of the management articles of the private foundation in the same manner and to the same extent as if they were contained in the articles.

4. *Provisions of Law apply where no management articles.* In the absence:

- (a) Of management articles of a private foundation; or
- (b) From such management articles of a regulation on any matter;

the provisions of this Law in respect of that matter shall apply.

5. *Form of management articles.* Except as is provided for in sub-section 6, where management articles of a foundation to be registered are delivered to the Registrar they shall be in the form of a deed and shall:

- (a) Where a donor is a natural person, be signed by each such donor in the presence of at least one witness who shall attest the signature; or
- (b) Where a donor is a legal person, be signed on behalf of such donor by a person authorized for that purpose.

6. *Form of management articles where foundation established on death of donor.* If management articles of a private foundation established on the death of the donor are delivered to the Registrar they shall be in the form of a duly executed will and shall comply with sub-section 7.

7. *Filing of management articles.* When delivered to the Registrar the management articles of a foundation shall be:

- (a) Printed;
- (b) Divided into paragraphs numbered consecutively;
- (c) Notarized and apostilled.

§ 60.8. Initial Assets.

1. *Value of initial assets.* The Registrar shall not register a foundation unless he is satisfied that on registration that foundation will have assets of a value of not less than US\$10,000.

2. *Statement of initial assets.* Except where the assets are currency, for the purpose of satisfying the Registrar of the value of the assets referred to in sub-section 1, there shall be delivered to the Registrar a statement certified by a person named in the memorandum of endowment as an officer of the foundation and complying with section 60.10, that the value of the assets:

- (a) Which will form the property of the foundation at the date of registration of the foundation; or
- (b) In the case of a foundation in respect of which the memorandum of endowment is an irrevocable covenant, at the date on which, in fulfillment of the covenant, the assets are transferred,

satisfies the requirements of sub-section 1.

3. *Exchange rate.* For the purpose of determining whether or not the requirement of sub-section 1 is satisfied, where the assets are in a currency other than US \$ the Registrar, for the purpose of conversion of that currency into US \$, shall apply the rate of exchange in respect of that currency and US \$ prevailing on the day on which the memorandum of endowment together with the documents required by sub-section 1 of section 60.21 are delivered to him in accordance with that section.

§ 60.9. Powers and Obligations of Donor.

1. *More than one donor.* Where in respect of a private foundation there is more than one donor, the powers of the donor under:

- (a) The memorandum of endowment;
- (b) The management articles, if any; and
- (a) This Law,

may only be exercised by all the donors acting jointly and in common, unless the memorandum of endowment otherwise provides, and then in accordance with that memorandum.

2. *No devolution of donor rights.* The rights of a donor in respect of the formation of a private foundation shall not devolve upon his successors in title or assigns.

3. *Subsequent endowment not to give donor rights.* A person who endows assets to a private foundation after its registration shall not thereby acquire the powers of a donor.

4. *Enforcement of obligation to endow against donor.* Where a donor has made an undertaking, recorded in the memorandum of endowment of the private foundation, to endow assets to a private foundation, whether that undertaking is to endow the assets to the foundation before or after the registration of the memorandum of endowment, the private foundation:

- (a) May enforce that undertaking against the donor; and
- (b) Shall do so in respect of the initial assets of the foundation, if at the end of a period of 12 months from the date of registration, the property the subject of the undertaking has not become the assets of the private foundation.

5. *Application to irrevocable covenant.* Where a memorandum of endowment is in the form of an irrevocable covenant:

- (a) Sub-section 4(b) shall have effect as if the reference to the date of registration was a reference to the date on which the assets should transfer to the foundation in fulfillment of the irrevocable covenant; and
- (b) The period of 12 months therein referred to shall be the period of 12 months from that date.

§ 60.10. Appointment and Qualification of Officers and Registered Agent.

1. *Requirement for three officers.* A private foundation shall have at least three officers.

2. *Requirement that donor appoints officers.* The donor or donors of a private foundation, or where the memorandum of endowment is a will, an executor of that will, shall before registration of a foundation appoint at least three persons, at least two of whom shall be natural persons to be officers of the private foundation, and on appointment each such person shall be an officer of that private foundation.

3. *Beneficiary may not be officer.* A person who is designated or identified as a beneficiary of a private foundation, his or her spouse and persons in a direct line or in a side line of relationship with the beneficiary shall not be appointed as an officer of that foundation.

4. *Application of sub-section 2 to legal person as beneficiary.* Where a beneficiary of a private foundation is a legal person, any natural person who is a shareholder, director, secretary, manager, partner or controller (which expression shall include any person in accordance with whose instructions any shareholder, director, secretary, manager, partner or controller is accustomed to act), of that beneficiary, his or her spouse, as well as any person in a direct line or in a side line of relationship with the such person, shall not be appointed as an officer.

5. *Restrictions on persons eligible to be appointed as officers.* A person shall not be appointed as an officer of a private foundation:

- (a) In the case of a natural person, if he is an undischarged bankrupt;
- (b) In the case of a legal person, if it is the subject of any proceedings which may result in the entity being wound up or otherwise dissolved;
- (c) If he, his spouse, or persons in a direct line or in a side line of relationship with the person is a member of the supervisory board of that foundation; or
- (d) Where an officer of a private foundation is a legal person, if any shareholder, director, secretary, manager, partner or controller (which expression shall include any person in accordance with whose instructions any shareholder, director, secretary, manager, partner or controller is accustomed to act) of that legal person, his or her spouse as well as any person in a direct line or in a side line of relationship with the such person, is a member of the supervisory board of that foundation; and
- (e) Unless before appointment:

- (i) He complies with any requirement of this or any other Act to be satisfied by a person to be so appointed; and
- (ii) He has by himself, or by his agent in writing, signed and delivered to the donor, or the foundation, as the case may be, a consent in writing to act as such an officer.

6. *Filing of names of officers.* On the application for registration of the memorandum of endowment of a foundation the donor or executor, as the case may be, shall deliver to the Registrar the name and address of every person who has consented to be an officer of that foundation.

7. *Obligation to appoint officer to fill vacancy.* Where, by virtue of this section the appointment of an officer in relation to a private foundation registered under this Law, or to be registered under this Law, is required, the donor or executor, or after the registration of the foundation, the officers shall:

- (a) Appoint a person satisfying the requirements to be an officer of a private foundation;
- (b) Ensure that a sufficient number of persons to satisfy the requirements of this Law and the memorandum of endowment is so appointed;
- (c) Deliver to the Registrar the name and address of every person who has been appointed as, and who has consented to be, an officer of the foundation together with a specimen of the signature, or authorized signatures, of that person, the authenticity of such signature to be attested to in a document duly notarized.

8. *Appointment personal to officer.* The appointment of a person as an officer is personal to that person and may not be assigned by him.

9. *Obligation on officers to inform of change in status.* A person appointed as an officer in relation to a private foundation, shall, in the event that he ceases to comply with any of the requirements of this section, give notice in writing of that event to:

- (a) The foundation; and
- (b) The Registrar,

within 7 days after the occurrence thereof.

10. Notice of intention to cease to act as officer. An officer appointed in relation to a private foundation who intends to cease acting as an officer in relation to that foundation shall:

- (a) Give notice in writing of his intention to the foundation; and
- (b) File with the Registrar a declaration that he has given such notice,

and such notice shall be given and declaration filed no later than 7 days before the officer intends to cease to so act.

11. Continuing obligation of officer. Where a person is appointed as an officer of a private foundation, he shall so continue and the provisions of this section and section 60.11 shall apply to that person until:

- (a) The discharge of that person as an officer in accordance with the memorandum of endowment or the management articles; or
- (b) The expiration of a period of 7 days after the date on which a declaration is filed under sub-section 10; or
- (c) The private foundation ceases to be a private foundation registered under this Law; or
- (d) The winding up or dissolution, as the case may be, of the private foundation; or
- (e) The death or bankruptcy of the person; or
- (f) The winding up or dissolution, as the case may be, of the legal person being the officer; or
- (g) The occurrence of any other event which disqualifies the person from acting as an officer,

whichever event occurs first, and any notice provided for in this Law relating to the ending of the appointment of a person as an officer has been filed as required by this Law, and thereafter he shall cease to be an officer.

12. *Recording of information by Registrar.* Where the Registrar receives notice under sub-section 7(c), 9 or 10(b) he shall record that notice in the index in respect of the private foundation and retain the notice in the Register.

13. *Application to court to fill officer vacancy.* Where for the time being no officers are appointed to a private foundation or the number of officers appointed is less than that required by:

- (a) The memorandum of endowment; or
- (b) This Law,

an application may be made to the court by:

- (c) A donor,
- (d) An officer, or
- (e) A member of the supervisory board or some other supervisory person,

for the appointment by the court of one or more officers for the purpose of complying with the requirements of paragraph (a) or (b).

14. *Appointment of officer by the court.* Where the court is satisfied that:

- (a) An application made under sub-section 13 is well founded; and
- (b) Without the order of the court the requirements of paragraph (a) or (b) of that sub-section in respect of the appointment of officers will not be met,

the court may appoint one or more persons who comply with this section as officers.

15. *Removal of officer by the court.* Where an officer:

- (a) Has failed to comply with sub-section 9; or
- (b) Has failed to carry out, or failed to carry out properly, the duties required of him in fulfillment of his obligations under the memorandum of endowment or this Law;

on an application to the court by:

- (a) A donor;
- (b) An officer; or
- (c) A member of the supervisory board or some other supervisory person,

the court may order the removal of an officer and the appointment in his place as an officer of a person who complies with this section.

16. Application of the Law to officer appointed by the court. The provisions of the memorandum of endowment and this Law in respect of officers shall apply to a person appointed as an officer in accordance with sub-section 14 or 15 as they apply to an officer appointed in any other way provided for in this Law.

17. Liability of officer to foundation after appointment ceases. Notwithstanding that a person has ceased to be an officer, any liability to the foundation which he may have incurred as an officer shall continue to be a liability enforceable against him by the foundation.

18. Officers not liable for acts of foundation. Nothing in this section shall be construed as making a person appointed as an officer of a private foundation liable in any legal proceedings (whether civil or criminal) for any act or omission of that foundation.

19. Appointment and resignation, etc. of registered agent. The provisions of Chapter 3 of Part I of this Title in respect of registered agent and service of process shall apply in respect of the registered agent of a private foundation as they apply in respect of a domestic corporation.

§ 60.11. Duties, etc. of Officers.

1. General duty. An officer of a private foundation shall take all such steps and do or cause to be done all such things as may be necessary to properly administer the private foundation to achieve the objects of that private foundation.

2. Duty to exercise skill. An officer of a private foundation shall:

- (a) Exercise due skill and care in the conduct of the private foundation, including exercising:
 - (i) His professional skill and care; and
 - (ii) The skill and care of a competent manager in respect of the management of the assets of the private foundation of which he is an officer; and
- (b) Act to conserve the assets of the private foundation.

3. *Duty to comply with memorandum of endowment and management articles.* An officer of a private foundation shall act in accordance with the memorandum of endowment and the management articles.

4. *Duty to act jointly.* Subject to sub-section 5, the officers of a private foundation acting jointly shall be a governing body of the foundation and, as against a third party, the officers so acting shall be the foundation.

5. *Duties affected by existence of supervisory board.* Where, in accordance with section 60.6.2, there is provision in the memorandum of endowment of a private foundation for the appointment of a supervisory board, and a supervisory board has been appointed, the powers of the officers of the foundation shall not include those powers reserved to the supervisory board.

6. *Action by circulation of written document.* Except where the memorandum of endowment of a private foundation otherwise provides, the officers of a private foundation shall act unanimously and may so act by circulation of a written document duly signed by each officer, subject to:

- (a) Section 60.34 in respect of a first meeting, section 60.35 in respect of an annual meeting and section 60.43 in respect of the account and balance sheet and officers' report;
- (b) The right of a donor, the supervisory board or other supervisory person to call a meeting of the officers at which the business of the foundation, or a particular item of that business, is to be conducted; and
- (c) The right of any officer to object on any occasion to the conduct of business in this way.

7. *Unanimity required for distribution.* Except where the memorandum of endowment of a private foundation otherwise provides, no distribution to a beneficiary shall be validly made unless it is signed by all the officers then appointed.

8. *Power to distribute only in accordance with memorandum and articles.* The officers of a private foundation shall authorize a distribution to a beneficiary only in accordance with the memorandum of endowment and the management articles of the foundation.

9. *No distribution to defeat creditor.* No distribution to a beneficiary shall be made for the purpose of defeating, or where the effect of so doing would be to defeat, the claim of any creditor of the private foundation.

10. *Power to delegate.* Except where the memorandum of endowment of a private foundation otherwise provides:

- (a) The officers acting unanimously may delegate to any one of themselves by a document signed by each of them any power of the officers;
- (b) A power so delegated shall be exercised as provided for in the document of delegation;
- (c) Sub-section 4 shall apply to the officer to whom the power is delegated in the exercise of that power as if the reference in that sub-section to the officers acting jointly was a reference to the officer exercising the delegated power.

11. *Remuneration.* Except where the memorandum of endowment of a private foundation otherwise provides, the officers of the foundation shall be remunerated in accordance with the duties they are required to perform and taking account of the financial position of the foundation.

§ 60.12. Qualification and Appointment of Secretary.

1. *Requirement to appoint secretary.* There shall be a secretary appointed in respect of a private foundation.

2. *Donor to appoint.* The donor or donors of a private foundation, or where the memorandum of endowment is a will, an executor of that will, shall before registration of a foundation appoint a person to be the secretary to that foundation.

3. *Requirement to file with Registrar.* On the application for registration of the memorandum of endowment of a foundation the donor or the executor, as the case may be, shall deliver to the Registrar the name and address of the person who has consented to be secretary to that foundation.

4. *Officers to make subsequent appointment.* Where, by virtue of this section the appointment of a secretary to a foundation to be registered, or which is registered, is required, the donor or the executor, as the case may be, or, after the registration, the officers, shall appoint:

- (a) A person, satisfying the requirements to be the secretary to a private foundation;
- (b) Ensure that, so long as the requirement in respect of a secretary continues, a person satisfying those requirements is so appointed;
- (c) Deliver to the Registrar the name and address of every person who has been appointed as secretary and who has consented to be the secretary to the foundation, together with a specimen of the signature, or authorized signatures, of that person, the authenticity of such signature to be attested to in a document duly notarized.

5. *Qualification of secretary.* The requirements referred to in sub-section 4(a) are that the secretary is not precluded from being appointed as an officer by sub-sections 3, 4 and 5 of section 60.10.

6. *Appointment personal to secretary.* The appointment of a person as secretary is personal to that person and may not be assigned by him.

7. *Obligation on secretary to inform of change in status.* A secretary appointed to a private foundation shall, in the event that he ceases to comply with any of the requirements of sub-section 5, give notice in writing of that event to the foundation and the Registrar within 7 days after the occurrence thereof.

8. *Notice of intention to cease to act as secretary.* A secretary appointed to a private foundation who intends to cease acting as the secretary to that foundation shall:

- (a) Give notice in writing of his intention to the foundation; and

- (b) File with the Registrar a declaration that he has given such notice,

and such notice shall be given and declaration filed no later than 7 days before the secretary intends to cease to so act.

9. *Duties of secretary.* The person appointed as secretary to a private foundation to be registered or registered shall be, in respect of that foundation and all matters to which reference is made in this Law to the secretary, the secretary and shall have the duties, powers and obligations provided for in this Law in respect of the secretary, and in particular, but without limiting the generality of the foregoing, shall, on behalf of the foundation:

- (a) Accept delivery of all documents from the Registrar and the registered agent;
- (b) Where the Registrar, by notice served on the foundation and the secretary, requires the foundation to take any action or give any information concerning itself, take such action or give such information within the time specified in the notice or, if no such time is specified, within a reasonable time,

and where in this or in any other Law there is reference to any notice being served on a private foundation or any requirement being made of a private foundation the foundation shall be deemed to have notice of that service or knowledge of that requirement if the secretary appointed to that foundation shall have been served with the notice or shall have had notice of the requirement.

10. *Additional duties.* The duties prescribed by sub-section 9, shall be in addition to and shall not derogate from any other duties prescribed in relation to the secretary to a private foundation by or under this or any other Law.

11. *Continuing appointment of secretary.* Where a secretary is appointed to a private foundation, the provisions of this section shall apply to that secretary until:

- (a) The appointment by the foundation of another secretary; or
- (b) The expiration of a period of 7 days after the date on which a declaration is filed under sub-section 8; or
- (c) The foundation ceases to be a private foundation registered under this Law; or

- (d) The winding up or dissolution, as the case may be, of the foundation; or
- (e) The death or bankruptcy of the natural person being secretary; or
- (e) The winding up or dissolution, as the case may be, of the legal person being the secretary; or
- (f) The occurrence of any other event which disqualifies the person from acting as secretary,

whichever event occurs first and any notice provided for in this Law relating to the ending of the appointment of a person as secretary has been filed as required by this Law.

12. Recording of information by Registrar. Where the Registrar receives notice under sub-section 4(c), 7 or 8(b) he shall record that notice in the index in respect of the private foundation and retain the notice in the Register.

13. Secretary not liable for acts of foundation. Nothing in this section shall be construed as making the secretary appointed to a private foundation liable in any legal proceedings (whether civil or criminal) for any act or omission of the private foundation.

§ 60.13. Address of Record.

1. Requirement to have address of record. A private foundation shall have an address of record which shall be an address of the secretary to that foundation, to which all communications and notices may be addressed.

2. Filing of address of record. Notice of the situation of the address of record, and of any change therein, shall be given within 28 days after the date of the registration of the private foundation or of the change, as the case may be, to the Registrar who shall record the same in the entry in the index in respect of the foundation and retain the notice in the Register.

3. Consequences of failure to notify change. Where by virtue of the application of this Law a person ceases to be the secretary to a private foundation:

- (a) The office of that person shall cease to be the address of record of that foundation; and

- (b) Until such time as the Registrar has received notice of the situation of a new address of record of the foundation in accordance with sub-section 2:
 - (i) The foundation and any officer of that foundation shall be in default;
 - (ii) The address of record shall be deemed to be the address of any officer of the foundation and the requirements of this section and of section 60.12 in respect of the delivery of any document shall be satisfied by delivery at that address.

§ 60.14. Appointment and Qualifications of Supervisory Board.

1. *Three people to form supervisory board.* Where provision is made in the memorandum of endowment of a private foundation for the appointment of a supervisory board it shall consist of at least three natural persons.

2. *Members of supervisory board to be appointed in accordance with memorandum of endowment, etc..* The members of the supervisory board shall be appointed in accordance with the requirements of the memorandum of endowment of a private foundation and:

- (a) If appointed before registration, may be appointed by the donor, or an administrator appointed under section 60.5.6;
- (b) If a supervisory board has been appointed, may be appointed by that board;
- (c) Otherwise shall be appointed by the officers,

subject to the requirements of the memorandum of endowment or the management articles or this section.

3. *Restriction on number of beneficiaries appointed to supervisory board.* Persons who are designated or identified as a beneficiary of a private foundation, the spouse of such a person, persons in a direct line or in a side line of relationship with the beneficiary shall not be appointed so as to constitute a majority of a supervisory board.

4. *Application of sub-section 3 to beneficiary which is a legal person.* Where a beneficiary of a private foundation is a legal person, the provisions of sub-section 3 shall apply to any natural person who is a shareholder, director, secretary, manager, partner or controller (which expression shall include any person in accordance with whose instructions any shareholder, director, secretary, manager, partner or controller is accustomed to act) of that beneficiary, his or her spouse, as well as any person in a direct line or in a side line of relationship with such person, as if the reference to a beneficiary were a reference to such a natural person.

5. *Officers etc. not to be appointed to supervisory board.* Persons who are officers or the auditor, or a member of the firm of which the auditor is a member, of a private foundation, the spouse of such a person, persons in a direct line or in a side line of relationship with the officers or the auditor, or the member of the auditor's firm, shall not be appointed as members of the supervisory board of that foundation.

6. *Application of sub-section 5 to officer which is a legal person.* Where an officer of a private foundation is a legal person, the provisions of sub-section 5 shall apply to any natural person who is a shareholder, director, secretary, manager, partner or controller (which expression shall include any person in accordance with whose instructions any shareholder, director, secretary, manager, partner or controller is accustomed to act), of that officer, his or her spouse, as well as any person in a direct line or in a side line of relationship with the such person, as if the reference to an officer were a reference to such a natural person.

7. *Restrictions on persons eligible to be appointed to supervisory board.* A person shall not be appointed as a member of the supervisory board of a private foundation:

- (a) If he is an undischarged bankrupt;
- (b) Unless, before appointment:
 - (i) He complies with any requirement of this or any other Law to be satisfied by a person to be so appointed; and
 - (ii) He has signed and delivered to the donor, or the administrator, or the officers, a consent in writing to act as such, or has signified to the Registrar such consent, as the case may be.

8. *Appointment personal to member of supervisory board.* The appointment of a person as a member of the supervisory board is personal to that person and may not be assigned by him.

9. *Obligation on member of supervisory board to inform of change in status* A person appointed as a member of the supervisory board of a private foundation shall, in the event that he ceases to comply with any of the requirements of this section, give notice in writing of that event to the private foundation and, where he was appointed subject to the approval of or by the court, to the court, within 7 days after the occurrence thereof.

10. *Notice of intention to cease to act as member of supervisory board.* A person appointed as a member of the supervisory board of a private foundation who intends to cease acting in that capacity in relation to that foundation shall:

- (a) Give notice in writing of his intention to the foundation; and
- (b) Where he was appointed subject to the approval of or by the court, file with the court a declaration that he has given such notice,

and such notice shall be given and declaration filed no later than 7 days before the person intends to cease to so act.

11. *Continuing appointment of member of supervisory board.* Where a person is a member of the supervisory board of a private foundation, this section and section 60.15 shall apply to that person until:

- (a) The discharge of that person as a member of the supervisory board in accordance with the memorandum of endowment or the management articles; or
- (b) The expiration of a period of 28 days after the date on which a declaration is filed under sub-section 10; or
- (c) The private foundation ceases to be registered under this Law; or
- (d) The winding up or dissolution, as the case may be, of the private foundation; or
- (e) The death or bankruptcy of the member; or

- (f) The occurrence of any other event which disqualifies the person from being a member,

whichever event occurs first, and any notice provided for in this Law relating to the ending of the appointment of a person as a member of the supervisory board has been filed as required by this Law.

12. Application to the court for appointment of member of supervisory board by the court. Where for the time being no members of a supervisory board are appointed to a private foundation or the number of members appointed is less than that required by:

- (a) The memorandum of endowment; or
- (b) This Law,

an application may be made to the court by:

- (c) A donor;
- (d) An officer; or
- (e) A member of the supervisory board or some other supervisory person,

for the appointment by the court of one or more persons to be members of the supervisory board for the purpose of complying with the requirements of paragraph (a) or (b).

13. Appointment of member of supervisory board by the court. Where the court is satisfied that:

- (a) An application made under sub-section 12 is well founded; and
- (b) Without the order of the court the requirements of paragraph (a) or (b) of that sub-section in respect of the appointment of a member of the supervisory board will not be met,

the court may appoint one or more persons who comply with this section as members of the supervisory board.

14. *Removal of member of supervisory board by the court.* Where a member of a supervisory board:

- (a) Has failed to comply with sub-section 9; or
- (b) Has failed to carry out, or failed to carry out properly, the duties required of him in fulfillment of his obligations under the memorandum of endowment or this Law;

on an application to the court by:

- (a) A donor;
- (b) An officer; or
- (c) A member of the supervisory board or some other supervisory person,

the court may order the removal of that person as a member of the supervisory board and the appointment of a person who complies with this section as a member.

15. *Application of the Law to member of supervisory board appointed by the court.* The provisions of the memorandum of endowment and this Law in respect of members of the supervisory board shall apply to a person appointed as a member in accordance with sub-section 13 or 14 as they apply to a member appointed in any other way provided for in this Law.

16. *Liability of member of supervisory board to foundation after appointment ceases.* Notwithstanding that a person has ceased to be a member of the supervisory board, any liability to the foundation which he may have incurred as a member shall continue to be a liability enforceable against him by the foundation.

17. *Application of this section to other supervisory person.* Where provision is made in the memorandum of endowment or the management articles for the appointment of some other supervisory person, the provisions of this section and section 60.15 shall apply *mutatis mutandis*, subject to the memorandum of endowment, to that appointment and that person.

18. *Members of supervisory board not liable for acts of foundation.* Nothing in this section shall be construed as making a member of a supervisory board of a private foundation liable in any legal proceedings (whether civil or criminal) for any act or omission of the private foundation.

§ 60.15. Duties, etc. of Supervisory Board.

1. *General duties.* The supervisory board of a private foundation shall:
 - (a) Take such action as it may deem necessary to ensure compliance by the foundation and the officers with the provisions of:
 - (i) The memorandum of endowment and the management articles; and
 - (ii) This Law;
 - (b) Supervise generally the management and conduct of the foundation by the officers.
2. *Supervisory board to represent the foundation.* The supervisory board of a private foundation shall, as against the officers, represent the foundation and, subject to sub-section 3, for the purpose of ensuring compliance with:
 - (a) The terms of the memorandum of endowment and the management articles; and
 - (b) The provisions of this Law,the officers of the foundation shall act in accordance with the instructions of the supervisory board.
3. *Powers contained in memorandum and articles.* Subject to sub-sections 1 and 2, the memorandum of endowment or the management articles of a private foundation may:
 - (a) Specify the powers of the supervisory board;
 - (b) Provide for powers in addition to those provided for in this Law.
4. *Power to obtain documents etc..* The supervisory board of a private foundation shall have the powers of an auditor contained in section 60.16.11 in respect of access to the books, records and accounts of the foundation.

5. *Right to have notice of meetings etc..* In addition to the rights of the supervisory board of a private foundation provided for:

- (a) In the memorandum of endowment or the management articles; or
- (b) Elsewhere in this Law,

the supervisory board shall have the right:

- (c) To be informed of all meetings of the officers;
- (d) To attend and be heard but not to vote at such meetings;
- (e) Where any business of a foundation is conducted by:
 - (i) The circulation of documents, to be included in the circulation of documents at the time that they are circulated to the officers;
 - (ii) The delegation of powers to an officer, to be informed of the terms and any exercise of the delegation.

6. *Members of board acting jointly and severally.* References in sub-sections 4 and 5 to the supervisory board of a private foundation apply to the members of the board acting jointly and severally.

§ 60.16. Appointment and Qualification of Auditor etc..

1. *Initial appointment of auditor.* Where:

- (a) There is provision in the memorandum of endowment for the appointment of an auditor, the donor or the officers shall in accordance with that provision, and in any case within 1 month of the registration of the foundation; or
- (b) There is provision in the memorandum of endowment for the appointment of an auditor and:
 - (i) No appointment has been made in accordance with paragraph (a);
 - (ii) There is a supervisory board appointed,

the supervisory board shall in accordance with that provision; or

- (c) There is no provision in the memorandum of endowment for the appointment of an auditor and there is a supervisory board or some other supervisory person appointed, the supervisory board or the other supervisory person may,

appoint a person satisfying the requirements of this section in respect of auditors as an auditor in accordance with that provision and the person so appointed shall hold office as auditor unless he is removed or resigns in accordance with this section.

2. *Subsequent appointment of auditor.* Where, because of the removal of an auditor or his resignation or for some other reason, there is no auditor appointed in respect of a registered foundation:

- (a) If there is a requirement in the memorandum of endowment that an auditor be appointed, the supervisory board, or where there is no supervisory board, the officers shall no later than 1 month from the date on which there ceased to be an auditor appointed; and
- (b) If there is no requirement in the memorandum of endowment that an auditor be appointed, the supervisory board may,

appoint as an auditor a person satisfying the requirements of this section.

3. *Application to court to appoint auditor.* If, where there is a requirement under the memorandum of endowment or by virtue of a decision of the supervisory board that an auditor be appointed:

- (a) An appointment of an auditor is not made in accordance with subsections 1 or 2, as the case may be; or
- (b) It appears to the supervisory board or any officer that the auditor appointed:
 - (i) Does not satisfy the requirements of this section; or
 - (ii) Is not fulfilling his functions in accordance with this section,

on the application of an officer or the supervisory board to the court, the court may appoint:

- (c) An auditor to the private foundation;
- (d) Order the removal of an auditor and the appointment of a new auditor.

4. *Restrictions on persons eligible to be appointed as auditor.* An auditor of a private foundation may not:

- (a) Be a beneficiary; or
- (b) Be a member of a governing body; or
- (c) Be an employee of the foundation; or
- (d) Have any function in or economic connection with an enterprise on which a private foundation can exercise substantial influence; or
- (e) Have occupied such a position as is referred to in paragraph (d) during the three years prior to his appointment as auditor; or
- (f) Have a direct line or a side line of relationship with a person falling within paragraphs (a) to (e); or
- (g) Be a partner in a firm in which one of the partners is with a person falling with paragraphs (a) to (f),

and where a beneficiary or officer of the foundation is a legal person, the prohibitions contained in paragraphs (a) to (g) shall apply in respect of any natural person who is a shareholder, director, secretary, manager, partner or controller (which expression shall include any person in accordance with whose instructions any shareholder, director, secretary, manager, partner or controller is accustomed to act), of that beneficiary or officer, his or her spouse, as well as any person in a direct line or in a side line of relationship with such person.

5. *Remuneration of auditor.* The remuneration of the auditor of a private foundation shall be determined by the supervisory board except that:

- (a) The remuneration of an auditor appointed before the registration of the private foundation may be determined by the donor;

- (b) Where an auditor is appointed by virtue of a requirement in the memorandum of endowment the remuneration of that auditor shall be determined by the officers;
- (c) Where an auditor is appointed by the court the remuneration of that auditor shall be determined by the court.

6. *Appointment personal to auditor.* The appointment of a person as an auditor is personal to that person and may not be assigned by him.

7. *Obligation of auditor to inform of change in status.* An auditor of a private foundation, shall, in the event that he ceases to comply with any of the requirements of sub-section 4 give notice in writing of that event:

- (a) To the foundation; or
- (b) Where he is appointed by the supervisory board, to the board and the foundation; or
- (c) Where he appointed by the court, to the court and the foundation,

within 7 days after the occurrence thereof.

8. *Notice of intention to cease to act as auditor.* A person appointed auditor of a private foundation who intends to cease acting as the auditor to that foundation shall give notice in writing of his intention in accordance with paragraphs (a) to (c) of sub-section 7 and such notice shall be given no later than 7 days before the auditor intends to cease to so act.

9. *Continuing obligation of auditor.* Where an auditor is appointed in relation to a private foundation, the provisions of this section shall apply to that auditor until:

- (a) The termination of his appointment in accordance with the memorandum of endowment and this Law; or
- (b) The expiration of a period of 7 days after the date on which notice is served under sub-section 8; or
- (c) The foundation ceases to be a private foundation registered under this Law; or

- (d) The winding up or dissolution, as the case may be, of the foundation; or
- (e) The death or bankruptcy of the natural person being auditor; or
- (e) The winding up or dissolution, as the case may be, of the firm being the auditor; or
- (f) The occurrence of any event which disqualifies the person from acting as auditor,

whichever event occurs first.

10. Duty to make report. The auditor of a private foundation shall within 3 months of the end of the financial year of any foundation examine the accounts of the foundation and make a report to the supervisory board, or, in the absence of a supervisory board, to the officers, and the report shall state:

- (a) Whether or not he has obtained all the information and explanations he has required; and
- (b) Whether, in his opinion, the balance sheet referred to in the report is properly drawn up so as to exhibit a true and correct view of the state of the foundation's affairs according to the best of his information and the explanations given to him, and as shown by the books of the foundation.

11. Right of access to books, etc.. Every auditor of a private foundation shall have a right of access at all times to the books and accounts and vouchers of the foundation, and shall be entitled to require from the officers of the foundation such information and explanation as may be necessary for the performance of the duties of the auditor.

12. Right to attend and speak at meetings. The auditor of a private foundation shall be entitled to attend any meeting of the officers or the supervisory board of the foundation at which any accounts which have been examined or reported on by him are to be laid before the meeting and to make any statement or explanation he desires with respect to the accounts.

13. Power to disclose information to governing bodies. The auditor of a private foundation shall not be under a duty of confidentiality such as to preclude him from disclosing:

- (a) To one governing body information obtained from another governing body of the foundation; and
- (b) To persons assigned auditing functions in the memorandum of endowment of the foundation information he has obtained in the course of his duties under this section.

14. Reference of dispute to court. In the event of a dispute between an auditor of a foundation and a governing body of a foundation concerning the interpretation and application of statutory requirements as well as of the memorandum of endowment and the management articles, or concerning his appointment or the termination thereof or his remuneration, the auditor or the governing body may refer the matter to the court which shall determine the matter.

§ 60.17. Restriction on Registration of Foundations by Certain Names.

1. Restrictions on names. No private foundation shall be registered by a name:

- (a) Which includes:
 - (i) "Limited" or an abbreviation of "limited"; or
 - (ii) A translation of, or words conveying a similar meaning to, "limited"; or
 - (iii) An abbreviation of such a translation as is referred to in sub-paragraph (ii); or
 - (iv) "Corporation" or "company" or an abbreviation of "corporation" or "company"; or
 - (v) A translation of "corporation" or "company";
 - (vi) An abbreviation of such a translation of "corporation" or "company" as is referred to in sub-paragraph (v); or
 - (vii) "Partnership" or an abbreviation of "partnership"; or
 - (viii) A translation of "partnership"; or

- (ix) An abbreviation of such a translation as is referred to in subparagraph (viii); or
- (b) Which is the same as the name appearing in the Registrar's index of names kept by him by virtue of section 4.3 of Chapter 4 of Part I of this Title, except where the corporation, partnership, foundation or other body having that name in existence is in the course of being dissolved, or re-domiciled, reregistered or de-registered with some other name, and signifies its consent in such manner as the Registrar requires; or
- (c) The use of which by the private foundation would in the opinion of the Registrar constitute a criminal offence; or
- (d) Which in the opinion of the Registrar is offensive or undesirable; or
- (f) Which contains "Bank", "Co-operative", "Building Society", "Insurance", or words of like import;
- (g) Which contains words which in the opinion of the Registrar suggest, or are calculated to suggest, the patronage of the Government of the Republic of Liberia or any Ministry thereof.

2. *Use of "Liberia"*. Except with the consent of the Registrar no private foundation shall be registered by a name which contains the word "Liberia", or in the opinion of the Registrar is calculated to suggest a connection with the Government of the Republic of Liberia or any department thereof.

3. *Determination of "the same as"*. In determining for the purposes of subsection 1(b) of whether one name is the same as another or so nearly the same as may in the opinion of the Registrar result in confusion between names, there are to be disregarded:

- (a) The definite article, where it is the first word of the name;
- (b) "Private Foundation" where those words appear at the end of a name; and
- (c) Type and case of letters, accents, spaces between letters and punctuation marks,

and "and" and "&" are to be taken as the same.

4. *Requirement to keep an index.* The Registrar shall keep an index of the names of registered private foundations and shall keep that index as a part of the index which he keeps by virtue of section 4.3 of Chapter 4 of Part I of this Title.

§ 60.18. Change of Name.

1. *Power to change name.* A private foundation may, if permitted to do so by the memorandum of endowment and as provided for in section 60.50, change its name.

2. *Registrar to issue certificate.* Where a private foundation changes its name, the Registrar shall enter the new name on the index in place of the former name, and shall issue a certificate of registration altered to meet the circumstances of the case.

3. *Effect of change of name.* The change of name shall not affect any rights or obligations of the private foundation, or render defective any legal proceedings by or against the private foundation, and any legal proceedings that might have been continued or commenced against it by its former name may be continued or commenced against it by its new name.

4. *Application of section 60.17.* The provisions of section 60.17 shall apply in respect of the name to which the private foundation proposes to change as they apply to the name by which it was first registered.

§ 60.19. Power to Require Private Foundation to Change Name.

1. *Circumstances under which Registrar may direct a change of name.* Where a private foundation has been registered by a name which:

- (a) Is the same as or, in the opinion of the Registrar, too like a name appearing at the time of registration in the Registrar's index of names kept by virtue of this Law and section 4.3 of Chapter 4 of Part I of this Title; or
- (b) Is the same as or, in the opinion of the Registrar too like the name which should have appeared in that index at that time; or
- (c) In the opinion of the Registrar is undesirable;

the Registrar may direct the private foundation in writing to change its name within such period as he may specify.

2. *Application of section 60.17.4.* Section 60.17.4 applies in determining under sub-section 1 whether the name is the same as or too like another.

3. *Misleading information.* If it appears to the Registrar that:

- (a) Misleading information has been given for the purpose of the registration a private foundation with a particular name; or
- (b) Undertakings or assurances have been given for that purpose and have not been fulfilled,

within 2 years of the date of the registration of the foundation with that name he may direct in writing the private foundation to change its name within such period as he may specify.

4. *Power to extend period for name change.* Where a direction has been given under sub-section 1 or 3 the Registrar may by a further direction in writing extend the period within which the private foundation shall change its name at any time before the end of that period.

5. *Application of section 60.17.* Section 60.17 applies to any name to which a private foundation may change under this section.

§ 60.20. Misleading Name.

1. *Circumstances in which Registrar may direct change of name.* If, in the Registrar's opinion, the name by which a private foundation is registered gives so misleading an indication of the nature of its activities as to be likely to cause harm to the public he may direct the foundation to change its name.

2. *Application of section 60.17.* Section 60.17 applies to any name to which a private foundation may change under this section.

§ 60.21. Registration of Private Foundation.

1. *Application to be delivered to Registrar.* An application to register a foundation shall be delivered to the Registrar and shall be accompanied by:

- (a) The memorandum of endowment of the private foundation, duly notarized and apostilled;
- (b) Where applicable, management articles;
- (c) A statement of the value of the initial assets; and
- (d) The documents specified in sub-section 2.

2. *Documents etc. to accompany application.* The documents specified for the purposes of sub-section 1(d) are:

- (a) A consent in writing to act as an officer confirming that the officer is eligible to be appointed, signed by each officer or, in the case of an officer which is a legal person, on behalf of that officer, duly notarized;
- (b) A consent in writing to act as secretary confirming that the secretary is eligible to be appointed, signed by or on behalf of the secretary, duly notarized;
- (c) A notarized declaration signed by the officers to the effect that the initial assets of the foundation have been, or in the case of a memorandum of endowment in the form of an irrevocable covenant, they are satisfied will be, placed at their disposal and are, or will be, as the case may be, available to them without condition for the purposes of the foundation;
- (e) Where the assets are other than currency, the statement provided for in section 60.8.2;
- (f) An extract of particulars of the memorandum of endowment which shall specify:
 - (i) A summary of the objects of the private foundation;
 - (ii) The date of the memorandum of endowment and the date of any amendment made prior to the submission of the memorandum to the Registrar with information as to the nature of that amendment;

- (iii) Where applicable, the date of the management articles and the date of any amendment made prior to the submission of the management articles with information as to the nature of that amendment;
- (iv) The names and addresses of the officers;
- (v) The name and address of the secretary and the address of record;
- (vi) The address of the donor for service of documents;
- (vii) The name and address of the registered agent;
- (g) A specimen of the signature of each officer, or in the case of an officer which is a legal person, of the authorized signatures of that person, the authenticity of such signatures to be attested to in a document duly notarized.

3. *Registrar to endorse memorandum and articles.* Where the Registrar is satisfied that the extract of particulars provided in accordance with sub-section 2(f) is a true and fair extract of the memorandum of endowment, and, where applicable, of the management articles, he shall endorse:

- (a) The memorandum of endowment; and
- (b) Where applicable, the management articles; and
- (c) The statement of the value of the initial assets,

to the effect that:

- (d) They have been delivered to him;
- (e) He is satisfied that the requirements of sub-section 2 have been complied with; and

he shall record on the documents the date on which the extract of particulars was entered on the index and shall return the documents, which documents shall not form a part of the record.

4. *Registrar to retain accompanying documents.* The Registrar shall retain and register in the Register documents required by sub-section 2 to be delivered to him.

5. *Details to be entered in index.* The Registrar shall enter in the index the particulars of the registered foundation specified in the extract delivered to him in compliance with sub-section 2(f).

§ 60.22. Effect of Registration.

1. *Certification by Registrar.* On the registration of the documents required to be delivered by section 60.21.2 in respect of a foundation the Registrar shall certify that the foundation is registered as a private foundation.

2. *Status of registered private foundation.* From the date of registration mentioned in the certificate of registration the private foundation shall be a legal person by the name contained in the memorandum of endowment, capable forthwith of exercising all the functions of a private foundation.

§ 60.23. Conclusiveness of Certificate of Registration.

A certificate of registration given by the Registrar in respect of any private foundation shall be conclusive evidence that all the requirements of this Law in respect of registration and of matters precedent and incidental thereto have been complied with, and that the foundation is a private foundation capable of being registered and duly registered under this Law.

§ 60.24. Effect of Memorandum of Endowment and Management Articles.

Subject to the provisions of this Law, the memorandum of endowment and management articles shall, when registered, bind the private foundation to the same extent as if they had been signed by any person who subsequently:

- (a) Endows assets to the foundation;
- (b) Is appointed as an officer; or
- (c) Is appointed as a member of the supervisory board or other similar governing body,

and contained covenants on the part of each such person to observe all the provisions of the memorandum of endowment and of the management articles.

§ 60.25. Pre-registration Actions.

1. *Ratification of pre-registration actions.* Where:

- (a) Prior to the date of registration mentioned in the certificate of registration of a private foundation, any action has been carried out in the name of that foundation and purportedly by or on behalf of that foundation; and
- (b) That foundation is not precluded from doing so by its memorandum of endowment or management articles,

the foundation may after that date by resolution of the officers ratify that action, and that action shall then be deemed to be the action of the foundation and:

- (c) The foundation shall be entitled to the benefit of that action; and
- (d) The foundation shall be liable in respect of that action; and
- (e) Any failure to take any steps necessary to give effect to that action shall be a failure by the foundation.

2. *Effect where foundation does not ratify.* Except:

- (a) Where a private foundation has ratified that action, as provided for in sub section 1; or
- (b) There is an agreement to the contrary,

an action carried out in the name of a private foundation and purportedly by or on behalf of that foundation prior to the date of registration mentioned in the certificate of registration of that foundation shall be the action of the person or persons by whom it was carried out and that person or those persons shall be jointly and severally liable in respect of that action and shall be entitled to the benefit of that action.

§ 60.26. Limitation on the Capacity of a Foundation.

1. *Lack of capacity.* The validity of an act done by a private foundation shall not be called into question on the ground of lack of capacity by reason of anything in the memorandum of endowment.

2. *Member of governing body may bring proceedings.* A member of a governing body of a private foundation may bring proceedings to restrain the doing of an act which but for sub-section 1 would be beyond the capacity of the private foundation, save that no such proceedings shall lie in respect of an act to be done in fulfillment of a legal obligation arising from a previous act of the foundation.

3. *Duty of officers to observe limitations.* It remains the duty of the officers of a private foundation to observe any limitations on their powers flowing from the memorandum of endowment and action by the officers which but for sub-section 1 would be beyond the capacity of the foundation may only be ratified by the foundation:

(a) Where there is a supervisory board or other supervisory person or persons, by resolution of the board or those other person or persons;

(b) In any case by a resolution signed by all the officers for the time being.

4. *Effect of subsequent ratification.* A resolution ratifying an action by the officers beyond the capacity of the private foundation shall not affect any liability incurred by the officers or any other person and relief from any such liability shall be agreed to separately by resolution of the supervisory board or other supervisory person or persons.

§ 60.27. Power of Officers to Bind the Foundation.

1. *Power of officers to bind foundation.* In favor of a person dealing with a private foundation in good faith, the power of the officers to bind the foundation, or authorize others to do so, shall be deemed to be free of any limitations under the memorandum of endowment or the management articles of the foundation.

2. *Interpretation.* For the purpose of this section:

(a) A person “deals with” a private foundation if he is a party to any transaction or other act to which the foundation is a party;

- (b) A person shall not be regarded as acting in bad faith by reason only of his knowing that an act is beyond the powers of the officers under the memorandum of endowment or the management articles; and
- (c) A person shall be presumed to have acted in good faith unless the contrary is proved.

3. *Meaning of "limitations"*. The reference above to limitations on the officers' powers includes limitations deriving:

- (a) From any resolution of the officers; or
- (b) From any resolution of the supervisory board or other supervisory person or persons.

4. *Right of member of governing body to bring proceedings*. Subject to sub-section 5, sub-section 1 does not affect any right of any member of a governing body of a private foundation or of the foundation to bring proceedings to restrain the doing of an act which is beyond the powers of the officers.

5. *Limitation on application of sub-section 4*. No such proceedings as are referred to in sub-section 4 shall lie in respect of any act to be done in fulfillment of a legal obligation arising from a previous act of a private foundation.

6. *Liability of officer where powers exceeded*. Sub-section 1 does not affect any liability incurred by the officers of a private foundation, or any other person, by reason of the exceeding of their powers by the officers.

§ 60.28. No Duty to Enquire as to Capacity of Foundation or Authority of Officers.

A party to a transaction with a private foundation is not bound to enquire as to whether the transaction is permitted by the memorandum of endowment or the management articles of the foundation or as to any limitation on the powers of the officers to bind the foundation or to authorize others to do so.

§ 60.29. Execution of Contracts, Deeds, Instruments and Other Documents.

1. *Seal*. A private foundation may, but need not, have a seal and, unless otherwise permitted by the memorandum of endowment or the management articles,

where it has such a seal, the seal shall be affixed in the presence of and witnessed to by all the officers for the time being of the foundation.

2. *Form of contracts, etc.* Contracts, deeds, instruments or other documents on behalf of a private foundation may be made as follows:

- (a) A contract which, if made between private persons, would by law be required to be in writing and under seal may be made on behalf of the foundation in writing:
 - (i) If the foundation has a seal, under that seal; or
 - (ii) Signed by the authorized signatories of the foundation, each signing or under the seal of the signatory, as the case may be;
- (b) A contract, instrument or other document which if made between private persons would by law be required to be in writing, signed by the parties to be charged therewith, may be made on behalf of the foundation in writing signed by the authorized signatories;
- (c) A contract which if made between private persons would by law be valid although made by parol only, and not reduced into writing, may be made by parol on behalf of the foundation by any person acting under an express authority.

3. *Contracts, etc. binding on foundation.* A contract, deed, instrument or other document made according to this section shall be effectual in law, and shall bind a private foundation and all other parties thereto.

4. *Variation and discharge of contracts, etc.* A contract made according to this section may be varied or discharged in the same manner in which it is authorized by this section to be made.

5. *Seal not needed for execution of deed.* Where a private foundation executes a deed, instrument or other document, whether or not the foundation has a seal, it shall be sufficient and the foundation and any other party to that deed, instrument or document shall be bound if that deed, instrument or other document is signed by the authorized signatories of the foundation intending it to be executed by way of a deed.

6. *Power to appoint attorney.* A private foundation may, by writing:

- (a) If the foundation has a seal, under that seal; or
- (b) Signed by the authorized signatories of the foundation, each signing or under the seal of the signatory, as the case may be;

empower any person, either generally or in respect of any specified matters, as its attorney, to execute deeds, instruments or other documents on its behalf in any place.

7. *Attorney to bind foundation.* A deed, instrument or other document signed by an attorney appointed according to sub-section 6 for and on behalf of a private foundation:

- (a) If he has a seal, under that seal; or
- (b) Signed by him or, where the attorney is a legal person, the authorized signatories of the attorney,

shall bind the foundation and have the same effect as if the deed, instrument or other document had been sealed or signed as provided for in sub-section 2.

8. *Officer to indicate his capacity.* The signature of an officer when acting on behalf of a private foundation shall be prefixed by the statement that he is so acting.

9. *Authentication.* A document or proceeding requiring authentication by a private foundation may be signed by the authorized signatories of the foundation.

§ 60.30. Publication of Name by Private Foundation.

1. *Obligation to display name.* Every private foundation:

- (a) Shall have its name engraven in legible characters on any seal;
- (b) Shall have its name mentioned in legible characters in all notices, advertisements and other official publications of the foundation, and in all bills of exchange, promissory notes, endorsements, checks and orders for money or goods purporting to be signed by or on behalf of the foundation, and in all bills of parcels, invoices, receipts and letters of credit of the foundation.

2. *Responsibility of officer to comply.* An officer of a private foundation or any person on its behalf who:

- (a) Uses or authorizes the use of any seal purporting to be a seal of the foundation on which its name is not engraved as required by sub-section 1(a); or
- (b) Issues or authorizes the issue of any notice, advertisement or other official publication of the foundation, or signs or authorizes to be signed on behalf of the foundation any bill of exchange, promissory note, endorsement, check or order for money or goods, in which its name is not mentioned as required by sub-section 1(b),

is in default and is further personally liable to the holder of the bill of exchange, promissory note, check or order for money or goods, for the amount thereof, unless it is duly paid by the foundation.

§ 60.31. Particulars to be shown on Letter Heads, etc..

1. *Particulars to appear on stationery.* Every private foundation shall have the following particulars mentioned in legible characters in all business letters, order forms and receipts for goods and services of the foundation, that is to say:

- (a) The place of registration of the foundation, and the number with which it is registered;
- (b) The address of its registered office;
- (c) In respect to every officer being an individual, his present fore name, or the initials thereof, and present surname;
- (d) In respect of every officer being a corporation, the corporate name.

2. *Failure to comply.* If:

- (a) A private foundation fails to comply with the requirements of this section; or
- (b) The foundation or any person on its behalf issues or authorizes the issue of any business letter, order form or receipt for goods or services not complying with this section,

it and he is in default.

§ 60.32. Disclosure by Members of Governing Bodies, etc. of Interest in Contracts.

1. *Duty to disclose interest.* Subject to the provisions of this section, it shall be the duty of an officer of a private foundation who is in any way, whether directly, or indirectly, interested in a contract or proposed contract with the foundation:

- (a) To declare the nature of his interest at a meeting of the officers of the foundation; and
- (b) Advise the supervisory board or other supervisory person of the interest.

2. *Timing of disclosure.* In the case of a proposed contract the declaration required by this section to be made by an officer of a private foundation shall be made at the meeting of the officers at which the question of entering into the contract is first taken into consideration, or if the officer was not at the date of that meeting interested in the proposed contract, at the next meeting of the officers held after he became so interested, and in a case where the officer becomes interested in a contract after it is made, the said declaration shall be made at the first meeting of the officers held after the officer becomes so interested.

3. *Effect of general notice.* For the purpose of this section, a general notice given to the officers of a private foundation by an officer to the effect that he is a member of a specified company or firm and is to be regarded as interested in any contract which may, after the date of the notice, be made with that company or firm shall be deemed to be a sufficient declaration of interest in relation to any contract so made.

4. *Rule of law restricting officers from having interest in contracts.* Nothing in this section shall be taken to prejudice the operation of any rule of law restricting officers of a private foundation from having any interest in contracts with the foundation.

5. *Application to members of supervisory board and auditor.* This section shall apply to:

- (a) A member of the supervisory board;

(b) Any other supervisory person; and

(c) An auditor,

of a private foundation as if references to such a person are substituted for the references to an officer.

§ 60.33. Provisions as to Liability of Members of Governing Bodies etc..

1. *Indemnity in respect of negligence, etc. by officers void.* Subject to sub-section 2, any provision, whether contained in the memorandum of endowment or the management articles of a private foundation or in any contract with the foundation or otherwise, for exempting any officer of the foundation from, or indemnifying him against, any liability which by virtue of any rule of law would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the foundation shall be void.

2. *Exception to sub-section 1.* Notwithstanding anything in this section, a private foundation may, in pursuance of any such provision as is referred to in sub-section 1, indemnify any such officer against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favor or in which he is acquitted.

§ 60.34. First Meeting of Officers.

1. *Timing of first meeting of officers.* Every private foundation shall, within a period of not less than 1 month and not more than 3 months from the date of registration hold a meeting of the officers.

2. *Pre-meeting report to donor and supervisory board.* The officers shall, at least 7 days before the day on which the meeting required by sub-section 1 is held, forward to each donor and every member of the supervisory board or each other supervisory person, a report signed by at least two officers stating:

- (a) The total assets with which the foundation has been endowed by the donors;
- (b) Assets with which the foundation has been endowed other than by the donors;

- (c) An abstract of the receipts of the foundation and of the payments made thereout, up to a date within 7 days of the date of the report, and particulars concerning the balance remaining in hand, and an account or estimate of the preliminary expenses of the foundation;
- (d) The names, addresses and descriptions of the officers, auditors, if any, and members of the supervisory board or other supervisory persons, if any;
- (e) Particulars of the memorandum of endowment and any amendment proposed to that memorandum;
- (f) Particulars of any management articles or any proposed management articles;
- (g) The particulars of any contract, the ratification of which is to be submitted to the meeting for its approval;
- (h) Particulars of any business plan of the foundation; and
- (g) Particulars of any proposed distribution of assets to a beneficiary.

3. *Certification by auditor or officer.* The report required by sub-section 2 shall so far as it relates to assets and accounts of the foundation, be certified by the auditor, if any, and where there is no auditor, an officer shall certify the report in respect of the initial assets and the assets and accounts.

4. *Business of the meeting.* The officers present at the meeting shall be at liberty to discuss any matter relating to the formation of the private foundation, or arising out of the report, whether previous notice has been given or not, but no resolution of which notice has not been given may be passed.

5. *Power to adjourn meeting.* The meeting may adjourn from time to time, and at any adjourned meeting any resolution of which notice has been given, either before or subsequently to the former meeting, may be passed, and the adjourned meeting shall have the same powers as an original meeting.

6. *Consequences of failure to comply.* In the event of any failure to comply with the provisions of this section every officer of a private foundation who is responsible is in default.

§ 60.35. Annual Meeting of Officers.

1. *Requirement for annual meeting.* Every private foundation shall in each year, hold at least one meeting of the officers as its annual meeting in addition to any other meetings in that year, and shall specify the meeting as such in the notices calling it.

2. *Rights of donors and members of supervisory board to have notice of meeting.* The donors and the members of the supervisory board and any other supervisory person shall be entitled to:

- (a) Be notified of the meeting;
- (b) Table business to be considered at the meeting; and
- (c) Attend and be heard at the meeting,

but shall not be entitled to vote at such a meeting.

§ 60.36. Convening of Meeting of Officers on Requisition.

1. *Right of donor and member of supervisory board to demand meeting of officers.* The officers of a private foundation, notwithstanding anything in the management articles of the foundation, shall, on the requisition of:

- (a) A donor; or
- (b) The supervisory board or any other supervisory person;

forthwith proceed duly to convene a meeting of the officers of the foundation.

2. *Method of demanding meeting of officers.* The requisition shall:

- (a) State the objects of the meeting;
- (b) Be signed by the requisitioner; and
- (c) Be deposited at the address of record of the private foundation.

3. *Failure by officers to convene meeting.* If the officers of a private foundation do not within 28 days from the date of the deposit of the requisition proceed duly to

convene a meeting, the requisitioner may himself convene a meeting, but any meeting so convened shall not be held after the expiration of 60 days from the said date.

4. *Method of convening meeting in the event of failure by officers.* A meeting convened under this section by the requisitioner shall be convened in the same manner, as nearly as possible, as that in which meetings are to be convened by officers.

5. *Reimbursement of costs in the event of failure by officers to convene meeting.* Any reasonable expenses incurred by the requisitioner by reason of the failure of the officers duly to convene a meeting shall be repaid to the requisitioner by the foundation, and any sum so repaid shall be retained by the foundation out of any sums due or to become due from the foundation by way of fees or other remuneration in respect of their services to such of the officers as were in default.

§ 60.37. Provisions as to Meetings and Votes.

The following provisions shall have effect in so far as the memorandum of endowment or the management articles of a private foundation do not make other provision in that behalf:

- (a) A meeting of a foundation may be called by 7 days' notice in writing;
- (b) Notice of the meeting of a foundation shall be served on every officer, donor, member of the supervisory board or other supervisory person in writing by post or electronically at the address last supplied to the foundation for the purpose of serving any notice;
- (c) Two or more officers of the foundation may call a meeting;
- (d) A quorum shall be at least three officers who may be in different locations but in communication with one another in such manner that each is simultaneously able to communicate with all other officers participating in the meeting;
- (e) The officers present shall elect from their number a chairman;
- (f) The officers shall pass resolutions:

- (i) In so far as the memorandum of endowment does not otherwise provide; and
- (ii) Subject to the requirements of this Law for unanimity,

by simple majority of the votes cast by the officers, each officer having one vote and the chairman having a casting vote in case of an equality of votes.

§ 60.38. Minutes of Proceedings of Meetings.

1. *Obligation to keep minutes.* Every private foundation shall cause minutes of all proceedings at meetings of officers to be entered in books kept for that purpose.

2. *Minutes to be signed by chairman.* Any such minute as is provided for in sub-section 1, if purporting to be signed by the chairman of the meeting at which the proceedings were had, or by the chairman of the next succeeding meeting, shall be evidence of the proceedings.

3. *Minutes as evidence of validity of proceedings etc..* Where minutes have been made in accordance with the provisions of this section of the proceedings at any meeting of the officers of a private foundation, then, until the contrary is proved, the meeting shall be deemed to have been duly held and convened, and all proceedings had thereat to have been duly had.

§ 60.39. Inspection of Minute Books.

1. *Right to inspect minute books.* The books containing the minutes of proceedings of any meeting of the officers of a private foundation shall be kept at the office of the secretary of the foundation, and shall during business hours be open to the inspection of any donor, member of the supervisory board or other supervisory person without charge.

2. *Right to copy of minutes.* Any person entitled to inspect the books of minutes of proceedings shall be entitled to be furnished, within 7 days after he has made a request in that behalf to the private foundation, with a copy of any such minutes without charge.

3. *Failure by officers to comply with request to inspect or have copy.* If any inspection required under this section is refused or if any copy required under this

section is not sent within the proper time, a private foundation and every officer who is responsible is in default.

§ 60.40. Meetings of Supervisory Board.

1. *General provisions.* The following provisions shall have effect in so far as the memorandum of endowment or the management articles of a private foundation do not make other provision in that behalf:

- (a) A meeting of the supervisory board of a foundation may be called by 7 days' notice in writing;
- (b) Notice of the meeting of the supervisory board shall be served on every donor and member of the supervisory board in writing by post or electronically at the address last supplied to the foundation for the purpose of serving any notice;
- (c) One member of the supervisory board or one other supervisory person may call a meeting;
- (d) A quorum shall be at least a majority of a supervisory board who may be in different locations but in communication with one another in such manner that each is simultaneously able to communicate with all other members participating in the meeting;
- (e) The members present shall elect from their number a chairman;
- (f) The members shall pass resolutions:
 - (i) In so far as the memorandum of endowment does not otherwise provide; and
 - (ii) Subject to the requirements of this Law for unanimity,

by simple majority of the votes cast by the members, each member having one vote and the chairman having a casting vote in case of an equality of votes.

2. *Requirement to keep minutes.* Minutes of all proceedings at meetings of the supervisory board or of other supervisory persons shall entered in books kept for that purpose.

3. *Minutes to be signed by chairman.* Any such minute as is provided for in sub-section 2, if purporting to be signed by the chairman of the meeting at which the proceedings were had, or by the chairman of the next succeeding meeting, shall be evidence of the proceedings.

4. *Minutes as evidence of validity of proceedings etc..* Where minutes have been made in accordance with the provisions of this section of the proceedings at any meeting of the members of the supervisory board, then, until the contrary is proved, the meeting shall be deemed to have been duly held and convened, and all proceedings had thereat to have been duly had.

5. *Right to inspect minutes.* The books containing the minutes of proceedings of any meeting of the supervisory board of a private foundation shall be kept at the office of the secretary of the foundation, and shall during business hours be open to the inspection of any donor, officer or member of the supervisory board or other supervisory person without charge.

6. *Right to copy of minutes.* Any person entitled to inspect the books of minutes of proceedings shall be entitled to be furnished, within 7 days after he has made a request in that behalf to the private foundation, with a copy of any such minutes without charge.

§ 60.41. Rights of a Beneficiary to Information.

1. *Right to request and receive information etc..* A person who is:

- (a) Designated as a beneficiary by virtue of the memorandum of endowment or the management articles of a private foundation; or
- (b) Identified as such by the body appointed for this purpose by the donor or by the officers,

is entitled:

- (c) To receive on request information from the private foundation in respect of the fulfillment of the objects of a foundation;
- (d) On request to inspect and copy in respect of the foundation:
 - (i) The memorandum of endowment and any amendment thereto;

- (ii) Any management articles, whether or not registered, and any amendment thereto;
- (iii) Any audit report, including any special audit report, books of account, any report on the financial position of the foundation and the annual final accounts.

2. *Request to be made to secretary.* A request to receive information or inspect documents as provided for in sub-section 1 shall be made in writing to the secretary.

3. *Application to court in the event of non-compliance by foundation.* In the event that a private foundation does not comply with a request for information falling within paragraph (c) of sub-section 1 or does not make documents available for inspection in accordance with paragraph (d) of that sub-section within a reasonable time, the court may, upon application by the beneficiary, order:

- (a) Provision of the information requested; and/or
- (b) Inspection of the documents, if appropriate by a person professionally qualified to assess the information therein contained and report to the beneficiary by whom the application to the court was made.

§ 60.42. Keeping of Books of Account.

1. *Obligation to keep books of account.* A private foundation shall cause to be kept proper books of account with respect to:

- (a) All sums of money received, expended and distributed by the foundation and the matters in respect of which the receipt and expenditure takes place;
- (b) All sales and purchases of goods by the foundation;
- (c) The assets and liabilities of the foundation.

2. *Right to inspect.* The books of account of a private foundation shall be kept at the office of the secretary of the foundation or at such other place as the officers think fit, and shall at all times be open to inspection by the officers, the members of the supervisory board or any other supervisory person and the auditor, if any.

3. *Default by officer.* A person who, being an officer of a private foundation, fails to take all reasonable steps to secure compliance by the foundation with the requirements of this section, or has by his own willful act been the cause of any default by the foundation thereunder, is himself in default.

§ 60.43. Income and Expenditure Account and Balance Sheet.

1. *Income and expenditure account to be presented.* The officers of a private foundation shall at some date not later than 18 months after the registration of the foundation and subsequently once at least in every calendar year lay before the foundation at a meeting an income and expenditure account for the period, in the case of the first account, since the registration of the foundation, and, in any other case, since the preceding account, made up to a date not earlier than the date of the meeting by more than 3 months.

2. *Balance sheet to be presented.* The officers shall cause to be made out in every calendar year, and to be laid before the foundation in a meeting, a balance sheet as at the date to which the income and expenditure account is made up, and there shall be attached to every such balance sheet a report by the officers with respect to the state of the foundation's affairs in relation to the achievement of the objects of the foundation.

3. *Default by officer.* A person who, being an officer of a private foundation, fails to take all reasonable steps to comply with the provisions of this section is in default.

4. *Contents of balance sheet.* Every balance sheet of a private foundation shall contain a summary of the assets and liabilities together with such particulars as are necessary to disclose the general nature of the liabilities and the assets of the foundation and shall state how the values of the assets have been arrived at.

5. *Other provisions in respect of balance sheet.* The provisions of this section are in addition to other provisions of this Law requiring other matters to be stated in balance sheets.

§ 60.44. Assets Consisting of Shares in Companies to be set out separately in Balance Sheet.

Where any of the assets of a private foundation consist of shares in, or amounts owing (whether on account of a loan or otherwise) from a company or companies, the aggregate amount of those assets, distinguishing shares and indebtedness, shall

be set out in the balance sheet of the foundation separately from all its other assets, and where a foundation is indebted, whether on account of a loan or otherwise to a company or companies, the aggregate amount of that indebtedness shall be set out in the balance sheet of the foundation separately from all its other liabilities.

§ 60.45. Balance Sheet to Include Particulars as to Companies.

1. *Details of companies as annex to balance sheet.* Where a private foundation holds shares either directly or through a nominee in a company (in this section referred to as “a subsidiary company”) or in two or more subsidiary companies, there shall be annexed to the balance sheet of the foundation a statement, signed by the persons by whom in pursuance of section 60.47 the balance sheet is signed, stating how the profits and losses of the subsidiary company, or, where there are two or more subsidiary companies, the aggregate profits and losses of those companies, have, so far as they concern the foundation, been dealt with in, or for the purposes of, the accounts of the foundation, and in particular how, and to what extent:

- (a) Provision has been made for the losses of a subsidiary company either in the accounts of that company or of the foundation or of both; and
- (b) Losses of a subsidiary company have been taken into account by the officers of the foundation in arriving at the profits and losses of the foundation as disclosed in its accounts.

2. *No requirement to specify amounts in relation to subsidiary companies.* It shall not be necessary to specify in any such statement as required by sub-section 1 the actual amount of the profits or losses of any subsidiary company, or the actual amount of any part of any such profits or losses which has been dealt with in any particular manner.

3. *Qualifications to accounts to be specified.* If in the case of a subsidiary company the auditor’s report on the balance sheet of that company does not state without qualification that the auditor has obtained all the information and explanations he has required and that the balance sheet is properly drawn up so as to exhibit a true and correct view of the state of the subsidiary company’s affairs according to the best of his information and the explanation given to him and as shown by the books of the subsidiary company, the statement which is to be annexed to the balance sheet of the private foundation shall contain particulars of the manner in which the report is qualified.

4. *Definition of profit and loss.* For the purposes of this section, the profits or losses of a subsidiary company mean the profits or losses shown in any accounts of the subsidiary company made up to a date within the period to which the accounts of the foundation relate, or, if there are no such accounts of the subsidiary company available at the time when the accounts of the foundation are made up, the profits or losses shown in the last previous accounts of the subsidiary company which became available within that period.

5. *Note of any failure to obtain information.* If for any reason the officers of the foundation are unable to obtain such information as is necessary for the preparation of such statement, the officers who sign the balance sheet shall so report in writing and their report shall be annexed to the balance sheet in lieu of the statement.

§ 60.46. Accounts to Contain Particulars as to Loans to, and Remuneration of Officers.

1. *General requirement.* The accounts which in pursuance of this Law are to be laid before every private foundation in a meeting shall, subject to the provisions of this section, contain particulars showing:

- (a) The amount of any loans which during the period to which the accounts relate have been made either by the foundation or by any other person under a guarantee from or on a security provided by the foundation to any officer of the foundation, including any such loans which were repaid during the said period;
- (b) The amount of any loans so made to any officer at any time before the period aforesaid and outstanding at the expiration thereof; and
- (c) The total of the amount paid to the officers as remuneration for their services, inclusive of all fees, percentages or other emoluments, paid to or receivable by them by or from the foundation or by or from any subsidiary company (as defined in section 60.45).

2. *Exclusion of requirement in respect of small loans.* The provisions of subsection 1 with respect to loans shall not apply to a loan made by the private foundation to any employee of the foundation if the loan does not exceed \$5,000 and is certified by the officers to have been made in accordance with any practice adopted or about to be adopted by the foundation with respect to loans to its employees.

3. *Exclusion in respect of salaries.* The provisions of subsection 1 with respect to the remuneration paid to officers shall not apply in relation to an officer who holds any salaried employment or office in the private foundation and there shall not be required to be included in the said total amount any sums paid to him except sums paid by way of officer's fees.

4. *Definition of "emolument".* In this section, "emoluments" include fees, percentages and other payments made or consideration given, directly or indirectly, to an officer as such, and the money value of any allowances or perquisites belonging to his office.

§ 60.47. Signing of Balance Sheet.

1. *Officers to sign balance sheet.* The balance sheet of a private foundation shall be signed on behalf of the officers by two of the officers and the auditor's report, if any, shall be attached to the balance sheet, and the report shall be read before the foundation in a meeting, and shall be open to inspection as specified in this Law.

2. *Default by officers.* If:

- (a) Any copy of a balance sheet which has not been signed as required by this section is issued, circulated or published; or
- (b) Where an auditor is appointed, any copy of a balance sheet is issued, circulated or published without having a copy of the auditor's report attached thereto,

the private foundation and every officer who is knowingly a party to the default, is in default.

§ 60.48. Right to Receive Copies of Balance Sheets and Auditor's Report.

Any donor, officer or member of the supervisory board or other supervisory person shall be entitled to be furnished, within 7 days after he has made a request in that behalf to the foundation, with a copy of the balance sheet and auditor's report, if any, at no charge and if default is made in furnishing such a copy the foundation and every officer who is responsible is in default.

§ 60.49. Special Audit.

1. *Application to the court.* Where, on an application by:

- (a) A donor;
- (b) An officer; or
- (c) The supervisory board or any other supervisory person,

to the court, the court is satisfied that there is *prima facie* evidence of a failure to comply with the memorandum of endowment or the requirements of this Law in the conduct of a private foundation, the court may order the appointment of a special auditor and the carrying out by him of a special audit of the foundation.

2. *Requirement to lodge deposit as security for costs.* The appointment of a special auditor under sub-section 1 may be made conditional on the lodging by the applicant with the court of an amount, to be determined by the court, by way of security for the costs of carrying out the special audit.

3. *Access to information.* The provisions of section 60.16.11 in respect of access to information shall apply to a person appointed under this section.

4. *Report to be submitted to court.* The auditor appointed under this section shall submit his report, within the time determined by the court, to the court.

5. *Power of court to make orders.* If, in the opinion of the court the report of the special audit is evidence of:

- (a) The failure complained of; or
- (b) Any other serious failure to comply with the memorandum of endowment or the requirements of this Law in the conduct of a private foundation,

the court shall make such orders as it thinks fit for the purpose of maintaining the objects of the foundation.

6. *Order for costs.* The court shall make such order as to costs as it thinks fit, taking into account whether or not the application was well founded, and where the application was not well founded the court may order that any loss or cost occasioned to the foundation by the special audit be met by the applicant.

§ 60.50. Revocation and Amendment of Memorandum of Endowment.

1. *Power to revoke memorandum of endowment.* Where there is provision in the memorandum of endowment of a private foundation that the memorandum may be revoked, the donor or, where there is more than one donor, the donors acting jointly and unanimously, may revoke a memorandum of foundation before registration of the memorandum.

2. *Power to amend memorandum of endowment prior to registration.* Subject to sub-sections 3 and 4, the memorandum of endowment of a private foundation may be amended before the registration of the foundation.

3. *Withdrawal of a donor before registration.* Where there are more donors than one of a private foundation, in the event that, before registration, one donor withdraws:

- (a) The memorandum of endowment shall not be revoked;
- (b) The memorandum may be amended:
 - (i) Only in accordance with the objects stated in the memorandum;
 - (ii) To the extent necessary to take account of the withdrawal of the particular donor; and
 - (iii) In accordance with sub-section 5;

and the amendment shall:

- (c) Be in the same form as the memorandum of endowment and notarized and apostilled; and
- (d) Form part of the memorandum,

and shall be delivered to the Registrar in accordance with section 21.1(a) as part of the memorandum of endowment.

4. *Withdrawal of single donor before registration.* Where there is one donor of a private foundation, or there is only one remaining donor, in the event that, before registration, that donor withdraws:

- (a) The memorandum of endowment shall not be revoked;
- (b) The memorandum may be amended:
 - (i) Only in accordance with the objects stated in the memorandum;
 - (ii) To the extent necessary to permit compliance with the provisions of section 60.21; and
 - (iii) In accordance with sub-section 6;

and the amendment shall:

- (c) Be in the same form as the memorandum of endowment and notarized and apostilled; and
- (d) Form part of the memorandum,

and shall be delivered to the Registrar in accordance with section 60.21.1(a) as part of the memorandum of endowment.

5. *Procedure for the purposes of sub-section 3.* The procedure referred to in sub-section 3(b)(iii) is as follows:

- (a) The donors, or the officers, shall convene a meeting of:
 - (i) The remaining donor or donors;
 - (ii) The officers, or the persons identified as officers in the memorandum of endowment; and
 - (iii) The supervisory board, if any, or any other supervisory person, of the foundation in accordance with the requirements of section 60.35;
- (b) The resolution for amendment of the memorandum shall be adopted only if agreed to:

- (i) By all the remaining donors; and
- (ii) By:
 - (aa) Any officer, or person identified as an officer; and
 - (bb) Any member of the supervisory board or any other supervisory person,

who was nominated by or represented the interest of the donor who has withdrawn and such a person shall consent to the resolution if he is satisfied that the amendment is in accordance with sub-paragraphs (i) and (ii) of sub-section 3(b).

6. *Procedure for the purposes of sub-section 4.* The procedure referred to in sub-section 4(b)(iii) is as follows:

- (a) The officers, shall convene a meeting of:
 - (i) The officers, or the persons identified as officers in the memorandum of endowment; and
 - (ii) The supervisory board, if any, or any other supervisory person,

of the foundation in accordance with the requirements of section 60.35;
- (b) The resolution for amendment of the memorandum shall be adopted only if agreed to by:
 - (i) The officers, or persons identified as officers; and
 - (ii) The supervisory board or all other supervisory persons,

and such persons shall consent to the resolution if satisfied that the amendment is in accordance with sub-paragraphs (i) and (ii) of sub-section 4(b).

7. *Amendment after registration.* After the registration of a private foundation where, as provided for in section 60.6.2(f), the memorandum of endowment of a private foundation makes provision for the amendment of the memorandum after

registration, the memorandum may be amended in accordance with that provision and the procedure contained in sub-section 8.

8. *Procedure for the purposes of sub-section 7.* The procedure referred to in sub-section 7 is as follows:

- (a) The donors, or the officers, shall convene a meeting of:
 - (i) The remaining donor or donors;
 - (ii) The officers; and
 - (iii) The supervisory board, if any, or any other supervisory person, of the foundation in accordance with the requirements of section 60.35;
- (b) The resolution for amendment of the memorandum shall be adopted only if agreed to:
 - (i) By all the remaining donors; and
 - (ii) By:
 - (aa) The officers; and
 - (bb) The supervisory board or all other supervisory persons.

9. *Procedure where requirements of the section cannot be met.* In the event that it is not possible to comply with the relevant provisions of this section in respect of the amendment of a memorandum of endowment of a private foundation because:

- (a) Of the withdrawal of a donor;
- (b) Of a failure to reach agreement between the donors or the remaining donors;
- (c) No provision was made in the memorandum of endowment for amendment of the memorandum after registration,

the officers of the foundation may resolve on such amendments as are necessary in the circumstances to maintain the objects of the foundation.

10. *Registration of amendment.* The officers of the private foundation shall deliver to the Registrar:

- (a) Any resolution approved in accordance with this section notarized and apostilled;
- (b) The memorandum of endowment:
 - (i) Amended to the extent of the amendment resolved upon; and
 - (ii) Notarized and apostilled to the effect that the amendment contained in the resolution and now included in the memorandum is the only variation in the memorandum since the memorandum was last delivered to the Registrar; and
- (c) An extract from the resolution of any matter which falls within section 60.21.2;

and if no application is made under sub-section 14, shall do so within 28 days from the end of the period for making such an application.

11. *Registration of order of the court.* If an application is made under sub-section 14 the officers of the foundation shall:

- (a) Forthwith give notice of that fact to the Registrar; and
- (b) Within 28 days from the date of any order canceling or confirming the amendment deliver to the Registrar:
 - (i) An certified copy of the order; and
 - (ii) If appropriate, the memorandum of endowment:
 - (aa) Amended to the extent of the amendment contained in the order;
 - (bb) Notarized and apostilled to the effect that the amendment contained in the order and now included in the

memorandum is the only variation in the memorandum since the memorandum was last delivered to the Registrar; and

- (cc) An extract from the order of any matter which falls within section 60.21.2.

12. Power of court to extend period for delivery to Registrar. The court may by order at any time extend the time for the delivery of documents to the Registrar under sub-section 11(b) for such period as the court may think proper.

13. Duty to enter amendment in index. The Registrar, on delivery to him of the documents specified in sub-section 10 or 11, shall:

- (a) Enter in the index in respect of the foundation:
 - (i) The fact of the amendment and its date; and
 - (ii) Any change in any particular already contained in the index in respect of that foundation,
- (b) Record on the document containing the resolution or order and on the amended memorandum the date on which it was entered in the index; and
- (c) Return the documents, which shall not form a part of the record,

and the amendment contained in the resolution or order shall have effect from the date specified in paragraph (b).

14. Application to court to cancel amendment. Where the memorandum of endowment of a private foundation has been amended under sub-section 3, 4 or 7:

- (a) Application may be made to the court for the amendment to be cancelled; and
- (b) If an application is made under this sub-section, the amendment does not have effect except in so far as it is confirmed by the court.

15. Power to make application under sub-section 14. Such an application as is provided for in sub-section 14(a) may be made by:

- (a) A donor;
- (b) An officer or a person identified as an officer;
- (c) The supervisory board or any other supervisory person; or
- (d) An auditor;

but an application shall not be made by any person who has consented to or voted in favor of the amendment.

16. Time limit on making application under sub-section 14. The application under sub-section 14(a) shall be made within 28 days after the date on which the resolution altering the memorandum of endowment was passed, and may be made on behalf of the persons entitled to make the application by such one or more of their number as they may appoint in writing for the purpose.

17. Power of court to make order etc.. The court may on an application under sub-section 14(a) make an order confirming the amendment either wholly or in part and on such terms and conditions as it thinks fit, and may:

- (a) If it thinks fit, adjourn the proceedings in order that an arrangement may be made to its satisfaction for the withdrawal of any dissentient donor or donors; and
- (b) Give such directions and make such orders as it thinks expedient for facilitating or carrying into effect any such arrangement.

18. Matters which may form part of the order of the court. The order of the court may (if the court thinks fit) provide for the withdrawal from the memorandum of endowment of a private foundation of any donor, and for the reduction accordingly of the capital of the foundation, and may make such alterations in the memorandum of endowment and management articles as may be required in consequence of that provision.

19. Prohibition by court on making amendment. If the order of the court requires a private foundation not to make any, or any specified, amendment to its memorandum of endowment:

- (a) The foundation; or

(b) The donors and officers of the foundation,

do not then have power without the leave of the court to make any such amendment in breach of that requirement.

20. *Amendment to be questioned only by procedure under sub-section 14.* The validity of an amendment to the memorandum of endowment of a private foundation shall not be questioned on the ground that it was not authorized according to the provisions of this section except in proceedings taken for the purpose before the expiration of 28 days after the date of the resolution in that behalf.

21. *Amendment to be reflected in copies of memorandum of endowment.* Where an amendment is made in the memorandum of endowment of a private foundation every copy of the memorandum of endowment issued by or on behalf of the foundation or by any officer of that foundation after the date of the amendment shall be in accordance with the amendment.

22. *Default by officer in respect of sub-section 21.* If, where any amendment has been made to the memorandum of endowment, the private foundation and any officer of that foundation at any time after the date of the amendment issues or causes or permits to be issued any copies of that memorandum which are not in accordance with the amendment, it and he is in default.

23. *Statutory amendment to memorandum of endowment.* Where any alteration is made in the memorandum of endowment of a private foundation by any statutory provision, whether contained in ant Law or in an instrument made under ant Law, sub-sections 11 and 13 shall apply as if the reference in sub-section 11:

- (a) In paragraph (b)(i), to an order was a reference to a printed copy of the Law or instrument; and
- (b) To 28 days from the date of the order was a reference to 28 days after that provision comes into force.

24. *Amendment to management articles.* Where management articles of a private foundation have been delivered to the Registrar:

- (a) An amendment to those articles may be delivered to the Registrar in like manner;

- (b) The provisions of sub-section 10 shall apply *mutatis mutandis* to the amended management articles; and
- (c) The Registrar shall record on the document containing the amended articles the date on which it was delivered to him and return the document.

§ 60.51 Power of Private Foundation to Re-domicile, Reregister, De-register, Merge and Consolidate.

1. *Application of section.* This section shall apply to:

- (a) Foundations:
 - (i) Established outside Liberia which re-domicile in Liberia;
 - (ii) Registered in Liberia which re-domicile to another jurisdiction;
 - (iii) Registered in Liberia and which de-register upon registration as another entity;
 - (iv) Registered in Liberia and which merge or consolidate,
- (b) Another legal entity registered in Liberia which reregisters as a foundation.

2. *Re-domiciliation into Liberia.* The provisions of the Schedule apply in respect of a foundation established outside Liberia and make provision for:

- (a) The eligibility of a foundation to re-domicile in Liberia;
- (b) The form of application for registration as a private foundation re-domiciled in Liberia;
- (c) Evidence to be submitted in support of an application for registration in accordance with paragraph (b); and
- (d) The form and effect of registration as a foundation re-domiciled in Liberia.

3. *Re-domiciliation out of Liberia.* The provisions of the Schedule apply in respect of a foundation registered in Liberia and make provision for:

- (a) The eligibility of that foundation to re-domicile into another jurisdiction;
- (b) The form of application for re-domiciliation into another jurisdiction;
- (c) Evidence to be submitted in support of an application for re-domiciliation in accordance with paragraph (b); and
- (d) Conditions to be satisfied by a private foundation prior to, during and after re-domiciliation.

4. *Reregistration of another legal entity as a foundation.* The provisions of the Schedule apply in respect of a legal entity registered in Liberia and make provision for:

- (a) The eligibility of a that legal entity to be registered as a foundation in Liberia;
- (b) The form of application for registration as a private foundation in Liberia;
- (c) Evidence to be submitted in support of an application for registration in accordance with paragraph (b);
- (d) The form and effect of registration as a foundation in Liberia.

5. *De-registration of a foundation upon reregistration as another legal entity.* The provisions of the Schedule apply in respect of a foundation registered in Liberia and make provision for:

- (a) The eligibility of that foundation to reregister as another legal entity registered in Liberia and to de-register as a foundation;
- (b) The form of application for reregistration as another legal entity in Liberia and de-registration as a foundation;
- (c) The evidence to be submitted in support of an application for reregistration and de-registration in accordance with paragraph (b); and

- (d) Conditions to be satisfied by a private foundation prior to, during and after de-registration.

6. *Merger or consolidation of a foundation.* The provisions of the Schedule apply in respect of a foundation registered in Liberia and make provision for:

- (a) The eligibility of that foundation to merge or consolidate with one or more private foundations or other entities into a private foundation or other entity;
- (b) The form of application for merger or consolidation into a private foundation or other entity;
- (c) The evidence to be submitted in support of an application for merger or consolidation in accordance with paragraph (b); and
- (d) Conditions to be satisfied by a private foundation prior to, during and after merger or consolidation.

7. *Obligation to appoint registered agent.* A foundation seeking to:

- (a) Re-domicile into Liberia;
- (b) Reregister as a private foundation registered in Liberia;
- (c) Re-domicile out of Liberia;
- (d) Cease to be registered as a foundation upon reregistration as another legal entity registered in Liberia;
- (e) Merge or consolidate as a private foundation or other entity,

shall appoint as registered agent in Liberia the registered agent defined in section 60.2.1, in the case of a foundation falling within paragraphs (c), (d) and (e), subject to the limitations specified in the Schedule.

§ 60.52. Liquidation.

1. *Requirement to liquidate.* A private foundation shall be liquidated where:

- (a) The foundation was established for a definite period and that period has expired;
- (b) In the circumstances specified in sub-section 2, the officers have resolved by unanimous resolution to liquidate the foundation;
- (c) The foundation is unable to pay its debts; or
- (d) The court has ordered the liquidation of the foundation.

2. *Circumstances in which the officers shall resolve on liquidation.* The officers shall resolve unanimously to liquidate a private foundation if, but only if:

- (a) The effect of an amendment to the memorandum of endowment under section 60.50 so requires;
- (b) The objects of the foundation have been fulfilled or have become incapable of being fulfilled;
- (c) In the case of a foundation which does not have as its objects the benefit of the public at large, and unless all the beneficiaries for the time being including the remaining beneficiary have unanimously agreed otherwise, 100 years have elapsed since its registration; or
- (d) Any provision of the memorandum of endowment so requires.

3. *Agreement between beneficiaries.* An agreement to which sub-section 2(c) refers may not have the effect of extending the life of a private foundation for a period in excess of 100 years after the date on which, but for that agreement, the foundation would fall to be liquidated in compliance with this section.

4. *Application to the court.* In the event that the officers:

- (a) Fail to pass the unanimous resolution required to be passed by sub-section 2; or
- (b) Other than in one of the circumstances listed in that sub-section pass or purport to pass a resolution to liquidate the foundation,

a donor, a member of a governing body of the private foundation, the remaining beneficiary or any person appointed by the memorandum of endowment for this purpose may apply to the court for an order:

- (c) In the case provided for in paragraph (a), requiring the liquidation of the foundation; or
- (d) In the case provided for in paragraph (b), precluding the liquidation.

5. *Liquidation where objects contrary to section 60.4.1.* The Court shall order the liquidation of a private foundation which has adopted, whether in the memorandum of endowment or in practice, objects precluded by section 60.4.1, and which has failed to comply with any order of the court to remedy the default in the time specified in the order.

6. *Remaining assets to be transferred to beneficiary.* The assets of a private foundation remaining after the winding up is completed shall be the property of the remaining beneficiary, to whom they shall be transferred.

7. *Division between remaining beneficiaries.* In the absence of a provision to the contrary in the memorandum of endowment or the management articles of a private foundation, where there are more than one remaining beneficiary the remaining assets shall be divided equally between them.

8. *Circumstances in which donor may be remaining beneficiary.* Where subsection 2(a) applies to the winding up of a private foundation and where no other provision has been made in the memorandum of endowment, a donor may be the remaining beneficiary.

9. *International Red Cross to be remaining beneficiary.* In the event that:

- (a) There is no remaining beneficiary; or
- (b) The remaining beneficiary refuses to accept the transfer of the remaining assets; and
- (c) There is no relevant provision in the memorandum of endowment,

the remaining assets shall be transferred to the International Red Cross deemed to be the remaining beneficiary and shall be applied by that organization to the benefit of the population of the Republic of Liberia.

10. *Articles of dissolution; contents, filing.* Articles of dissolution:

- (a) Shall be signed, verified and delivered to the Registrar;
- (b) Shall set forth:
 - (i) The name of the foundation;
 - (ii) The date of its registration;
 - (iii) The name and address of each of its officers;
 - (iv) That the foundation elects to dissolve; and
 - (v) The manner in which the dissolution was authorized.

11. *Time when effective.* The dissolution shall become effective as of the filing date stated on the articles of dissolution.

12. *Application of section 60.53.* The sub-sections 5 to 13 of section 60.53 shall apply to the liquidation of a private foundation under this section.

13. *Rescission of dissolution.* The Registrar may:

- (a) Prior to the expiration of 3 years from the date of the filing of articles of dissolution; and
- (b) Being satisfied that:
 - (i) All statutory arrears to the Minister of Finance have been paid; and
 - (ii) The foundation has:
 - (aa) retained a registered agent;
 - (bb) Filed the documents required by section 60.21.2 together with a notarized declaration signed by the officers and the members of the supervisory board, if any, that the articles of dissolution were filed in error,

rescind the dissolution under this or section 60.53 and restore the foundation to full existence and shall:

- (c) Issue a notice to the registered agent specifying the date of restoration declaring that the foundation has been restored to full existence on the date stated in the notice and that it shall therefore be deemed to have been in full existence from the date of initial registration under section 60.21; and
- (d) File a copy of the notice in the index in respect of the foundation.

§ 60.53. Winding up.

1. *Persons who may apply to the court.* An application to the court for the winding up of a private foundation may be presented either by the foundation, or by any creditor or creditors (including any contingent or prospective creditor or creditors), or by all or any of those parties, together or separately.

2. *Effect of application on voluntary liquidation.* Where a private foundation is being wound up voluntarily as a result of a decision, other than an order of the court, to liquidate the foundation under section 60.52, a winding-up application may be presented by any person so authorized under sub-section 1, but the court shall not make a winding-up order on the application unless it is satisfied that the voluntary winding up cannot be continued with due regard to the interests of the creditors.

3. *Granting of application.* If it appears, following due notice to all interested persons and hearing that grounds for dissolution of the foundation other than by a voluntary liquidation exist, the court shall make a judgment that the foundation shall be dissolved.

4. *Filing of judgment.* The clerk of the court shall transmit certified copies of the judgment to the Registrar and upon the filing thereof with the Registrar the foundation shall be dissolved.

5. *Continuation of foundation after liquidation or winding up by court.* A foundation:

- (a) Whether liquidated under section 60.52; or
- (b) Wound up by the court under this section; or

(c) Struck off by the Registrar under section 60.54,

shall nevertheless be continued for the term of three years from such dissolution as a legal personality for the purpose of prosecuting and defending suits by or against it, and of enabling it gradually to settle and close its business, to dispose of and convey its property, to discharge its liabilities, and to distribute to the beneficiaries any remaining assets, but not for the purpose of continuing the activity for which the foundation was registered.

6. *Further continuation to conclude litigation.* With respect to any action, suit, or proceeding begun by or against the foundation either prior to or within three years after the date of its dissolution, and not concluded within such period, the foundation shall be continued as a legal personality beyond that period for the purpose of concluding such action, suit or proceeding and until any judgment, order, or decree therein shall be fully executed.

7. *Trustees.* Upon the dissolution of any foundation the officers shall be trustees thereof, with full power and obligation to:

- (a) Settle the affairs;
- (b) Collect the outstanding debts;
- (c) Sell and convey the property, real and personal, as may be required by the laws of the country where it is situated;
- (d) Prosecute and defend all such suits as may be necessary or proper for the purposes aforesaid;
- (e) Distribute the money and other property among the beneficiaries in accordance with this section after paying or adequately providing for payment of its liabilities and obligations; and
- (f) Do all other acts which might be done by the foundation before dissolution, that may be necessary for the final settlement of the unfinished business of the foundation.

8. *Supervision by court of liquidation.* At any time within three years after the filing of the articles of dissolution, the circuit court in Liberia in the judicial circuit where the office of the registered address was located at the date of its dissolution,

in a special proceeding instituted under this sub-section, upon the petition of the foundation, or of a creditor, officer, member of the supervisory board, donor, or the Minister of Justice, may continue the liquidation of the foundation under the supervision of the court and may make all such orders as it may deem proper in all matters in connection with the dissolution or in winding up the affairs of the foundation, including the appointment or removal of a receiver, who may be an officer or member of the supervisory board of the foundation.

9. *Notice to creditors.* Any time within one year after dissolution, a foundation shall give notice requiring all creditors and claimants, including any with unliquidated or contingent claims and any with whom the foundation has unfulfilled contracts, to present their claims in writing and in detail at a specified place and by a specified day, which shall not be less than six months after the first publication of such notice.

10. *Notice not to be construed as acceptance of status of creditor.* The giving of such notice shall not constitute a recognition that any person is a proper creditor or claimant, and shall not revive or make valid or operate as a recognition of the validity of, or a waiver of any defense or counter claim in respect of any claim against the foundation, its assets or officers, which has been barred by any statute of limitations or become invalid by any cause, or in respect of which the foundation or its officer have any defense or counterclaim.

11. *Filing of claim.* Any claims which shall have been filed as provided in such notice and which shall be disputed by the foundation may be submitted for determination to the circuit court.

12. *Baring of claim.* A claim which:

- (a) At the date of the first publication of notice in accordance sub-section 9, was barred by any statute of limitations shall not give to any person the status of a creditor or claimant entitled to any notice under this section;
- (b) Is not timely filed as provided in such notice (except a claim which is the subject of litigation on the date of the first publication of such notice); and
- (c) Is so filed but is disallowed by the court,

shall be forever barred as against the foundation, its assets and officers except to such extent, if any, as the court may allow against any remaining assets of the

foundation in the case of a creditor who shows satisfactory reason for his failure to file his claim as so provided.

13. *Claims by Government.* Notwithstanding anything in this section, tax claims and other claims by the Government shall not be required to be filed under those sections, and such claims shall not be barred because not so filed, and distribution of the assets of the foundation or any part thereof, may be deferred until determination of any such claims.

§ 60.54. Revocation of Registration.

1. *Procedure.* On the failure of a foundation to:

- (a) Change its name as required by the Registrar under section 60.19 or 60.20; or
- (b) For a period of two years:
 - (i) Make the annual filing required by section 60.56; or
 - (ii) Pay the annual registration fee; or
 - (iii) Maintain a registered agent,

the Registrar shall cause a notification to be sent to the foundation through its last recorded registered agent that its registration will be revoked unless within 90 days of the date of the notice:

- (c) The name is changed; or
- (d) Outstanding annual returns have been filed; or
- (e) Payment of the annual registration fee has been received; or
- (f) A registered agent has been appointed,

as the case may be.

2. *Failure to remedy.* On the expiration of the 90 day period, in the event the foundation has not remedied its default, the Registrar shall:

- (a) Issue a notice specifying the date of revocation and dissolution to the last recorded registered agent declaring that registration has been revoked and the foundation dissolved as of the date stated in the notice; and
- (b) File a copy of the notice in the index in respect of the foundation,

and thereupon the affairs of the foundation shall be wound up in accordance with the procedure provided in sections 60.52 and 60.53.

3. *Erroneous revocation.* Whenever it is established to the satisfaction of the Registrar that the revocation of the foundation was done in error, he may restore the foundation to full existence and shall:

- (a) Issue a notice to the registered agent specifying the date of restoration declaring that the foundation has been restored to full existence on the date stated in the notice and that it shall therefore be deemed to have been in full existence from the date of initial registration under section 60.21; and
- (b) File a copy of the notice in the index in respect of the foundation.

§ 60.55. Register of Particulars and Filing Requirements.

1. *Register of particulars.* Every private foundation shall keep at the office of the secretary a register of the particulars listed in section 60.21.2(f) and shall ensure that within 7 days of any change in any of those particulars that change is recorded in the register, together with such other information or document as may be necessary to comply with the requirements of sub-section 2(b).

2. *Obligation to file change in registered particulars.* Where a change occurs in any of the particulars entered in the index in respect of a private foundation the secretary of the foundation shall within 28 days of the change occurring deliver to the Registrar:

- (a) In a form approved by him, details of any such change; and
- (b) Such documents as are required by section 60.21.2 or any other section to be delivered to the Registrar in connection with that particular, evidenced as so required,

and the Registrar shall enter the changed particulars in the index and retain and register the documents.

3. *Inspection of register.* The register to be kept by a private foundation under this section shall during business hours be open to the inspection of any donor, officer, member of the supervisory board or other supervisory person.

4. *Effect of failure to comply.* If any inspection required under this section is refused or if there is a failure to comply with sub-section 1 or 2 the private foundation and every officer who is responsible are in default.

§ 60.56. Annual Return to be made by a Private Foundation.

1. *Obligation to file annual return.* Every private foundation shall deliver to the Registrar successive annual returns, each of which is made up to a date not later than the date which is the “return date” of the foundation, that is the anniversary of the registration of the foundation.

2. *Form of annual return.* Each annual return shall:

- (a) Be in the form approved by the Registrar;
- (b) Contain the information required by this Law to be entered in the index in respect of a private foundation;
- (c) Be signed by the secretary of the foundation; and
- (d) Be accompanied by the annual registration fee,

and shall be delivered to the Registrar within 28 days after the date to which it is made up.

3. *Contents of annual return.* The annual return shall state the particulars listed in section 60.21.2(f) and shall confirm the accuracy of the information contained in the return.

4. *Certificate signed by secretary to accompany annual return.* The annual return shall include a certificate signed by the secretary of the foundation confirming that the requirements of this Law in respect of the keeping of accounts

have been complied with and, where an auditor is appointed in respect of that foundation, that certificate shall be endorsed by the auditor.

5. *Consequences of failure to comply.* If a private foundation fails to comply with this section:

- (a) The foundation and every officer of the foundation shall be in default;
- (b) The Registrar may regard that failure as reasonable cause to believe that the foundation is not in operation.

§ 60.57. Delivery to the Registrar of Documents in Printed Form.

1. *Application of section.* This section applies to the delivery to the Registrar under any provision of this Law of documents in printed form.

2. *Form of printed document.* The document shall:

- (a) State in a prominent position the name and the registered number of the private foundation to which it relates;
- (b) Be in the form approved by the Registrar; and
- (c) Conform to such requirements as the Registrar may specify for the purpose of enabling him to copy any document to be retained by him.

3. *Notice of non-compliance.* If a document is delivered to the Registrar which does not comply with the requirements of this section, he may serve on the person by whom the document was delivered (or if there are two or more such persons, on any of them), a notice indicating the respect in which the document does not comply.

4. *Effect of failure to comply.* Where the Registrar serves such a notice as is specified in sub-section 3, then, unless a replacement document:

- (a) Is delivered to him within 28 days after the service of the notice; and
- (b) Complies with the requirements of this section (or section 60.58) or is not rejected by him for failure to comply with those requirements,

the original document shall be deemed not to have been delivered to him.

5. *Computation of time.* For the purposes of any provision requiring delivery within a specified period no account shall be taken of the period between the delivery of the original document and the end of the period of 28 days after service of the Registrar's notice.

§ 60.58. Delivery to the Registrar of Documents Otherwise than in Printed Form.

1. *Application of section.* This section applies to the delivery to the Registrar under any provision of this Law of documents other than in printed form.

2. *Form of document.* Any requirement to deliver a document to the Registrar, or to deliver a document in the approved form, is satisfied by the communication to the Registrar of the requisite information in any non-printed form approved by the Registrar in accordance with the provisions of the Electronic Transactions Law.

3. *Authentication of signature.* Where the document is required to be signed or sealed, it shall instead be authenticated in such manner as may comply with the provisions of this Law and of the Electronic Transactions Law.

4. *Content of document.* A document shall:

- (a) Contain in a prominent position the registered name and number of the private foundation to which it relates;
- (b) Be in form approved by the Registrar; and
- (c) Be furnished in such manner, and conform to such requirements, as the Registrar may specify for the purpose of enabling him to read and, in respect of any document retained by him, copy the document.

5. *Notice of non-compliance.* If a document is delivered to the Registrar which does not comply with the requirements of this section, he may serve on the person by whom the document was delivered (or, if there were two or more such persons, on any of them), a notice indicating the respect in which the document does not comply.

6. *Effect of failure to comply.* Where the Registrar serves such a notice, then, unless a replacement document:

- (a) Is delivered to him within 28 days after service of the notice; and
- (b) Complies with the requirements of this section (or section 57) or is not rejected by him for failure to comply with those requirements,

the original document shall be deemed not to have been delivered to him.

7. *Computation of time.* For the purposes of any provision requiring delivery within a specified period no account shall be taken of the period between the delivery of the original document and the end of the period of 28 days after service of the Registrar's notice.

§ 60.59. Keeping of the Register and Index by the Registrar.

1. *Registrar has duty to keep register and may determine form of register.* The Registrar shall keep a register of documents delivered to him and which he is required to retain under this Law and may retain and store documents delivered to him in compliance with any requirement of this Law in whatever form he thinks fit provided it is possible to inspect the information contained in the document and to produce a copy of it in printed form and this shall be sufficient compliance with any duty of his to register any document.

2. *Registrar has duty to keep index and may determine form of index* The Registrar shall keep the index of private foundations required by this Law and may determine the form of the index and the information to be contained in the index may be recorded and kept by him in any form he thinks fit, provided it is possible to inspect the information contained in the index and to produce a copy of it in printed form and this shall be sufficient compliance with any duty of his to keep, file or record any information.

§ 60.60. Inspection, Production and Evidence of Documents Kept by Registrar.

1. *Right to obtain information from index.* Any person may obtain from the index kept by the Registrar for the purposes of this Law:

- (a) A copy in such form as the Registrar considers appropriate of any information contained in the index; or
- (b) A certified copy of, or extract from the index.

2. *Status of copy certified by Registrar.* A copy of an extract from the index certified by the Registrar (whose official position it is unnecessary to prove), to be an accurate record of the contents the index or any document delivered to him and retained by him under this Law, is in all legal proceedings admissible in evidence as of equal validity with the original document and as evidence of any facts stated therein, of which direct oral evidence would be admissible.

3. *Right to certificate of registration.* Any person may require a certificate of the registration of a private foundation, or a certificate of goodstanding of a foundation, signed by the Registrar.

4. *Documents supplied by Registrar may be in non-printed form.* Any requirement of the Law as to the supply by the Registrar of a document may, if the Registrar thinks fit, be satisfied by the communication by the Registrar of the requisite information in any non-printed form approved by him.

5. *Authentication of signature.* Where the document is required to be signed by him and is a communication in a non-printed form, it shall instead be authenticated in such manner as may comply with the requirements of this Law and of the Electronic Transactions Law.

6. *Leave of court required to compel production of record.* No process for compelling the production of a record by the Registrar shall issue from any court except with the leave of the court, and any such process shall bear on it a statement that it is issued with the leave of the court.

§ 60.61. Enforcement of Duty of Private Foundation to Make Returns to Registrar.

1. *Application for order from the court.* If a private foundation, having made default in complying with any provision of this Law which requires it to file with or deliver to the Registrar any return, account or other document, or to give notice to him of any matter, fails to make good the default within 28 days after the service of a notice on the foundation requiring it to do so, the court may, on an application made by:

- (a) A donor;
- (b) An officer;
- (c) A member of the supervisory board or any other supervisory person; or

(d) A creditor,

of the foundation, make an order directing the foundation and any officer thereof to make good the default within such time as may be specified in the order.

2. *Costs of the application.* Any such order may provide that all costs of and incidental to the application shall be borne by the private foundation or by any officers of the foundation responsible for the default.

§ 60.62. Obligation of Confidentiality.

1. *General duty of confidentiality.* Subject to the provisions of this section, the Registrar and every person having any official duty in the administration of this Law shall regard and deal with all documents not retained by the Registrar under the provisions of this Law as confidential.

2. *Documents not entered on index.* A person having possession of or control over:

- (a) Any document relating to a private foundation which is not registered and retained by the Registrar; or
- (b) Information relating to a private foundation which is not contained:
 - (i) In the entry in the index in respect of that foundation; or
 - (ii) In a document retained by the Registrar,

shall regard that document and information as confidential and shall not communicate that document, or anything contained in that document, or that information, or any part of that information, to any person other than a person:

- (c) Who by virtue of any provision of this Law is entitled to inspect that document or receive that information;
- (d) To whom he is authorized by the donor, the officers or the supervisory board of the foundation to disclose the document or information for the purpose of maintaining the objects of the foundation; or

- (e) Subject to sub-section 4, to whom he is required to disclose that information by the order of a court of competent jurisdiction.

3. *Offences.* A person who acts in contravention of:

- (a) Sub-section 1 shall be guilty of an offence punishable on conviction by a fine;
- (b) Sub-section 2:
 - (i) Where he is a member of a governing body of the foundation or is an auditor of the foundation, is in default; or
 - (ii) Otherwise is in breach of his statutory obligations and the foundation may proceed against him.

4. *Restriction of requirement to produce any document.* No person employed in carrying out the provisions of this Act shall be required to produce in any court or before any authority or person for any purpose whatsoever any document made in pursuance of this Law or to divulge or communicate to any court any matter or thing coming to his notice in the performance of his duties under this Law except as may be:

- (a) Necessary for the purpose of:
 - (i) Carrying into effect the provisions of this Law;
 - (ii) Any criminal proceedings in which such document, matter or thing is material; or
- (b) Required by the provisions of the Prevention of Money Laundering Law relating to the prevention and detection of the laundering of the proceeds of criminal activity.

§ 60.63. Default Provisions.

1. *Application to the court.* Where a foundation or an officer of a foundation is in default an application may be made to the court by:

- (a) A donor;

- (b) An officer; or
- (c) The supervisory board or some other supervisory person,

specifying the default and seeking a remedy.

2. *Order from the court.* Where the court is satisfied that it is just and equitable in the circumstances to do so, it may order the remedy sought, or may make such other order as it sees fit:

- (a) For the attainment of the objects of the Law; and
- (b) To obtain compliance with the Law.

3. *Costs of the application.* Where the order of the court under sub-section 2 has the effect of granting the application, the court shall order that the costs of the applicant in bringing the application as well as the costs of the action shall be met:

- (a) Where the application and the order are in respect of default by the foundation, by the foundation;
- (b) Where the application and the order are in respect of default by the foundation but, in the opinion of the court, the default was the responsibility of an officer, by that officer;
- (c) Where the application and the order are in respect of default by an officer, by that officer.

§ 60.64. Offenses.

An officer, member of the supervisory board, other supervisory person or an auditor of a private foundation shall be guilty of a felony of a second degree, as defined in Chapter 50 of the New Penal Law. if he knowingly and with intent to deceive:

- (a) Falsely represents the financial position of the foundation to any person;
- (b) Withholds information relating to the financial position of the foundation or any other matter regulated by this Law from any person entitled to receive that information; or
- (c) Falsifies any document:

- (i) To be delivered under the Law to the Registrar;
- (ii) Required by the Law to be prepared in respect of the foundation.

§ 60.65. Notice.

1. *General requirement.* Where there is provision in this Law for the service of notice on any person, the notice shall be in writing and may be served in person, by post, by fax or electronically.

2. *Date of service.* In respect of service:

- (a) In person, the date of service shall be the date on which the notice was deposited at the address last notified to the secretary of a private foundation by the person entitled to receive service as his address for service or, where no address has been so notified, the last known address of that person for the receipt of written communications;
- (b) By post, the date of service shall be the date 7 days after the date on which the notice was posted and service shall be at the address last notified to the secretary of a private foundation by the person entitled to receive service as his address for service or, where no address has been so notified, the last known address of that person for the receipt of written communications;
- (c) By fax or electronic means, the date of service shall be the date of transmission recorded by the transmitter and the address shall be the fax number or electronic address last notified to the secretary of a private foundation by the person entitled to receive service as his number or address for receipt of fax or electronic communications.

3. *Service of process.* The provisions of Chapter 3 of Part I of this Title shall apply *mutatis mutandis* to the service of process.

§ 60.66. Fees payable to the Minister of Finance.

1. *Registration.* On registration of a foundation a fee in the following amounts shall be paid to the Minister of Finance and a receipt therefor shall accompany the documents presented for filing:

US\$ 2.00 for each US\$ 1,000 of the value of the initial assets up to and including US\$ 125,000;

US\$ 0.50 for each US\$ 1,000 of the value of the initial assets in excess of US\$ 125,000 and not in excess of US\$ 1,000,000;

US\$ 0.25 for each US\$ 1,000 of the value of the initial assets in excess of US\$ 1,000,000 and not in excess of US\$ 2,000,000;

US\$ 0.10 for each US\$ 1,000 of the value of the initial assets in excess of US\$ 2,000,000;

and in no case shall less than US\$ 100.00 be paid under this sub-section on registration.

2. *Fee on filing.* On filing with the Registrar of any instrument or document required or permitted by this Law to be filed with the Registrar other than an annual return, a fee of \$10.00 shall be paid to the Minister of Finance.

3. *Filing of annual return.* On filing with the Registrar of the annual return, the annual registration fee of \$150.00 shall be paid to the Minister of Finance.

4. *Late Fees.* Where a fee, which under this Law is required to be paid within a specified time, is paid after the specified time the amount due and to be paid to the Minister of Finance shall be twice the amount payable in respect of that matter when the fee is paid within the specified time.

5. *Power to specify other fees, etc..* The Registrar may by notice introduce, vary, increase, reduce or remove fees and may reduce or remove any fee retrospectively.

§ 60.67. Rules and Forms.

1. *Rules made by the Registrar.* The Registrar may make rules for the purpose of prescribing anything required or permitted by this Law to be prescribed, and, without prejudice to the generality of the foregoing, shall make provision by rule for:

- (a) Amendment to the Schedule to this Law;

- (b) Providing for such other matters as are reasonably necessary for or incidental to the due administration of this Law;

and such rules may contain different provisions in respect of different matters and may make such transitional provisions as the Registrar may determine.

2. *Forms.* Where by this Law any person is required to:

- (a) Make an application;
- (b) Deliver a document;
- (c) Provide an extract;
- (d) Confirm or certify any information,

to the Registrar he shall, subject to the provisions of the Law, do so in a form and, where appropriate, on a form approved for the purpose by the Registrar.

3. *Certificates etc..* Subject to the provisions of this Law, any certificate or other document to be issued by the Registrar shall be in a form approved by the Registrar.

SCHEDULE

Section 60.51

PRIVATE FOUNDATIONS RE-DOMICILIATION, REREGISTRATION, DE-REGISTRATION, MERGER AND CONSOLIDATION PROVISIONS.

PART I.

ESTABLISHMENT OF DOMICILE IN LIBERIA AND REGISTRATION AS A PRIVATE FOUNDATION.

- 1. Eligibility to Apply to Establish Domicile in Liberia and Register as a Private Foundation.**

A foundation domiciled outside Liberia may, if permitted to do so by its constitution, apply to establish its domicile in Liberia and to register as a private foundation.

2. Application to Establish Domicile in Liberia and Register as a Private Foundation.

An application by a foundation to establish domicile in Liberia and to register as a private foundation shall be made to the Registrar in the form prescribed by him and shall be accompanied by:

- (a) A certificate setting out:
 - (i) The name of the foundation, and, if the name has been changed, the name with which the foundation was established, and the name, if different, under which registration as a re-domiciled private foundation is sought;
 - (ii) The date of establishment of the foundation, and if registered, the date of registration;
 - (iii) The jurisdiction of establishment of the foundation;
 - (iv) The date on which it is proposed to redomicile and register as a private foundation;
 - (v) That the re-domiciliation has been approved in accordance with the relevant law and the constitution of the foundation;
 - (vi) Confirmation by the officers of the foundation that at the date of redomiciliation and registration as a private foundation:
 - (aa) The foundation will have done in the jurisdiction in which it was established everything required by the relevant legislation of that jurisdiction preparatory to re-domiciliation in another jurisdiction and that the foundation will cease to be a foundation domiciled in that jurisdiction;
 - (bb) The foundation will not conduct activities contrary to the provisions of section 60.4; and

- (cc) The assets of the foundation will comply with the requirements of section 60.8 in respect of initial assets of a foundation;
- (b) A copy of the resolution or other instrument of the foundation resolving to re-domicile and register as a private foundation, approved in the manner prescribed by the constitution of the foundation, which shall specify:
 - (i) That the foundation shall be re-domiciled and registered in Liberia as a private foundation;
 - (ii) The proposed name of the private foundation if different from the present name of the foundation;
 - (iii) Such other provisions with respect to the proposed re-domiciliation and registration as a private foundation as the governing body considers necessary or desirable;
- (c) Where the foundation is registered in the jurisdiction in which it is established, a certificate of goodstanding in respect of the foundation issued by the competent authority in that jurisdiction or other evidence to the satisfaction of the Registrar that the foundation is in compliance with registration requirements of that jurisdiction;
- (d) Evidence to the satisfaction of the Registrar that no proceedings for insolvency have been commenced against the foundation in the jurisdiction in which it is established;
- (e) The documents listed in section 60.21.1(a), (b) and (d); and
- (f) Any amendments to the memorandum of endowment and management articles (or other instrument constituting or defining the constitution of the foundation) that are to take effect on the registration of the foundation as a re-domiciled private foundation,

and:

- (g) Where in this Part there is reference to the jurisdiction in which the foundation is established, that reference shall, in respect of a foundation

domiciled in a jurisdiction other than that in which it is established, be read to include a reference to the jurisdiction of domicile;

- (h) The provisions of section 1.4 of Chapter 1 of Part I of this Title shall apply, with the variation that execution shall be by an officer or other person performing in relation to that foundation the function of an officer and duly authorized for this purpose.

3. Name of Foundation on Re-domiciliation and Registration as Private Foundation.

The provisions of section 60.17 shall apply in respect of the name in which a foundation may apply to re-domicile and register as a private foundation.

4. Re-domiciliation and Registration in Liberia.

The Registrar shall, if he is satisfied that the requirements of this Law in respect of re-domiciliation and registration as a private foundation have been met:

- (a) Register the foundation and certify that the foundation has established domicile in Liberia and is registered as the private foundation specified in the documents supplied in compliance with paragraph 2, in accordance with those documents on the date of the issue of the certificate, or, in case of a certificate to which paragraph 5 applies, on the specified date;
- (b) Retain and record the documents referred to in paragraph 2 except the documents specified in sub-paragraph (c);
- (c) Return to the foundation the documents delivered to him in compliance with section 60.21.1(a) and (b) and paragraph 2(f), endorsed with the date on which they were delivered to him.

5. Deferred Date of Re-domiciliation and Registration.

Notwithstanding section 1.4.6(d) of Chapter 1 of Part I of this Title, where, at the time of the making of an application under paragraph 2, the foundation applying for re-domiciliation and registration as a private foundation has specified a date (in this Part referred to as “the specified date”) no later than 12 months after the date of the making of the application as the date of re-domiciliation and registration, the

certificate issued by the Registrar shall show the specified date as the date of re-domiciliation and registration.

6. Status of a Certificate of Re-domiciliation and Registration.

A certificate given by the Registrar in accordance with paragraph 4(a) in respect of any re-domiciled and registered private foundation shall be:

- (a) Conclusive evidence that all the requirements of this Law in respect of that re-domiciliation and registration, and matters precedent and incidental thereto, have been complied with and that the foundation is a private foundation authorized to be so re-domiciled and registered and is re-domiciled and registered under the provisions of this Part;
- (b) Valid for a period of 12 months from the date of the issue of the certificate or, in case of a certificate to which paragraph 5 applies, from the specified date, unless endorsed in accordance with paragraph 8.

7. Obligation to Amend Memorandum of Endowment or Management Articles.

If, at the time of the issue by the Registrar of the certificate of re-domiciliation and registration in accordance with paragraph 4(a), any provisions of the memorandum of endowment or the management articles, if any, of the re-domiciled and registered private foundation do not, in any respect, accord with this Law:

- (a) The constitution of the re-domiciling foundation shall continue to govern the private foundation until;
 - (i) The memorandum or articles complying with this Law are in effect; or
 - (ii) The expiration of a period of 12 months immediately following the date of the issue of that certificate or, in case of a certificate to which paragraph 5 applies, the specified date,whichever is the sooner;
- (b) Any provisions of the constitution of the re-domiciling foundation that are in any respect in conflict with this Law cease to govern the private

foundation when a memorandum of endowment and management articles, if any, in accordance with this Law are in effect;

- (c) The private foundation shall give effect to memorandum of endowment and management articles, if any, as may be necessary to accord with this Law within a period of 12 months immediately following the date of the issue of the certificate or, in case of a certificate to which paragraph 5 applies, from the specified date.

8. Endorsement of Certificate.

Where:

- (a) At the date of the issue of a certificate of re-domiciliation and registration or at any time thereafter within a period of 12 months immediately following the date of the issue of that certificate; or
- (b) In the case of a certificate to which paragraph 5 applies, at the specified date or at any time thereafter within a period of 12 months immediately following that date,

the Registrar is satisfied that:

- (c) The foundation has ceased to be a foundation under the relevant provisions of the law in the jurisdiction in which it was established; and
- (d) The memorandum of endowment and the management articles, if any, accord in all respects with this Law and the objects of the private foundation,

he may, on the application of the private foundation to which the certificate has been issued endorse that certificate to the effect that the private foundation is from the date of the endorsement to be deemed to be re-domiciled and registered in Liberia under this Law and that shall be the effective date of re-domiciliation and registration.

9. Failure to Complete Re-domiciliation and Registration.

If, by a date 12 months immediately following the date of the issue of a certificate in accordance with paragraph 4(a) or, in the case of a certificate to which paragraph 5

applies, following the specified date, the foundation has not satisfied the Registrar that:

- (a) It has ceased to be a foundation under the relevant provisions of the law in the jurisdiction in which it was established; and
- (b) The memorandum of endowment and the management articles, if any, accord in all respects with this Law and the objects of the foundation as a private foundation,

the Registrar shall revoke the certificate issued under paragraph 4(a) and:

- (a) That certificate and any re-domiciliation and registration under this Part shall be of no further force or effect; and
- (b) The Registrar shall strike the foundation from the index of private foundations maintained under section 60.59.

10. Effect of Re-domiciliation and Registration.

With effect from the date of the issue of a certificate of re-domiciliation and registration:

- (a) The foundation to which the certificate relates:
 - (i) Is a private foundation re-domiciled and registered and deemed to be registered in Liberia under this Law and having as its existence date the date on which it was established in another jurisdiction; and
 - (ii) Shall be a foundation registered in Liberia for the purpose of any other Law;
- (b) The memorandum of endowment and the management articles of the foundation (or other instrument constituting or defining the constitution of the foundation), as amended by the resolution or equivalent document establishing domicile in Liberia, are the memorandum of endowment and the management articles of the foundation;
- (c) The property of every description and the business of the foundation are vested in the private foundation;

- (d) The private foundation is liable for all of the claims, debts, liabilities and obligations of the foundation;
- (e) No conviction, judgment, ruling, order, debt, liability or obligation due or to become due and no cause existing against the foundation or against any officer or agent thereof is thereby released or impaired;
- (f) No proceedings whether civil or criminal pending at the time of the issue by the Registrar of the certificate of registration by or against the foundation or against any officer or agent thereof are thereby abated or discontinued, but the proceedings may be enforced, prosecuted, settled or compromised by or against the foundation or against the officer or agent thereof, as the case may be;
- (g) Unless otherwise provided in the resolution of re-domiciliation and registration filed in accordance with paragraph 2, the foundation re-domiciling and registering as the private foundation shall not be required to wind up its affairs or pay its liabilities and distribute its assets,

and the re-domiciliation and registration shall constitute a continuation of the existence of the re-domiciling and registering foundation as the private foundation and shall not:

- (h) Constitute a dissolution of the foundation;
- (j) Create a new legal entity; or
- (k) Prejudice or affect the continuity of the re-domiciled and registered foundation as a private foundation.

PART II.

ESTABLISHMENT OF DOMICILE IN ANOTHER JURISDICTION.

11. Eligibility to Apply to Establish Domicile in Another Jurisdiction.

A private foundation registered in Liberia may, if permitted to do so by its constitution, apply to establish domicile outside Liberia in another jurisdiction.

12. Application to Establish Domicile in Another Jurisdiction.

An application by a private foundation to establish domicile outside Liberia in another jurisdiction and to cease to be a private foundation registered under this Law in Liberia shall be made to the Registrar in the form prescribed by him and shall be accompanied by:

- (a) A certificate setting out:
 - (i) The name of the foundation, and, if the name has been changed, the name with which the foundation was established, and the name, if different, under which registration as a re-domiciled foundation is sought;
 - (ii) The date of registration of the private foundation, and if established under any other law, the date of establishment;
 - (iii) The jurisdiction to which the private foundation proposes to re-domicile and the name and address of the competent authority in that jurisdiction;
 - (iv) The date on which the private foundation proposes to redomicile;
 - (v) The address for service of the foundation in the jurisdiction of re-domiciliation;
 - (vi) That the proposed re-domiciliation has been approved in accordance with the relevant law and the constitution of the foundation;
 - (vii) Confirmation by the officers of the private foundation that at the date of redomiciliation the private foundation will have done everything required by this Law preparatory to re-domiciliation in another jurisdiction and that, on redomiciliation in the other jurisdiction, the private foundation will cease to be a foundation domiciled in Liberia;
- (b) A copy of the resolution or other instrument of the private foundation resolving to re-domicile, approved in the manner prescribed by the constitution of the foundation, which shall specify:

- (i) That the private foundation shall be re-domiciled out of Liberia;
 - (ii) The proposed name of the foundation if different from the present name of the private foundation;
 - (iii) Such other provisions with respect to the proposed re-domiciliation as the governing bodies consider necessary or desirable;
- (c) A certificate of goodstanding in respect of the private foundation issued by the Registrar;
 - (d) Evidence to the satisfaction of the Registrar that no proceedings for insolvency have been commenced in Liberia against the private foundation;
 - (e) The address of the registered agent in Liberia which shall be retained during the period of one year or such longer period until the foundation has been deemed to be a foundation domiciled in the other jurisdiction, and evidence of acceptance of the appointment by the registered agent; and
 - (f) Any amendments to the memorandum of endowment and management articles that are to take effect on the registration of the private foundation in the other jurisdiction,

and the provisions of section 1.4 of Chapter 1 of Part I of this Title shall apply, with the variation that execution shall be by an officer or other person performing in relation to that foundation the function of an officer and duly authorized for this purpose.

13. Consent to Establish Domicile in Another Jurisdiction.

The Registrar shall, if he is satisfied that the requirements of this Law in respect of re-domiciliation to another jurisdiction have been met:

- (a) Certify that the private foundation is permitted to establish domicile in the jurisdiction specified in the documents supplied in compliance with paragraph 12, in accordance with those documents, and that it may cease to be registered in Liberia on the date of the issue of the

certificate, or, in case of a certificate to which paragraph 14 applies, on the specified date;

- (b) Retain and record the documents referred to in paragraph 12 except the documents specified in sub-paragraph (c);
- (c) Return to the foundation the documents delivered to him in compliance with paragraph 12(f), endorsed with the date on which they were delivered to him;
- (d) Enter in the index kept for this purpose in respect of a foundation to which a certificate has been issued under this paragraph the fact of the issue of the certificate and the documents retained in compliance with sub-paragraph (b).

14. Deferred Date of Re-domiciliation.

Notwithstanding section 1.4.6(d) of Chapter 1 of Part I of this Title, where, at the time of making an application under paragraph 12, the private foundation applying for re-domiciliation has specified a date (in this Part referred to as “the specified date”) no later than 12 months after the date of the making of the application as the date of re-domiciliation, the certificate issued by the Registrar shall show the specified date as the date of re-domiciliation.

15. Status of a Certificate of Re-domiciliation.

A certificate given by the Registrar in accordance with paragraph 13(a) in respect of any re-domiciled foundation shall be:

- (a) Conclusive evidence that all the requirements of this Law in respect of that re-domiciliation, and matters precedent and incidental thereto, have been complied with and that the foundation is authorized to be so re-domiciled and is re-domiciled under the provisions of this Part;
- (b) Valid for a period of 12 months from the date of the issue of the certificate or, in case of a certificate to which paragraph 14 applies, from the specified date, unless endorsed in accordance with paragraph 16.

16. Endorsement of Certificate.

Where:

- (a) At the date of the issue of a certificate of re-domiciliation or at any time thereafter within a period of 12 months immediately following the date of the issue of that certificate; or
- (b) In the case of a certificate to which paragraph 14 applies, at the specified date or at any time thereafter within a period of 12 months immediately following that date,

the Registrar is satisfied, by the service on him of a certificate of continuation executed by the governing body of the re-domiciled foundation, that the foundation has become a foundation under the relevant provisions of the law in the jurisdiction specified in the certificate of re-domiciliation, he may endorse the certificate of re-domiciliation to the effect that the foundation is from the date of the endorsement to be deemed to be re-domiciled and no longer registered in Liberia under this Law and that shall be the effective date of re-domiciliation.

17. Failure to Complete Re-domiciliation.

If, by a date 12 months immediately following the date of the issue of a certificate in accordance with paragraph 13(a) or, in the case of a certificate to which paragraph 14 applies, following the specified date, the foundation has not satisfied the Registrar that it has become a foundation under the relevant provisions of the law in the jurisdiction to which it proposed to re-domicile, the Registrar shall revoke the certificate issued under paragraph 13(a), and:

- (a) That certificate and any re-domiciliation under this Part shall be of no further force or effect; and
- (b) The foundation shall continue as a private foundation in Liberia under the provisions of this Law.

18. Effect of Re-domiciliation.

With effect from the date of the issue of a certificate of re-domiciliation:

- (a) The foundation to which the certificate relates shall cease to be:
 - (i) A private foundation registered in Liberia under this Law; and

- (ii) A foundation registered in Liberia for the purpose of any other Law;
- (b) The memorandum of endowment and the management articles of the foundation (or other instrument constituting or defining the constitution of the foundation), as amended by the resolution or equivalent document establishing domicile in the other jurisdiction, are the memorandum of endowment and the management articles of the foundation;
- (c) The property of every description and the business of the private foundation are vested in the foundation;
- (d) The foundation is liable for all of the claims, debts, liabilities and obligations of the private foundation;
- (e) No conviction, judgment, ruling, order, debt, liability or obligation due or to become due and no cause existing against the private foundation or against any officer or agent thereof is thereby released or impaired;
- (f) No proceedings whether civil or criminal pending at the time of the issue by the Registrar of the certificate of re-domiciliation by or against the private foundation or against any officer or agent thereof are thereby abated or discontinued, but the proceedings may be enforced, prosecuted, settled or compromised by or against the foundation or against the officer or agent thereof, as the case may be;
- (g) Unless otherwise provided in the resolution of re-domiciliation deposited in accordance with paragraph 12, the private foundation re-domiciling as a foundation in another jurisdiction shall not be required to wind up its affairs or pay its liabilities and distribute its assets,

and the re-domiciliation shall constitute a continuation of the existence of the re-domiciling foundation and shall not:

- (h) Constitute a dissolution of the foundation;
- (j) Create a new legal entity; or
- (k) Prejudice or affect the continuity of the re-domiciled foundation.

19. Index of Foundations Re-domiciled to Another Jurisdiction.

The Registrar shall maintain an index of foundations in respect of which a certificate issued in accordance with paragraph 13(a) is in force and in that index shall record the name in which the foundation is re-domiciled in the other jurisdiction and the address for service of the foundation in that jurisdiction, and whether the foundation has ceased to be registered under this Law in accordance with paragraph 16.

PART III.

REREGISTRATION OF ANOTHER LEGAL ENTITY AS A FOUNDATION.

20. Eligibility to be Reregistered as a Private Foundation.

A corporation, a company, a limited liability company, a limited partnership, or any other legal entity existing under the laws of Liberia (in this Part referred to as a “legal entity”) may, if permitted to do so by its constitution, apply to reregister as a private foundation.

21. Application to Reregister as a Private Foundation.

An application by a legal entity to reregister as a private foundation shall be made to the Registrar in the form prescribed by him and shall be accompanied by:

- (a) A certificate setting out:
 - (i) The name of the legal entity, and, if the name has been changed, the name with which the legal entity was formed, and the name, if different, under which reregistration as a reregistered and continued private foundation is sought;
 - (ii) The date of formation of the legal entity;
 - (iii) The relevant law under which the legal entity has its existence;
 - (iv) The date on which it is proposed to reregister;
 - (v) That the reregistration has been approved in accordance with the relevant law and the constitution of the legal entity;

- (vi) Confirmation by, in the case of:
 - (aa) A corporation or a company, the directors or other governing body;
 - (bb) A limited liability company, the members or the manager;
 - (cc) A limited partnership, the partners;
 - (dd) Any other legal entity, the governing body;that at the date of reregistration as a private foundation:
 - (ee) The legal entity will have done everything required by the relevant legislation preparatory to de-registration and reregistration, and that the entity will cease to be a legal entity registered under that legislation;
 - (ff) The legal entity will not conduct activities contrary to the provisions of section 60.4; and
 - (gg) The assets of the legal entity will comply with the requirements of section 60.8 in respect of initial assets of a foundation;
- (b) A copy of the resolution or other instrument of the legal entity resolving to de-register and reregister as a private foundation approved in the manner prescribed by the constitution of the legal entity which shall specify:
 - (i) That the entity shall be reregistered as a foundation;
 - (ii) The proposed name of the foundation if different from the present name of the legal entity;
 - (iii) That the total amount from time to time of the assets of the foundation shall not fall below the amount of the share capital of the corporation or company, the contributions of the limited liability company or limited partnership, or the capital of any other entity, as the case may be, at the date of the resolution;

- (iv) The method of converting shareholding and membership interests or partnership interests, as the case may be, into assets of the foundation;
- (v) The arrangements for the appointment of officers and the supervisory board, if any;
- (vi) Such other provisions with respect to the proposed reregistration as, in the case of:
 - (aa) A corporation or a company, the directors or other governing body;
 - (bb) A limited liability company, the members or the manager;
 - (cc) A limited partnership, the partners;
 - (dd) Any other legal entity, the governing body;
 considers necessary or desirable;
- (c) A certificate of goodstanding in respect of the legal entity;
- (d) Evidence to the satisfaction of the Registrar that no proceedings for insolvency have been commenced against the legal entity;
- (e) The documents listed in section 60.21.1(a), (b), and (d); and
- (f) Any amendments to the instrument constituting or defining the constitution of the legal entity that are to take effect on the reregistration of the entity as a private foundation such that the amended instrument shall constitute a memorandum of endowment and management articles, if any, in accordance with the provisions of this Law,

and the provisions of section 1.4 of Chapter 1 of Part I of this Title shall apply with the variation that execution shall be by any director, officer, partner, trustee or other person performing in relation to that legal entity the function of an officer and duly authorized for this purpose.

22. Name of Foundation on Reregistration.

The provisions of section 60.17 shall apply in respect of the name under which the legal entity may apply to reregister and continue as a private foundation.

23. Reregistration and Continuation as a Private Foundation.

The Registrar shall, if he is satisfied that the requirements of this Law in respect of reregistration as a private foundation have been met:

- (a) Register the foundation and certify that the foundation is registered and continued as the private foundation specified in the documents supplied in compliance with paragraph 21, in accordance with those documents, on the date of the issue of the certificate, or, in the case of a certificate to which paragraph 24 applies, on the specified date;
- (b) Retain and record the documents referred to in paragraph 21 except the documents specified in sub-paragraph (c);
- (c) Return to the foundation the documents delivered to him in compliance with section 60.21.1(a) and (b) and paragraph 21(f), endorsed with the date on which they were delivered to him.

24. Deferred date of Reregistration.

Notwithstanding section 1.4.6(d) of Chapter 1 of Part I of this Title, where, at the time of the making of an application under paragraph 21, the legal entity applying for reregistration as a private foundation has specified a date (in this Part referred to as “the specified date”) no later than 12 months after the date of the making of the application as the date of reregistration, the certificate issued by the Registrar shall show the specified date as the date of reregistration.

25. Status of a Certificate of Reregistration.

A certificate given by the Registrar in accordance with paragraph 23(a) in respect of any reregistered private foundation shall be:

- (a) Conclusive evidence that all the requirements of the Law in respect of that reregistration, and matters precedent and incidental thereto, have been complied with and that the foundation is a private foundation authorized to be so reregistered and is reregistered under the provisions of this Part;

- (b) Valid for a period of 12 months from the date of the issue of the certificate or, in case of a certificate to which paragraph 24 applies, from the specified date, unless endorsed in accordance with paragraph 27.

26. Obligation to Amend Memorandum of Endowment or Management Articles.

If, at the time of the issue by the Registrar of the certificate of reregistration in accordance with paragraph 23(a), any provisions of the constitution of the reregistered private foundation do not, in any respect, accord with this Law:

- (a) The constitution of the legal entity shall continue to govern the private foundation until;
 - (i) A memorandum of endowment and management articles, if any, complying with this Law are in effect; or
 - (ii) The expiration of a period of 12 months immediately following the date of the issue of that certificate or, in case of a certificate to which paragraph 24 applies, the specified date,

whichever is the sooner;

- (b) Any provisions of the constitution of the legal entity that are in any respect in conflict with this Law cease to govern the private foundation when a memorandum of endowment and management articles, if any, in accordance with this Law are in effect;
- (c) The private foundation shall give effect to a memorandum of endowment and management articles, if any, as may be necessary to accord with this Law within a period of 12 months immediately following the date of the issue of the certificate or, in case of a certificate to which paragraph 24 applies, from the specified date.

27. Endorsement of Certificate.

Where,

- (a) At the date of the issue of a certificate of reregistration or at any time thereafter within a period of 12 months immediately following the date of the issue of that certificate; or
- (b) In the case of a certificate to which paragraph 24 applies, at the specified date or at any time thereafter within a period of 12 months immediately following that date,

the Registrar is satisfied that:

- (c) The legal entity has ceased to be a legal entity under the relevant provisions of the law under which it was established; and
- (d) The memorandum of endowment and the management articles, if any, accord in all respects with this Law and the objects of the private foundation,

he may, on the application of the private foundation to which the certificate has been issued, endorse that certificate to the effect that the private foundation is from the date of the endorsement to be deemed to be reregistered in Liberia under this Law and that shall be the effective date of reregistration and continuation.

28. Failure to Complete Reregistration.

If, by a date 12 months immediately following the date of the issue of a certificate in accordance with paragraph 23(a) or, in the case of a certificate to which paragraph 24 applies, following the specified date, the legal entity has not satisfied the Registrar that:

- (a) It has ceased to be a legal entity under the relevant provisions of the law under which it was established; and
- (b) The memorandum of endowment and the management articles, if any, accord in all respects with this Law and the objects of the entity as a private foundation,

the Registrar shall revoke the certificate issued under paragraph 23(a) and:

- (a) That certificate and any reregistration under this Part shall be of no further force or effect; and

- (b) The Registrar shall strike the foundation from the index of private foundations maintained under section 60.59.

29. Effect of Reregistration.

With effect from the date of the issue of a certificate of reregistration:

- (a) The legal entity to which the certificate relates:
 - (i) Is a private foundation reregistered and continued and deemed to be registered in Liberia under this Law and having as its existence date the date on which it was established under other relevant law, or in another jurisdiction, as the case maybe; and
 - (ii) Shall be a private foundation registered in Liberia for the purpose of any other Law;
- (b) The instrument constituting or defining the constitution of the legal entity, as amended by the resolution or equivalent document reregistering the legal entity as a private foundation, are the memorandum of endowment and the management articles of the foundation;
- (c) The property of every description and the business of the legal entity are vested in the private foundation;
- (d) The private foundation is liable for all of the claims, debts, liabilities and obligations of the legal entity;
- (e) No conviction, judgment, ruling, order, debt, liability or obligation due or to become due and no cause existing against the legal entity or against any officer or agent thereof is thereby released or impaired;
- (f) No proceedings whether civil or criminal pending at the time of the issue by the Registrar of the certificate of reregistration by or against the legal entity or against any officer or agent thereof are thereby abated or discontinued, but the proceedings may be enforced, prosecuted, settled or compromised by or against the foundation or against the officer or agent thereof, as the case may be;

- (g) Unless otherwise provided in the resolution of reregistration deposited in accordance with paragraph 21, the legal entity reregistering as the private foundation shall not be required to wind up its affairs or pay its liabilities and distribute its assets,

and the reregistration and continuation shall not:

- (h) Constitute a dissolution of the legal entity and shall constitute a continuation of the existence of the reregistered legal entity as the private foundation;
- (j) Create a new legal entity; or
- (k) Prejudice or affect the continuity of the legal entity as a private foundation.

PART IV.

DE-REGISTRATION OF FOUNDATION UPON REREGISTRATION AS ANOTHER LEGAL ENTITY.

30. Eligibility to Apply to De-register and Reregister as Another Legal Entity.

A private foundation registered in Liberia may, if permitted to do so by its constitution, apply to de-register upon reregistration as another legal entity under the laws of Liberia.

31. Application to De-register and Reregister as Another Legal Entity.

An application by a private foundation to de-register and reregister as another legal entity in Liberia and to cease to be a private foundation registered under this Law shall be made to the Registrar in the form prescribed by him and shall be accompanied by:

- (a) A certificate setting out:
 - (i) The name of the foundation, and, if the name has been changed, the name with which the foundation was established, and the

- name, if different, under which registration as another legal entity is sought;
- (ii) The date of registration of the private foundation, and if established under any other law, the date of establishment;
 - (iii) The law under which the private foundation proposes to reregister;
 - (iv) The date on which the private foundation proposes to de-register and reregister;
 - (v) That the proposed de-registration and reregistration have been approved in accordance with the relevant law and the constitution of the foundation;
 - (vi) Confirmation by the officers of the private foundation that at the date of de-registration and reregistration the private foundation will have done everything required by this Law preparatory to de-registration and reregistration as another legal entity and that, on de-registration and reregistration, the private foundation will cease to be a foundation;
- (b) A copy of the resolution or other instrument of the private foundation resolving to de-register and reregister, approved in the manner prescribed by the constitution of the foundation, which shall specify:
- (i) That the private foundation shall be de-registered and reregistered as another legal entity in Liberia;
 - (ii) The proposed name of the legal entity if different from the present name of the private foundation;
 - (iii) That the total amount from time to time of:
 - (aa) The share capital or membership contributions, or the sum of both, of a corporation or a registered business company;
 - (bb) The contributions of a limited liability company or a limited partnership; or
 - (cc) The value of the assets of any other legal entity;

which the private foundation proposes to reregister as shall not fall below the amount of the endowment of the private foundation at the date of the resolution;

- (iv) The method of converting the assets of the private foundation into:
 - (aa) Shares or membership interests or both in a corporation or a registered business company;
 - (bb) Participations in the contributions of the limited liability company or the limited partnership; or
 - (cc) Capital of any other legal entity;
- (v) The rights attaching to the shares or membership interests, or both, of a corporation or a registered business company referred to in clause (iv)(aa), the participations in a limited liability company or a limited partnership referred to in clause (iv)(bb), or the capital of any other legal entity referred to in clause (iv)(cc);
- (vi) In the case of reregistration:
 - (aa) As a corporation or a registered business company, which if any of the officers and members of the supervisory board will be shareholders and directors;
 - (bb) As a limited liability company, which, if any, of the officers and members of the supervisory board shall be the manager, and if none, the appointment of the manager;
 - (cc) As a limited partnership, who shall become the limited partners and who shall become the general partners; and
 - (dd) As any other legal entity, the appointment of the governing body;
- (vii) Such alterations in the memorandum of endowment and management articles, if any, as are necessary to bring them (in substance and in form) into conformity with the requirements of:

- (aa) Chapter 1 of Part I of this Title as the articles of incorporation, in the case of a corporation;
 - (bb) Chapter 70 of Part I of this Title as the memorandum and articles of incorporation, in the case of a registered business company;
 - (cc) Chapter 14 of Part I of this Title as a limited liability company agreement, in the case of a limited liability company;
 - (dd) Part III of this Title as the partnership agreement, in the case of a limited partnership; or
 - (ee) The relevant statutory provision in the case of any other legal entity; and
- (viii) Such other provisions with respect to the proposed de-registration and reregistration as the governing bodies consider necessary or desirable;
- (c) A certificate of goodstanding in respect of the private foundation issued by the Registrar;
 - (d) Evidence to the satisfaction of the Registrar that no proceedings for insolvency have been commenced in Liberia against the private foundation; and
 - (e) Any amendments other than those specified in sub-paragraph (b)(vii) to the memorandum of endowment and management articles that are to take effect on the de-registration of the private foundation and reregistration as the other legal entity,

and the provisions of section 1.4 of Chapter 1 of Part I of this Title shall apply, with the variation that execution shall be by an officer or other person performing in relation to that foundation the function of an officer and duly authorized for this purpose.

32. Consent to De-register and Reregister as Another Legal Entity.

The Registrar shall, if he is satisfied that the requirements of this Law in respect of de-registration of a private foundation prior to reregistration as another legal entity have been met:

- (a) Certify that the private foundation is permitted to de-register and reregister as the other legal entity specified in the documents supplied in compliance with paragraph 31, in accordance with those documents, and that it may cease to be registered as a private foundation in Liberia on the date of the issue of the certificate, or, in case of a certificate to which paragraph 33 applies, on the specified date;
- (b) Retain and record the documents referred to in paragraph 31 except the documents specified in sub-paragraph (c);
- (c) Return to the foundation the documents delivered to him in compliance with paragraph 31(e), endorsed with the date on which they were delivered to him;
- (d) Enter in the index kept for this purpose in respect of a foundation to which a certificate has been issued under this paragraph the fact of the issue of the certificate and the documents retained in compliance with sub-paragraph (b).

33. Deferred Date of De-registration.

Notwithstanding section 1.4.6(d) of Chapter 1 of Part I of this Title, where, at the time of making an application under paragraph 31, the private foundation applying for de-registration has specified a date (in this Part referred to as “the specified date”) no later than 12 months after the date of the making of the application as the date of de-registration, the certificate issued by the Registrar shall show the specified date as the date of de-registration.

34. Status of a Certificate of De-registration.

A certificate given by the Registrar in accordance with paragraph 32(a) in respect of any de-registered foundation shall be:

- (a) Conclusive evidence that all the requirements of this Law in respect of that de-registration, and matters precedent and incidental thereto, have been complied with and that the foundation is authorized to be so de-registered and is de-registered under the provisions of this Part;

- (b) Valid for a period of 12 months from the date of the issue of the certificate or, in case of a certificate to which paragraph 33 applies, from the specified date, unless endorsed in accordance with paragraph 35.

35. Endorsement of Certificate.

Where,

- (a) At the date of the issue of a certificate of de-registration or at any time thereafter within a period of 12 months immediately following the date of the issue of that certificate; or
- (b) In the case of a certificate to which paragraph 33 applies, at the specified date or at any time thereafter within a period of 12 months immediately following that date,

the Registrar is satisfied, by the service on him of a certificate of continuation executed by the reregistered legal entity that the foundation has re-registered under the relevant provisions of the law specified in the certificate of de-registration, he may endorse the certificate of de-registration to the effect that the foundation is from the date of the endorsement to be deemed to be de-registered and no longer registered and that shall be the effective date of de-registration.

36. Failure to Complete De-registration and Reregistration.

If, by a date 12 months immediately following the date of the issue of a certificate in accordance with paragraph 32(a) or, in the case of a certificate to which paragraph 33 applies, following the specified date, the foundation has not satisfied the Registrar that it has become to be the other legal entity under the relevant provisions of the law under which it proposed to reregister, the Registrar shall revoke the certificate issued under paragraph 32(a), and:

- (a) That certificate and any de-registration under this Part shall be of no further force or effect; and
- (b) The foundation shall continue as a private foundation in Liberia under the provisions of this Law.

37. Effect of De-registration.

With effect from the date of the issue of a certificate of de-registration:

- (a) The foundation to which the certificate relates shall cease to be:
 - (i) A private foundation registered in Liberia under this Law; and
 - (ii) A foundation registered in Liberia for the purpose of any other Law;
- (b) The memorandum of endowment and the management articles of the foundation (or other instrument constituting or defining the constitution of the foundation), as amended by the resolution or equivalent document for the purpose of reregistration as another legal entity in Liberia, shall be the constitution of the other legal entity;
- (c) The property of every description and the business of the private foundation are vested in the other legal entity;
- (d) The other legal entity is liable for all of the claims, debts, liabilities and obligations of the private foundation;
- (e) No conviction, judgment, ruling, order, debt, liability or obligation due or to become due and no cause existing against the private foundation or against any officer or agent thereof is thereby released or impaired;
- (f) No proceedings whether civil or criminal pending at the time of the issue by the Registrar of the certificate of de-registration by or against the private foundation or against any officer or agent thereof are thereby abated or discontinued, but the proceedings may be enforced, prosecuted, settled or compromised by or against the other legal entity or against the officer or agent thereof, as the case may be;
- (g) Unless otherwise provided in the resolution of de-registration deposited in accordance with paragraph 31, the private foundation reregistering as the other legal entity shall not be required to wind up its affairs or pay its liabilities and distribute its assets,

and the reregistration shall constitute a continuation of the existence of the de-registering foundation and shall not:

- (h) Constitute a dissolution of the foundation;
- (j) Create a new legal entity; or
- (k) Prejudice or affect the continuity of the de-registered foundation.

38. Index of Foundations De-registered and Reregistered as Another Legal Entity.

The Registrar shall maintain an index of foundations in respect of which a certificate issued in accordance with paragraph 32(a) is in force and in that index shall record the name in which the foundation is reregistered as another legal entity and whether the foundation has ceased to be registered under this Law in accordance with paragraph 35.

PART V.

MERGER AND CONSOLIDATION

39. Eligibility to Merge or Consolidate with Another Private Foundation or Another Legal Entity.

A private foundation registered in Liberia may, if permitted to do so by its constitution, apply to merge or consolidate with one or more private foundations, one or more foundations not registered under the laws of Liberia, or with one or more legal entities, registered under the laws of Liberia or existing in another jurisdiction, or a combination thereof, and in this Part:

- (a) “Merger” means a procedure whereby a private foundation merges with one or more private foundations or other entities into a single private foundation or other entity, which is any one of the constituent private foundations or entities;
- (b) “Consolidation” means a procedure whereby a private foundation and one or more private foundations or other entities consolidate into a new private foundation or other entity formed by the consolidation;
- (c) “Constituent private foundation” or “constituent entity” means an existing private foundation or entity that is participating in the merger or consolidation with one or more other private foundations or entities;

- (d) “Surviving private foundation” or “surviving entity” means the constituent private foundation or entity into which one or more other constituent private foundations or entities are merged;
- (e) “Consolidated private foundation” or “consolidated entity” means the new private foundation or entity into which two or more constituent private foundations or entities are consolidated.

40. Application to Merge or Consolidate with Another Private Foundation or Another Legal Entity.

An application by a private foundation to merge or consolidate with one or more other private foundations or one or more other legal entities shall be made to the Registrar in the form prescribed by him and shall be accompanied by:

- (a) A certificate setting out:
 - (i) The name of the private foundation, and, if the name has been changed, the name with which the private foundation was established;
 - (ii) The name of the constituent private foundation or foundations or of the constituent entity or entities with which the private foundation proposes to merge or consolidate, and the name of the proposed surviving or consolidated private foundation or entity;
 - (iii) The date of registration of the private foundation, and if established under any other law, the date of establishment;
 - (iv) The law under which the proposed surviving or consolidated foundation or entity will exist after merger or consolidation and where the proposed surviving foundation or entity will not be registered under the laws of Liberia but will have its existence in another jurisdiction, that jurisdiction and the name and address of the competent authority in that jurisdiction;
 - (v) The date on which the private foundation proposes to merge or consolidate;

- (vi) That the proposed merger or consolidation has been approved in accordance with the relevant law and the constitution of the foundation;
 - (vii) Confirmation by the officers of the private foundation that at the date of merger or consolidation the private foundation will have done everything required by this Law preparatory to merger or consolidation with one or more constituent private foundations or entities, or a combination thereof;
- (b) A copy of the resolution or other instrument of the private foundation resolving to merge or consolidate, approved in the manner prescribed by the constitution of the foundation, which shall specify:
- (i) That the private foundation shall merge or consolidate with one or more constituent private foundations or entities, or a combination thereof as specified in the resolution;
 - (ii) The proposed name of the surviving or consolidated private foundation or entity, and the applicable law;
 - (iii) That the total amount from time to time of the assets of the surviving or consolidated private foundation or entity shall not fall below the amount of the endowment of the private foundation at the date of the resolution;
 - (iv) The method of converting the assets of the private foundation into the endowment of the surviving or consolidated private foundation or the capital of the surviving or consolidated entity;
 - (v) The arrangements in respect of the rights of donors and beneficiaries of the private foundation in the assets of the surviving or consolidated private foundation or entity;
 - (vi) In the case of merger or consolidation into:
 - (aa) A private foundation or a foundation not registered under the laws of Liberia, which of the officers and members of the supervisory board will be officers of the surviving private foundation or foundation not registered under the laws of Liberia;

- (bb) A corporation or a company registered in Liberia or existing under the laws of another jurisdiction, which if any of the officers and members of the supervisory board will be shareholders and directors;
 - (cc) A limited liability company registered in Liberia or existing under the laws of another jurisdiction, which, if any, of the officers and members of the supervisory board shall be the manager;
 - (dd) A limited partnership registered in Liberia or existing under the laws of another jurisdiction, who shall become the limited partners and who shall become the general partners; and
 - (ee) Any other legal entity registered in Liberia or existing under the laws of another jurisdiction, the appointment of the governing body;
- (vii) Such other provisions with respect to merger or consolidation as the governing bodies consider necessary or desirable;
- (c) A certificate of goodstanding in respect of the private foundation issued by the Registrar;
 - (d) Evidence to the satisfaction of the Registrar that no proceedings for insolvency have been commenced in Liberia against the private foundation;
 - (e) In the case where the proposed surviving or consolidated foundation is not registered under the laws of Liberia or the proposed surviving or consolidated entity has its existence in another jurisdiction, the address of the registered agent in Liberia which shall be retained during the period of one year or such longer period until the foundation has been issued with a certificate endorsed in accordance with paragraph 44, and evidence of acceptance of the appointment by the registered agent;
 - (f) The document constituting the plan of merger or consolidation executed by the constituent private foundations and entities and by the surviving or consolidated private foundation or other entity; and

- (g) The document constituting the constitution of the surviving or consolidated private foundation or entity,

and the provisions of section 1.4 of Chapter 1 of Part I of this Title shall apply, with the variation that execution shall be by an officer or other person performing in relation to that private foundation the function of an officer and duly authorized for this purpose.

41. Consent to Merge or Consolidate.

The Registrar shall, if he is satisfied that the requirements of this Law in respect of merger or consolidation of a private foundation as a private foundation, foundation, foundation not registered under the laws of Liberia or as a legal entity registered under the laws of Liberia or existing in another jurisdiction have been met:

- (a) Certify that the private foundation is permitted to merge or consolidate into the surviving or consolidated private foundation or other entity specified in the documents supplied in compliance with paragraph 40, in accordance with those documents, and that it may cease to be registered as a private foundation in Liberia on the date of the issue of the certificate, or, in case of a certificate to which paragraph 42 applies, on the specified date;
- (b) Retain and record the documents referred to in paragraph 40 except the documents specified in sub-paragraph (c);
- (c) Where the surviving or consolidated entity is a private foundation or a foundation not registered under the laws of Liberia, return to the foundation the documents delivered to him in compliance with paragraph 40(f), endorsed with the date on which they were delivered to him;
- (d) Enter in the index kept for this purpose in respect of a foundation to which a certificate has been issued under this paragraph the fact of the issue of the certificate and the documents retained in compliance with sub-paragraph (b).

42. Deferred Date of Merger or Consolidation.

Notwithstanding section 1.4.6(d) of Chapter 1 of Part I of this Title, where, at the time of making an application under paragraph 40, the private foundation applying for consent to merge or consolidate has specified a date (in this Part referred to as “the specified date”) no later than 12 months after the date of the making of the application as the date of merger or consolidation, the certificate issued by the Registrar shall show the specified date as the date of merger or consolidation.

43. Status of a Certificate of Merger of Consolidation.

A certificate given by the Registrar in accordance with paragraph 41(a) in respect of any private foundation shall be:

- (a) Conclusive evidence that all the requirements of this Law in respect of that merger or consolidation, and matters precedent and incidental thereto, have been complied with and that the foundation is authorized to so merge or consolidate under the provisions of this Part;
- (b) Valid for a period of 12 months from the date of the issue of the certificate or, in case of a certificate to which paragraph 42 applies, from the specified date, unless endorsed in accordance with paragraph 44.

44. Endorsement of Certificate.

Where,

- (a) At the date of the issue of a certificate of merger or consolidation or at any time thereafter within a period of 12 months immediately following the date of the issue of that certificate; or
- (b) In the case of a certificate to which paragraph 42 applies, at the specified date or at any time thereafter within a period of 12 months immediately following that date,

the Registrar is satisfied, by the service on him of a certificate executed by the legal entity into which the foundation has merged or consolidated that the merger or consolidation has been completed under the relevant provisions of the law specified in the certificate of merger or consolidation, he may endorse the certificate of merger or consolidation to the effect that the foundation is from the date of the endorsement to be deemed to be merged or consolidated and no longer registered under this law and that shall be the effective date of merger or consolidation.

45. Failure to Complete Merger or Consolidation.

If, by a date 12 months immediately following the date of the issue of a certificate in accordance with paragraph 41(a) or, in the case of a certificate to which paragraph 42 applies, following the specified date, the foundation has not satisfied the Registrar that it has merged or consolidated under the relevant provisions of the law under which it proposed to merge or consolidate, the Registrar shall revoke the certificate issued under paragraph 41(a), and:

- (a) That certificate and any merger or consolidation under this Part shall be of no further force or effect; and
- (b) The foundation shall continue as a private foundation in Liberia under the provisions of this Law.

46. Effect of Merger or Consolidation.

With effect from the date of the issue of a certificate of merger or consolidation:

- (a) The foundation to which the certificate relates shall cease to be:
 - (i) A private foundation registered in Liberia under this Law; and
 - (ii) A private foundation registered in Liberia for the purpose of any other Law;
- (b) The property of every description and the business of the private foundation are vested in the surviving or consolidated private foundation, foundation or entity, as the case may be;
- (c) The surviving or consolidated private foundation or entity, as the case may be, is liable for all of the claims, debts, liabilities and obligations of the private foundation;
- (d) No conviction, judgment, ruling, order, debt, liability or obligation due or to become due and no cause existing against the private foundation or against any officer or agent thereof is thereby released or impaired;
- (e) No proceedings whether civil or criminal pending at the time of the issue by the Registrar of the certificate of merger or consolidation by or

against the private foundation or against any officer or agent thereof are thereby abated or discontinued, but the proceedings may be enforced, prosecuted, settled or compromised by or against the surviving or consolidated private foundation or entity, or against the officer or agent thereof, as the case may be;

- (g) Unless otherwise provided in the resolution of merger or consolidation deposited in accordance with paragraph 40, the private foundation, shall not be required to wind up its affairs or pay its liabilities and distribute its assets,

and the merged or consolidated private foundation or other entity shall constitute a continuation of the merged or consolidated private foundation.

47. Index of Foundations Merged or Consolidated.

The Registrar shall maintain an index of foundations in respect of which a certificate issued in accordance with paragraph 41(a) is in force and in that index shall record the name of the surviving or consolidated foundation or other entity into which the foundation is merged or consolidated and the jurisdiction of a surviving or consolidated foundation which is not registered under the laws of Liberia, or of a surviving or consolidated legal entity existing in another jurisdiction, as the case may be and whether the foundation has ceased to be registered under this Law in accordance with paragraph 44.

Section 2. Commencement date. This Act shall take effect immediately upon publication in handbills.

ANY LAW TO THE CONTRARY NOTWITHSTANDING

Printed by LISCR, LLC.

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