

SOCIAL LAWS

MONITOR N° 67

THURSDAY, AUGUST 9, 1934

LAW OF 23 JULY 1934 GOVERNING FOUNDATIONS

STENIO VINCENT

PRESIDENT OF THE REPUBLIC

Having regard to Article 55 of the Constitution:

Considering that it is in the public interest to promote the creation of social assistance works of all kinds by means of foundations, by making it possible to temporarily or permanently allocate property or assets and their income to the service and operation of such works;

Considering that there is a need to organize the regime of foundations as no regulations exist in this regard;

Upon the report of the State Secretary for Justice and the opinion of the Council of State Secretaries;

PROPOSED

And the State Legislature passed the following Law:

Article 1 - Goods which are permanently or temporarily assigned to the implementation of an idea, to the satisfaction of a need for human solidarity, to the pursuit of a goal of general interest, shall be administered under the name of foundations and under the conditions hereinafter determined.

Article 2 - The Foundation Deed must be made in writing in the form of an inter vivos gift, authentic wills or any other type of notarial deed received in the presence of two witnesses enjoying and exercising their civil and political rights.

Article 3 - The Foundation Deed shall be recorded in a special register assigned for this purpose by the municipality in whose jurisdiction it must have its registered office. This registration must contain precise information on the name, registered office, purpose, organization of the foundation and mention how it is managed and represented. Upon receipt of a copy of this registration issued free of charge by the Municipal Magistrate and after publication of this registration in the official gazette by the municipality concerned, the founder or the board of directors of the foundation may request that the foundation be granted legal personality in the forms provided for by law.

Article 4 - Foundations or perpetual or temporary allocations of goods or assets to a work or service determined by the settlor or founder may be of public or private utility.

They may have a scientific, artistic, religious or recreational purpose or any other intellectual purpose.

Article 5.- They may be used for the development of progress, arts, sports or sciences; the propagation of a religion recognized by the State; caring for the poor, the sick, the elderly, orphans, abandoned children, hospices, asylums, nurseries or other charitable institutions; or to increase the importance or wealth of existing charitable institutions by providing new beds in hospices, new chairs or laboratories; to establish schools or institutions of all kinds; to provide, under the title of scholarship, assistance to members of a family or individuals in one or more localities, for the purpose of providing them with primary, middle, secondary, higher, scientific, artistic or vocational education or to facilitate their studies in any field of education.

Article 6 - Foundations may also be inspired by pious thought to ensure the celebration, at specific times, of masses or religious services for the repose of the founder's or settlor's soul or those designated by him in the foundation's constitution.

Article 7 - To execute his intentions, the settlor or founder may either contact an existing institution and instruct it to receive the property he intends to assign to his foundation and to ensure its service or create a new institution which will have no other purpose than the one he assigns to it.

Article 8 - When the foundation assets are given to the State or a Commune, the foundation's functioning can only be ensured upon the acceptance of the authorities representing the State or the Commune.

These authorities may express their acceptance or refusal. In the event of their refusal, the foundation and all its donations shall lapse.

The Commune will have to obtain the necessary administrative authorization.

Article 9 - The foundation addressed to public and non-profit institutions must fall within the remit of the institution chosen by the founder; otherwise the registration that could be made of the foundation deed may not produce any legal effect.

Article 10 - When the authorization to accept a registered foundation is refused to the Municipality by the Department of the Interior, the property reverts to the persons qualified to receive the settlor's estate.

Article 11 - No foundation may have directly or indirectly any purpose contrary to the Law or morality.

Article 12 - The founder has the right to revoke his donations. He must make the declaration before the registration provided for in Article 3, by bailiff's act which will automatically entail an opposition to the registration.

The founder may also expressly allow his heirs to exercise this right of revocation, which they may only exercise in the forms and within the time limits prescribed above.

Article 13 - As soon as the formality of the entry in the register of the municipality concerned is completed, the founder is obliged to transfer the assets insured by the deed of incorporation. The transfer of rights resulting from the foundation takes place by the very fact of registration in the municipal register; unless the contrary intention of the founder results from the act of the foundation.

If the assets of the foundation are real property assets assigned to a public service, the transcription of the deed of transmission or foundation will be exempt from any royalties.

Article 14 - In order to promote the creation of social assistance works in the country by the formation of foundations, when those works require the construction of buildings of a certain size and when these foundations have a perpetual and irrevocable nature, the President of the Republic may, exceptionally, on the report of the Department of Finance - and the Municipal Administration concerned -, authorize the construction of such buildings on appropriate and free State land which will henceforth be part of the foundations.

All such authorized constructions must be made within one year from the date of the presidential authorization. After this period, the said authorization shall remain null and void. It may, however, be renewed for a further period of one year.

Article 15 - If the deed of foundation consists of a disposition on death, the Government Commissioner of the jurisdiction of the opening of succession must continue the registration of the said disposition and the transmission of the property, if applicable, when it is not affected by the heirs or the executor of the settlor's will 8 days after the expiry of the deadline for inventory and deliberation.

Article 16 - The constitution act of the foundation made abroad shall not have effect in Haiti unless it is registered under the procedure provided for by this law.

Article 17 - When the purpose of the foundation has become impossible to achieve or jeopardizes the work of public utility that it carries out, the President of the Republic may by order, on the report of the Secretary of State for the Interior, assign it another purpose or suppress it.

When the purpose is changed, the intentions of the founder will be respected, and the foundation's income reserved, as much as possible, for the category of works to which it should belong.

The Constitution of the Foundation may likewise be changed as the change of purpose requires.

In this case, the Board of Directors must be consulted beforehand.

Article 18 - When the foundation lapses, the property reverts to the persons designated in the Constitution, otherwise to those designated by law to receive the estate of the settlor.

Article 19 - This Law repeals all laws and provisions of laws that are contrary to it and shall be executed by the State Secretaries for Justice, the Interior, Finance, Commerce, Public Instruction, Agriculture, Labor, Public Works, External Relations and Cults, each in so far as it concerns them.

Given at the National House, Port-au-Prince, on July 20, 1934, the 131st year of Independence.

By the President: F. MARTINEAU

The Secretaries: Dr. H. PAULTRE, Ch. FOMBRUN

Given at the Palace of the Chamber, Port-au-Prince, on July 23, 1934, Year 131st of Independence.

The President: Edg. PIERRE-LOUIS

The Secretaries: A. BEAUVOIR, F. LAGUERRE ON BEHALF OF THE REPUBLIC

The President of the Republic orders that the above Law be sealed with the seal of the Republic, printed, published and executed.

Given at the National Palace, Port-au-Prince, Haiti, on the 4th August 1934, year 131st of Independence.

By the President: Sténio VINCENT

MONITOR N° 100

THURSDAY, OCTOBER 15, 1963

LAW OF 19 SEPTEMBER 1953 AMENDING ARTICLES 17, 18 OF THE LAW ON FOUNDATIONS

PAUL E. MAGLOIRE

PRESIDENT OF THE REPUBLIC

Having regard to Articles 57 and 79 of the Constitution;

Having regard to the law of 23 July 1934, governing foundations;

Considering that special protection should be granted to a foundation property, in particular, to ensure the greatest effectiveness for foundations of religious nature by facilitating all the transformations that the circumstances and the achievement of the purpose of their works may require in the nature, form, and value of their property;

Considering that, to this end, the provisions of Articles 1, 17 and 18 of the aforementioned Law of 23 July 1934 should be amended;

Upon the report of the State Secretaries for Justice and Religious Affairs,

After deliberation in the Council of State Secretaries.

PROPOSED

And the State Legislature passed the following Law

Article 1 - Articles 1 and 17 of the Law of 23 July 1934 on foundations are amended as follows.

Article 1 - Property which is temporarily or permanently assigned to the implementation of an idea, to the satisfaction of a need for human solidarity, to the pursuit of a goal of general interest, shall be administered, under the name of foundation, in accordance with the provisions of this Law.

Such property may not be alienated as long as the foundation exists and operates, except in the cases provided for and in the forms prescribed in Article 17 below or as provided for in the foundation's constitution act.

Article 17 - In the case of a foundation of a religious nature and where the achievement of the purposes of the foundation so requires, the President of the Republic, upon the report of the State Secretaries for Justice and Religious Affairs and, where appropriate, upon other interested State Secretaries, may, by order, and as the case may be, authorize the exchange or sale, under reuse obligation, of all or part of the property allocated to it. The property obtained in exchange will remain automatically subrogated to the alienated property. The same shall apply to the proceeds of the sale of the alienated property, which shall, in addition, be used by the Governing Board of the Foundation, for the acquisition of any other property likely to better serve the purposes of the founder or the settlor, and such new acquisitions shall be administered in accordance with the provisions of this Law.

Regardless of any changes in the constitution of the foundation's patrimony, the intentions of the founder or settlor will be respected, and the income of the foundation will be allocated for the purposes intended by the founder or settlor.

Article 2 - The following paragraph is added to Article 18 of the law of 23 July 1934:

"For greater certainty, the foundation shall not terminate when, in accordance with the provisions of its constitution deed or the provisions of the preceding article, the property assigned to it by the founder or the settlor is exchanged or sold under reuse obligation."

Article 3 - This Law repeals any Laws or provisions of Laws that are contrary to it and shall be published and executed at the behest of the State Secretaries for Justice and Religious Affairs, each in so far as it concerns them.

Done at the Chamber of Deputies, Port-au-Prince, on 17 September 1953, 150th Year of Independence.

The President: Adelphin TELSON

The Secretaries: Luc JEAN, Duly B. LAMOTHE

Given at the National House, Port-au-Prince, September 19, 1953, Year 150th of Independence.

The President: Charles FOMBRUN

The Secretaries: W. SANSARICQ, E. JONASSAINT

ON BEHALF OF THE REPUBLIC

The President of the Republic orders that the above Law be sealed with the seal of the Republic, printed, published and executed.

Given at the National Palace, Port-au-Prince, on September 24, 1953. Year 150th of independence.

By the President: Paul E. MAGLOIRE