

THE NON-GOVERNMENTAL ORGANIZATIONS ACT, 2002

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THE UNITED REPUBLIC OF TANZANIA



No. 24 OF 2002

I ASSENT,
Benjamin W. Mkapa
President
14th December, 2002

An Act to provide for registration of Non-Governmental Organizations with a view to coordinate and regulate activities of Non-Governmental Organizations and to provide for related matters.

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY PROVISIONS

Short title and commencement

1. This Act may be cited as the Non-Governmental Organizations Act, 2002 and shall come into operation on such date as the Minister may, by notice published in the *Gazette*, appoint.

Interpretation

2. In this Act, unless the context otherwise requires-

- “Board” means the Board established under section 6;
- “certificate” means the certificate of registration or a certificate of compliance issued under this Act;
- “Council” means a National Council for Non Governmental Organizations established under section 25;

- “Director” means a Director for Non-Governmental Organizations Coordination appointed under Section 3(1);
- “International Non Governmental Organization” means a Non-Governmental Organization established outside Mainland Tanzania;
- “National Non-Governmental Organization” means a Non Governmental Organization established in accordance with the provisions of this Act and whose scope of operation extends to more than two regions;
- “Non Governmental Organization” also known in its acronym “NGO” means a voluntary grouping of individuals or organization which is autonomous, non-partisan, non profit making which is organized locally at the grassroot, national or international levels for the purpose of enhancing or promoting economic, environmental, social or cultural development or protecting environment, lobbying or advocating on issues of public interest of a group of individuals or organization, and includes a Non-Governmental Organization, established under the auspices of a any religious organization or faith propagating Organization, trade union, sports club, political party, or community based organization; but does not include a trade union, a social club or a sports club, a political party, a religious organization or a community based organization;
- “Minister” means the Minister responsible for Non Governmental Organizations;
- “public interest” includes all forms of activities aimed at providing for and improving the standard of living or eradication of poverty of a given group of people or the public at large;
- “register” means the register of Non Governmental Organizations;
- “public officer” means a public officer appointed pursuant to the provisions of section 22(1).

PART II

ADMINISTRATION AND COORDINATION OF NON GOVERNMENTAL ORGANIZATIONS

3. –(1) There shall be appointed by the President a public officer to be the Director for Non-Governmental Organizations Coordination.

Director
for Non
Govern-
mental
Organiza-
tions
Coordina-
tion

(2) The Director for Non Governmental Organizations Coordination shall be the Registrar of Non Governmental Organizations and a link between the Government and Non Government Organizations.

Functions
and duties
of the
Director

4. -(1) Functions and duties of the Director shall include-

- (a) to advise on policy and other matters regarding Non Governmental Organizations;
- (b) to ensure proper implementation of this Act;
- (c) to ensure that operations of Non Governmental Organizations are available for the Government and the public for consumption;
- (d) to encourage co-operation with sector Ministries in matters relating to Non Governmental Organizations;
- (e) to register Non Governmental Organizations;
- (f) to keep and maintain register of Non Governmental Organizations;
- (g) to keep records and reports regarding Non Governmental Organizations;
- (h) to appoint public officers under this Act;
- (i) to perform such other duties as may be assigned to him by the Board.

(2) The Director shall be the Secretary to the Board.

The
Register of
NGO's

5. -(1) There shall be a register of Non-Government Organizations, wherein shall be entered all matters relating to Non Governmental Organizations provided for by this Act.

(2) Each Non Governmental Organization shall be identified by a certificate of Registration issued to it by the Registrar.

Establish-
ment of
the Board

6. -(1) There shall be established a Board to be known as the Non Governmental Organizations Coordination Board.

(2) The provision of the Schedule to this Act shall have effect as to the composition, tenure of office, proceedings at meetings of the Board and other matters relating to the Board.

7. -(1) The functions of the Board shall include-

Functions
of the
Board

- (a) to approve and coordinate registration of Non-Governmental Organizations;
- (b) to facilitate the implementation of the national Non Governmental Organizations policy;
- (c) to facilitate and co-ordinate activities of Non-Governmental Organizations;
- (d) to approve application for registration or certificate of compliance;
- (e) to direct suspension or cancellation of any Non Governmental Organization;
- (f) to examine the annual reports of Non Governmental Organizations;
- (g) to advise the Government on the activities of Non Governmental Organizations;
- (h) to review the register of Non Governmental Organisations;
- (i) to provide policy guidelines to Non Governmental Organizations for harmonizing their activities in the light of the national development plan;
- (j) to receive, discuss and approve regular reports of the Council and advice on strategies for efficient planning and co-ordination of activities of Non Governmental Organizations;
- (k) to facilitate information sharing and providing guidelines for networking between Non-Governmental Organizations and the Government;
- (l) to investigate and to inquire into any matter in order to ensure adherence with the constitution of each of such Non Governmental Organizations;
- (m) to perform such other functions as may be directed by the Minister.

(2) The Board shall, for the purpose of efficient performance of its functions-

- (a) appoint any number of officers as may be required;
- (b) delegate to the Director the exercise of the powers or the performance of any of its functions.

(3) In performing its functions under this Act, the Board shall maintain as far as practicable, a system of consultation, coordination and cooperation with Ministries, Government institutions or any other public or private bodies established under any written law, having functions similar to those which are performed by any given Non Governmental Organizations.

Sources of
Fund of
the Board

8. -(1) The funds of the Board shall consist of-

- (a) any sums as may be appropriate by the Parliament;
- (b) funds or assets which may vest in or accrue to the Board from other sources by way of fees, grants or in any other way;
- (c) any sums which the Board may borrow for its own purpose.

(2) The Board may-

- (a) invest any of its funds in securities in which the trustees may, by law deal in any trust fund or in any other securities, which the Board may determine; and
- (b) deposit with a bank any money not immediately required for the use by the Board.

Annual
estimates

9. -(1) The Board shall, before the commencement of a financial year, cause to be prepared, estimates of the revenue and expenditure for that year.

(2) The annual estimates shall make provision for all estimated expenditure of the Board for a financial year concerned, and the Board shall in particular, approve recurrent and development expenditure.

(3) The annual estimates shall be submitted to the Minister who shall cause them to be laid before the National Assembly within three months from the date of their submission to him.

(4) No expenditure shall be incurred for the purpose of the Board except in accordance with the annual estimates.

Books of
accounts

10. -(1) The Board shall keep proper books of accounts.

(2) Within three months from the end of each financial year, the Board shall submit to the Controller and Auditor General accounts of the Board together with-

- (a) a statement of financial activities and income and expenditure during that financial year; and
- (b) a statement of assets and liabilities of the Board existing at the end of such financial year.

(3) The accounts of the Board shall be audited by the Controller and Auditor General.

PART III

PROCEDURE FOR REGISTRATION OF NON GOVERNMENTAL ORGANIZATIONS

11. -(1) Each Non Governmental Organization shall be required to register with the Registrar pursuant to the provisions of this Act.

Require-
ment to
register

(2) Without prejudice to the provisions of subsection (1), a Non Governmental Organization may, where its status requires registration to be made under any other written law, apply for registration under such other law.

(3) A Non Governmental Organization which is registered or established under any other written law shall apply to the Registrar for a certificate of compliance.

(4) A certificate of compliance shall be issued upon satisfaction by each of such Non Governmental Organization of the terms and conditions for registration under this Act and shall have similar effect as a certificate of registration issued under this Act.

(5) No fee shall be charged and payable for an application for a certificate of compliance.

12. -(1) A group of persons who wish to apply for registration of a Non Governmental Organization shall make application in the prescribed form to the Registrar.

Applica-
tion for
registra-
tion

(2) An application for registration shall be submitted by one or more persons, being founder members, which shall be accompanied by:

- (a) a copy of the constitution of the Non Governmental Organization;
- (b) minutes containing full names and signature of founder members;
- (c) personal particulars of office bearer;
- (d) address and physical location of the head office of the Non Governmental Organization.
- (e) an application fee; and
- (f) any other particulars or information as may be required by the Registrar.

Applica-
tion to be
referred to
the Board

13. -(1) The Registrar shall within one month after receiving an application refer the application together with his recommendations to the Board for consideration.

(2) The Board shall within a period of two months after receiving the application and recommendations consider and make determination of the matter.

(3) The Board may, in determining the matter-

- (a) approve and direct the Registrar to register the Non Governmental Organization; or
- (b) refuse to approve the application and direct the Registrar to inform the applicant or applicants accordingly.

Refusal of
registra-
tion

14. -(1) The Board may refuse to approve application for registration of a Non Governmental Organization if it is satisfied that-

- (a) the activities of a Non Governmental Organizations are not for public interest or are contrary to any written law; or
- (b) the application has given false or misleading information in any material particular; or
- (c) on the recommendation of the Council, the Non Governmental Organization should not be registered.

(2) Where the Board has refused registration of a Non Governmental Organization, it shall, within twenty one days, notify the applicant of the reasons for the refusal.

15. Any applicant who is not satisfied with the decision of the Board may appeal to the Minister. Appeal

16. -(1) Where the applicant is not satisfied with the decision of the Board he may apply to the Board for review of its earlier decision. Review by the Board or appeal to the Minister

(2) Where the applicant does not wish to apply to the Board for review, he may appeal to the Minister against the decision of the Board.

(3) On receipt of the appeal, the Minister shall, within two months from the date of receiving the appeal consider and make determination of the appeal.

(4) In determining the appeal the Minister may-

- (a) uphold, quash or vary the decision of the Board;
- (b) require the Board to revise or review its decision;
- (c) require the Board to inquire into specific information from the appelland and make further consideration of the application.

17. -(1) The Registrar shall upon registration of a Non Governmental Organization issue a certificate of registration. Certificate of Registration

(2) The Certificate of registration shall contain-

- (a) the name and address of the Non Governmental Organization;
- (b) the area of operation of the Non Governmental Organization; and
- (c) such terms and conditions in respect of which a certificate is issued.

18. A certificate of registration shall be a conclusive evidence of the authority to operate as specified in the constitution or in the certificate of registration. Effect of registration

19. Where the Board has approved the registration of a Non Governmental Organization whose employees are not citizens of the United Republic it shall make recommendation to the Civil Service Department which shall further forward its opinion to Director of Immigration Services for the issuance of working permit in accordance with the provisions of the Immigration Act, 1995. Permits

Suspension or cancellation of certificate

20. –(1) Subject to Section 21, the Board may suspend or cancel a certificate of registration if it is satisfied that-

- (a) the terms or conditions prescribed in the certificate have been violated;
- (b) the Non Governmental Organization has ceased to exist;
- (c) the Non Governmental Organization operates in variance to its constitution; or
- (d) the Council has submitted, to the satisfaction of the Board, recommendation for its suspension or cancellation.

(2) Where the Certificate of registration has been suspended or cancelled the Board shall direct the Registrar.

- (a) to notify the relevant Non Governmental Organization; or
- (b) to order such Non Governmental Organization to stop its operations; or
- (c) to remove the name of such Non Governmental Organization from the register.

Procedure for suspension or cancellation

21. –(1) Where the holder of a certificate is in default of the terms and conditions in respect of which a certificate was issued or is in violation of section 20, the Registrar may serve on the holder a default notice in writing specifying the nature of the default.

(2) Upon receipt of the default notice, the holder shall make representation in writing to the Registrar regarding remedy or rectification of the default.

(3) Where the holder has failed to remedy or rectify the default within time specified in the default notice or has not made a representation satisfactory to the Registrar, the Registrar shall submit to the Board recommendation for suspension or cancellation of a certificate.

(4) If the Board is satisfied that a holder of a certificate is in default as provided for in subsection (1), it shall direct the Registrar to suspend or cancel the certificate.

(5) A holder whose certificate has been suspended or cancelled may apply to the Board for review of the decision to suspend or cancel the certificate if he is dissatisfied by the reasons for such suspension or cancellation.

(6) A holder of a certificate who is dissatisfied by the decision of the Board to suspend or cancel a certificate may appeal to the Minister.

PART IV

LEVELS OF REGISTRATION

22. -(1) The Registrar shall, for the purpose of facilitating registration at the regional and district levels, appoint for each region or each district, a public officer from amongst public officers within the region or district.

Appoint-
ment of
public
officers

(2) Subject to subsection (3) of section 23, a public officer appointed under subsection (1) shall on behalf of the Registrar-

- (a) register Non Governmental Organizations within the region or district for which he is appointed; and
- (b) issue certificates of registration or, as the case may be, certificates of compliance.

23. -(1) Where a Non Governmental Organization is intended to operate within a certain district the application for its registration shall only be submitted to the public officer for that district.

Registra-
tion of
NGO's at
various
levels

(2) Where a Non Governmental Organizations is intended to operate in the whole region the application for its registration shall be submitted to the public officer appointed for the region.

(3) A Non Governmental Organization whose scope of operation covers more than one region and an International Non Governmental Organization shall be registrable at the national level by the Registrar.

(4) Where the public officer has registered a Non Governmental Organization, he shall make a report to that effect and submit it to the Registrar.

(5) The Minister shall by regulations prescribe the procedure to be applied by public officers in the registration of Non Governmental Organizations.

Board may
require
proof of
existence

24. –(1) Where the Board has reason to suspect that a Non Governmental Organization has ceased to exist, it may issue a notice in writing to the office bearers of that Non Governmental Organization or publish a notice in a newspaper widely circulating in Mainland Tanzania, requiring it to submit to the Board within a period of thirty days, proof of its existence.

(2) Where the Non Governmental Organization fails to submit to the Board proof of its existence, the Board may direct the Registrar to cancel the certificate of its registration and remove its name from the register.

PART V

ACCOUNTABILITY AND SELF REGULATION OF NON GOVERNAMENTAL ORGANIZATIONS

Establish-
ment of
the
Council

25. –(1) There shall be established an umbrella organization for Non Governmental Organizations to be known as the National Council for Non Governmental Organizations.

(2) The Council shall be a collective forum of Non Governmental Organizations for the purposes of co-ordination and networking of all Non Governmental Organizations operating in Mainland Tanzania.

(3) The Council shall be composed of thirty members as may be appointed by Non Governmental Organizations to represent their respective interests.

(4) No person, body of persons or a Non Governmental Organization shall, after the establishment of the Council, perform or claim to perform anything which the Council is empowered or required to do under this Act.

Annual
meeting of
the
Council

26. –(1) The Council shall convene annually for the purpose of coordination and networking of all Non Governmental Organizations.

(2) The Council shall at its first annual meeting appoint the office bearers and promulgate rules of procedure for efficient administration and coordination of the activities of Non Governmental Organizations.

(3) The office bearers of the Council shall hold office for a period of three years, and may be eligible for reappointment for only another one term.

27. -(1) The Council shall develop and cause to be adopted a code of conduct and such other regulations which shall facilitate self-regulation of Non Governmental Organizations.

Code of
conduct

(2) The code of conduct shall be adopted by a resolution at an annual meeting of the Council.

28. -(1) The Board shall have the duty to ensure that the code of conduct, regulations and rules developed by the Council are consistent with the national policy for Non Governmental Organizations and the laws of the land.

Duties of
the Board
regarding
code of
conduct

(2) The Board shall cause the code of conduct and regulations or rules developed by the Council to be published in the *Gazette*.

29. -(1) Each Non Governmental Organization shall for every calendar year:

Activities
and
financial
reports

- (a) prepare a report of its activities which shall be made available to the public, the Council, the Board and other stake holders;
- (b) prepare an annual audited report and submit copies thereof to the Council and the Board.

30. -(1) The constitution and other documents submitted by founder members to the Registrar at the time of making application for registration or any subsequent constitution and documents submitted to the Registrar shall be the governing documents in respect of such Non Governmental Organization.

Governing
documents

(2) No Non Governmental Organization shall operate or perform its functions contrary to its governing documents.

31. Each Non Governmental Organization shall have the duty:

General
conduct

- (a) to respect the laws governing its operations;
- (b) to respect the culture and traditions of the people and communities in which it operates unless such culture and traditions are contrary to any other written law;

- (c) in the case of an International Non Governmental Organization-
- (i) to foster and promote the capacities and abilities of other Non Governmental Organizations;
 - (ii) to participate in activities of the Council; and
 - (iii) to refrain from doing any act which is likely to cause competition or misunderstanding among Non Governmental Organizations.

Fund
raising
activities

32. Non Governmental Organization registered under this Act shall be entitled to engage in legally acceptable fund raising activities.

Notifica-
tion of
change of
particulars
of Non
Govern-
mental
Organiza-
tion

33. -(1) Any change in the constitution, name or name of office bearers by a Non Governmental Organization shall be notified to the Registrar in writing.

(2) A notice to the Registrar shall be accompanied by-

- (a) a copy of resolution certified by office bearers stating that the resolution complies with its governing documents; and
- (b) a copy of the certificate of registration.

(3) The Registrar shall after receiving notification-

- (a) enter into the register all changes as submitted in the notification;
- (b) where necessary, issue a new certificate of registration; and
- (c) remove from the register particulars of the Non Governmental Organization as may be necessary.

(4) Where the Registrar has made changes in the Register in respect of the particulars of a Non Governmental Organization, he shall inform the Board.

Inspection
of
documents

34. -(1) Members of the public shall have right of access to and inspect any documents of any Non Governmental Organization at the office of the Registrar.

(2) The Minister shall prescribe the circumstances and the manner in which the public shall exercise the right of access to and inspect such documents.

PART VI

OFFENCES AND PENALTIES

35. -(1) Any person who-

- (a) forges or, utters any document for the purposes of procuring registration;
- (b) makes false statements in respect of an application for registration;
- (c) conducts fund raising activities contrary to this Act;
- (d) operates a Non Governmental Organization without obtaining registration under this Act; or
- (e) violates the code of conduct, or contravene any regulation or rules made under this Act,

Offences
and
penalties

commits an offence and shall on conviction be liable to a fine not exceeding five hundred thousands shillings or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

(2) A person convicted of an offence under this section shall be disqualified from holding office in any Non Governmental Organization operating in Mainland Tanzania for a period not exceeding five years.

(3) Notwithstanding subsection (1), a person who contravenes the provisions of this Act may, in lieu of the institution of the criminal charges against him pursuant to this Act, be proceeded against under the provisions of the Penal Code.

Cap. 16

36. -(1) For the purposes of Section 35, where an offence has been committed under this Act by a Non Governmental Organization, any of the office bearers of such Non Governmental Organization shall be liable to be proceeded against and be punished accordingly, unless any of such office bearer proves to the satisfaction of the Court that he had no knowledge, and could not, by the exercise of reasonable diligence, have had knowledge, of the commission of the offence.

Liability
of office
bearers of
NGO

(2) Without prejudice to subsection (1), where a Non Governmental Organizations and, or any of its office bearer has committed an offence, the court may order that such Non-Governmental Organization and, or any of its office bearer to pay a fine not exceeding fifty thousand shillings for every day during which the commission of the offence continues.

PART VII

MISCELLANEOUS PROVISIONS

Publica-
tion of
Non
Govern-
mental
Organiza-
tions

37. –(1) The Registrar shall publish annually in newspapers widely circulating in Mainland Tanzania the names of-

- (a) all Non Governmental Organizations which have been registered;
- (b) all Non Governmental Organizations whose names have been cancelled; and
- (c) all Non Governmental Organizations which have been deregistered.

Power of
Minister to
make
regulations

38. –(1) The Minister may on consultation with the Board make regulations for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1) the Minister may make regulations prescribing-

- (a) various forms to be used in this Act;
- (b) fees payable under this Act;
- (c) the format of the reports of activities to be submitted by the Non Governmental Organization; and
- (d) any matter which needs to be prescribed under this Act.

(3) Regulations made by the Minister shall be published in the *Gazette*.

 SCHEDULE

APPOINTMENT, COMPOSITION AND PROCEDURE OF THE BOARD

(Under Section 7 (2))

Composi-
tion of
Board

1. –(1) The Board shall consist of-

- (a) a Chairman who shall be appointed by the President upon recommendation of the Minister;
- (b) four members appointed by the Minister on the recommendation of the Council representing the diversified areas of Non-Governmental Organizations' interest in the Board; and
- (c) five members, appointed by the Minister by virtue of their knowledge or experience in development and welfare management representing the Government.

(2) The Board may co-opt such number of persons to represent any interest as the Board may determine.

2. The members shall elect one amongst their number to be Vice-Chairman of the Board, and any member elected as Vice-Chairman, may subject to his continuing to be a member, hold office for a term of three years from the date of his election.

Vice-
Chairman

3. —(1) The members of the Board shall hold office for a period of three years and shall be eligible for re-appointment for a further period of three years.

Tenure of
office of
members

(2) A member of the Board may at any time resign his office by giving notice in writing addressed to the Minister, and from the date specified in the notice or, if no date is so specified, from the date of the receipt of the notice by the Minister, he shall cease to be a member.

(3) In the case of a member who is a member by virtue of his holding some other office, he shall cease to be a member upon his ceasing to hold that office.

4. If a member of the Board who is a member by virtue of his holding some other office is unable for any reason to attend any meeting of the Board, he may nominate another person from his organization to attend the meeting in his place.

Proxy
representa-
tion

5. Where any member ceases to be a member for any reason before the expiration of his term of office, the appointing authority may appoint another person in his place and the person so appointed shall hold office for the remainder of the term of office of his predecessor.

Casual
vacancy

6. —(1) The Board shall ordinarily meet for the transaction of its business at the time and at the place determined by it, but shall meet at least once in every three months.

Meetings
of the
Board

(2) The Chairman, or in his absence the Vice-Chairman, shall preside at every meeting of the Board and in the absence of both the Chairman and the Vice-Chairman the members present shall appoint one of their number to preside over the meeting.

(3) The Chairman, or in his absence the Vice-Chairman, may at any time call special meeting of the Board, and shall call a special meeting upon a written request by a majority of the members in office.

(4) The Chairman, or in his absence the Vice-Chairman, may invite any person who is not a member to participate in the deliberations at any meeting of the Board, but any person so invited shall not be entitled to vote.

7. The Quorum at any meeting of the Board shall be half of the members and at least two members from Non-Governmental Organizations.

Quorum

8. —(1) Matters proposed at a meeting of the Board shall be decided by a majority of the votes of the members present and voting and in the event of any equality of votes the person presiding shall have a second or casting vote in addition to his original or deliberative vote.

Decisions
of the
Board

(2) A decision may be made by the Board without a meeting by a circulation of the relevant papers amongst the members and the expression of the views of the majority of the members in writing be honoured but any member may require that the decision be deferred and the subject matter be considered at a meeting of the Board.

Minutes of Meetings

9. —(1) The Board shall cause to be recorded and kept minutes of all business conducted or transacted at its meetings, and the minutes of each meeting of the Board shall be read and confirmed, or amended and confirmed, at the next meeting of the Board and signed by the person presiding at the meeting.

(2) Any minutes purporting to be signed by the person presiding at a meeting of the Board shall, in the absence of proof of error, be deemed to be a correct record of the meeting whose minutes they purport to be.

Vacancies, etc. not to invalidate proceedings

10. The validity of any act or proceeding of the Board shall not be affected by any vacancy among its member or by any defect proceedings in the appointment of any of them.

Orders, Directions, etc. of Board

11. All orders, directions, notices or other documents made or issued or behalf of the Board shall be signed by-

- (a) the Chairman or Vice-Chairman of the Board, as the case may be; or
- (b) the Registrar.

Proof of the Documents

12. Any document purporting to be under the hand of the Chairman, Vice-Chairman or the Registrar as to any resolution of the Board or as having been issued on behalf of the Board, shall be receivable in all courts or tribunals or other bodies authorized to receive evidence and shall, unless the contrary is shown, be deemed, without further proof, to be sufficient evidence of what is contained in the document.

Seal of the Board

13. The Seal of the Board shall not be affixed to any instrument except in the presence of the Chairman or the Vice-Chairman or the Registrar.

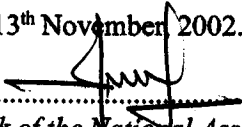
Remuneration of members of the Board

14. A member of the Board shall be entitled to such remuneration, fees or allowances for expenses as the Minister may, upon recommendations of the Board prescribe from time to time.

Board may regulate proceedings

15. Subject to the provisions of this Schedule, the Board may regulate its own proceedings.

Passed in the National Assembly on the 13th November 2002.


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Clerk of the National Assembly.