

**THE NON-GOVERNMENTAL ORGANIZATIONS CO-ORDINATION ACT, 1990
(KENYA)**

No. 19 of 1990

Date of Assent: 14th January, 1991

Date of Commencement: By Notice

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An Act of Parliament to make provision for the registration and co-ordination of Non-Governmental Organizations in Kenya and for connected purposes

ENACTED by the Parliament of Kenya as follows

PART 1 – PRELIMINARY

1. This Act may be cited as the Non-Governmental Organizations Co-ordination Act, 1990, and shall come into operation on such a day as the Minister may, by notice in the *Gazette* specify.

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

“Board” means the Non-Governmental Organizations Co-ordination Board established by section (3)1;

“Bureau” means the executive directorate of the Board;

“Certificate” means certificate of registration issued under Part III;

“Council” means the National Council of Voluntary Agencies established under section 24;

“International Non-Governmental Organization” means a Non-Governmental Organization with the original incorporation in one or more countries other than Kenya, but operation within Kenya under a certificate of registration;

“National Non-Governmental Organization” means a Non-Governmental Organization which is registered exclusively in Kenya with authority to operate within or across two or more districts in Kenya;

“Non-Governmental Organization” means a private voluntary grouping of individuals or associations, not operated for profit or for other commercial purposes but which have organized themselves nationally or internationally for the promotion of social welfare, development, charity or research through mobilization of resources;

“register” means the register of Non-Governmental Organizations maintained by the Board.

PART II – ESTABLISHMENT, FUNCTIONS AND POWERS OF THE BOARD

3. (1) There is hereby established a Board to be known as the Non-Governmental Organizations Co-ordinations Board.

(2) The Board shall be a body corporate with perpetual succession and a common seal and shall be capable in its corporate name of –

- (a) suing and being sued
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) receiving, borrowing and lending money;
- (d) entering into contracts; and
- (e) doing or performing all such other things or acts necessary for the proper performance of its functions under this Act, which may lawfully be done or performed by a body corporate.

4. (1) The Board shall consist of –

- (a) a chairman appointed by the President;
- (b) not more than seven and not less than five members appointed by the Minister by virtue of their knowledge or experience in development and welfare management;
- (c) the Permanent Secretary in the Office of the President responsible for Non-Governmental Organizations;
- (d) the Permanent Secretary in the Ministry for the time being responsible for foreign affairs;
- (e) the Permanent Secretary to the Treasury;
- (f) the Permanent Secretary in the Ministry for the time being responsible for economic planning;
- (g) the Permanent Secretary in the Ministry for the time being responsible for social service;
- (h) the Attorney-General;
- (i) five members appointed by the Minister on the recommendation of the Council to represent the diversified areas of Non-Governmental Organizations' interests within the Board;
- (j) the executive director appointed under section 5 (1).

(2) The members of the Board, other than *ex-officio* members shall hold office for a period of three years and shall then retire, but shall be eligible for re-appointment.

(3) A member of the Board, other than an *ex-officio* member, may resign his appointment by a letter addressed to the Minister.

(4) The Board may co-opt such number of persons not exceeding three in number to represent such interests as may be determined by the Board.

5 (1) The Minister may appoint an executive director who shall be the head of the Bureau and responsible for the day to day management of the business of the Board.

(2) The executive director shall be an *ex-officio* member of the Board but shall have no right to vote at any meeting.

(3) The executive director shall be the secretary to the Board.

6. (1) The Chairman shall preside at all meetings of the Board, except that in his absence, the provisions of sub-section (2) shall apply.

(2) In the event of the chairman being absent from any meeting of the Board, the members present shall elect one of the members present at the meeting to preside.

(3) The Board shall meet at least four times in each year but the chairman may, and upon application by six members shall, convene a special meeting of the Board.

(4) The quorum necessary for the transaction of the business of the Board shall be eleven, including at least seven members appointed under paragraph (b) and (i) of subsection (1) of section 4.

(5) All questions at a meeting of the Board shall be determined by a simple majority of the votes of the members present and voting.

(6) The chairman shall have, in case of equality of votes, a casting vote in addition to his deliberative vote.

(7) The Board shall cause the minutes of all proceedings of meetings of the Board to be entered in books kept for that purpose.

(8) Subject to this Act, the Board shall regulate its own proceedings.

7. The functions of the Board shall be –

- (a) to facilitate and co-ordinate the work of all national and international Non-Governmental Organizations operating in Kenya;
- (b) to maintain the register of national and international Non-Governmental Organizations operating in Kenya, with the precise sectors, affiliations and locations of their activities;
- (c) to receive and discuss the annual reports of the Non-Governmental Organization;
- (d) to advise the Government on the activities of the Non-Governmental Organizations and their role in development within Kenya;
- (e) to conduct a regular review of the register to determine the consistency with the reports submitted by the Non-Governmental Organizations and the Council;
- (f) to provide policy guidelines to the Non-Governmental Organizations for harmonizing their activities to the national development plan for Kenya;
- (g) to receive, discuss and approve the regular reports of the Council and to advise on strategies for efficient planning and co-ordination of the activities of the Non-Governmental Organizations in Kenya; and
- (h) to receive, discuss and approve the code of conduct prepared by the Council for self-regulation of the Non-Governmental Organizations and the activities in Kenya.

8. The Board shall have power –

- (a) to establish such subsidiary organs as may be necessary for the performance of its functions under this Act; and
- (b) subject to this Act, to appoint such officers as may be necessary for the performance of its functions.

9. The Board shall establish and maintain a documentation centre on Non-Governmental Organizations and their activities in Kenya and such other information as may be necessary for the understanding and promotion of the contribution of Non-Governmental Organizations to national development.

PART III – REGISTRATION AND LICENSING OF NON-GOVERNMENTAL ORGANIZATIONS

10. (1) Every Non-Governmental Organization shall be registered in the manner specified under this Part.

(2) Applications for registration shall be submitted to the executive director of the Bureau in the prescribed form.

(3) An application for registration shall be made by the chief officer of the proposed organization and specify –

- (a) other officers of the organization;
- (b) the head office and postal address of the organization;
- (c) the sectors of the proposed operations;
- (d) the districts, divisions and locations of the proposed activities;
- (e) the proposed average annual budget;
- (f) the duration of the activities;
- (g) all sources of funding;
- (h) the national and international affiliation and certificates of incorporation;
- (i) Such other information as the Board may prescribe.

(4) The Minister may, by notice in the *Gazette*, exempt such Non-Governmental Organizations from registration as he may determine.

(5) Application for registration under this section shall be accompanied by a certified copy of the proposed Non-Governmental Organization.

11. An application for registration of Non-Governmental Organization shall be accompanied by such fees as the Minister may from time to time prescribe.

12. (1) Every Non-Governmental Organization registered under this Act shall be issued with a certificate of registration in accordance with this Part.

(2) A certificate of registration shall be conclusive evidence of authority to operate throughout Kenya or as such parts of the country as are specified therein.

(3) A registered Non-Governmental Organization shall by virtue of such registration be a body corporate capable in its name of –

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) entering into contracts; and
- (d) doing or performing all such other things or acts necessary for the proper performance of its functions under this Act, which may lawfully be done or performed by a body corporate.

13. (1) every certificate issued to an organization shall be in the prescribed form and shall, unless cancelled, be valid for a period of sixty months from the date of issue.

(2) A certificate issued under this Part may contain such terms and conditions as the Board may prescribe.

14. The Board may refuse registration of an applicant if –

- (a) it is satisfied that its proposed activities or procedures are not in the national interest;
- (b) it is satisfied that the applicant has given false information on the requirements of subsection (3) of section 10;
- (c) It is satisfied, on the recommendation of the Council, that the applicant should not be registered.

15. (1) the chief officer of an organization may, at the expiry of a certificate, apply to the Board for the renewal of that organization's certificate.

(2) On receipt of an application made under subsection (1) the Board may issue a certificate to take effect from the date expiry of that organization's previous certificate.

(3) At the time of issuing a new certificate under this section the Board may vary the terms and conditions attached to the certificate.

16. (1) The Board may cancel or suspend a certificate issued under this Part, if it is satisfied that –

- (a) the terms or conditions attached to the certificate have been violated;
- (b) the organization has breached this Act;
- (c) the Council has submitted a satisfactory recommendation for the cancellation of the certificate.

(2) Notice of the cancellation or suspension shall be served on the Organization in respect of whom such cancellation or suspension relates and shall take effect within fourteen days after the date of that notice.

17. The Board shall receive and consider application for work permits in respect of prospective employees of a registered Non-Governmental Organization and make recommendation to the Principal Immigration Officer for the issuance of the permit to the applicant.

18. (1) If the Board has reasons to believe that a registered organization has, for any reason, ceased to exist, it may publish in the *Gazette* a notice calling upon such organization to furnish it with the proof of its continued existence.

(2) The proof given under subsection (1) shall be accompanied by an authenticated recommendation by the Council.

(3) The Board may strike off the register any organization which fails to provide proof of its existence within thirty days from the date of the notice or if the Council report does not confirm the existence of such an organization.

19. (1) Any organization which is aggrieved by a decision of the Board made under this Part may, within sixty days from the date of the decision, appeal to the Minister.

(2) On request from the Minister, the Council shall provide written comments on any matter over which an appeal has been submitted to the Minister under this section.

(3) The Minister shall issue a decision on the appeal within thirty days from the date of such an appeal, and such a decision of the Minister shall be final.

(4) If the Council is satisfied that the organization has ceased to exist, its recommendation to the Board shall include suggestions of how the assets and liabilities of the organization should be distributed and the reasons thereon.

20. An organization established by a state or group of states for welfare, research, relief, public health or other forms of development assistance shall not be eligible for registration under this Act.

21. Any organization registered under this Act shall not be entitled to diplomatic or consular privileges or immunities.

22. (1) It shall be an offence for any person to operate a Non-Governmental Organization in Kenya for welfare, research, health relief, agriculture, education, industry, the supply of amenities or any other similar purposes without registration and certificate under this Act.

(2) A person convicted of an offence under this Part shall be liable to a fine not exceeding fifty thousand shillings, or to an imprisonment of eighteen months or to both.

(3) Upon sentence, the court may order that whole or part of the fine be remitted to the accounts of the Board to defray the cost of its operations.

(4) Any person who has been convicted of an offence under this Part shall be disqualified from holding office in any Non-Governmental Organization for a period of ten years.

PART IV – SELF-REGULATION BY THE NON-GOVERNMENTAL ORGANIZATIONS

23. (1) There shall be established a Kenya National Council of Voluntary Agencies, as a collective forum of all the voluntary agencies registered under this Act.

(2) The Council shall adopt its own structure, rules and procedures for the efficient administration of its activities.

Provided that the first meeting to adopt the structure and procedures of the Council shall be supervised by an official designated by the Minister.

24. (1) The Council shall develop and adopt a code of conduct and such other regulations as may facilitate self-regulation by the Non-Governmental Organizations on matters of activities, funding programmes, foreign affiliations, national security, training, the development of national manpower, institution building, scientific and technological development and such other matters as may be of national interest.

(2) The code of conduct shall only be adopted by a resolution at a meeting of the Council, attended by not less than two-thirds of the registered agencies and supported by not less than three-quarters of the voting members present.

(3) The code of conduct shall be subject to approval by the Board.

(4) The Council shall prescribe rules and procedures for audit of the accounts of Non-Governmental Organizations, which rules shall be submitted to the Board for ratification.

(5) The code of conduct shall prescribe the responsibilities of the Council which, once approved by the Board, shall be construed as obligations under this Act.

(6) The Board shall ensure that the code of conduct is consistent with the national and foreign policies and all written laws of Kenya.

(7) The Board shall cause the code of conduct approved under subsection (3) to be published in the *Gazette*, but sections 27, 33 (e) and 34 of the Interpretation and General Provisions Act shall not apply.

PART V – TRANSITIONAL ARRANGEMENTS

25. (1) There shall be a transitional registration period not exceeding six months from the date of commencement of this Act; Provided that the Minister may extend the period upon application by a Non-Governmental Organization.

(2) All Non-Governmental Organizations that are presently registered under any other written law in Kenya shall, within the period specified in subsection (1), apply and obtain a certificate under this Act.

26. The first one hundred Non-Governmental Organizations to be registered by the Board under this Act shall constitute a Council competent to develop and adopt the code of conduct under Part IV.

PART VI – FINANCIAL PROVISIONS

27. (1) The financial year of the Board shall be the period of twelve months commencing from 1st of July, and ending on 30th of June in each year.

(2) In the event of any change in the financial year, and for the purposes of the transition from old financial year to the new financial year consequent upon change, the transitional period, whether more or less than twelve months shall be deemed for all the purposes of this Act to be a financial year.

28. (1) The Board may invest any of its funds in securities in which, for the time being, trustees may by law invest trust funds or in other securities which the Treasury may from time to time approve for the purpose.

(2) The Board may place on deposit with such bank or banks as it may determine, any money not immediately required for allocation or application.

29. (1) Before the commencement of a financial year the Board shall 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 the financial year concerned, and in particular –

- (a) the approved recurrent and development expenditure;
- (b) for the payment of salaries, allowances and other charges in respect of the staff of the Board;
- (c) for the payment of pensions, gratuities and other charges in respect of retirement benefits which are payable out of the funds of the Board;

- (d) for the proper development and maintenance of the properties of the Board;
- (e) for the proper maintenance, repair and replacement of the equipment and other movable property of the Board;
- (f) for the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits or insurance or in respect of such other matters as the Board may deem fit.

(3) Annual estimates shall be approved by the Board, before the commencement of the financial year to which they relate and shall be submitted to the Minister for approval.

(4) No expenditure shall be incurred for the purposes of the Board except in accordance with the annual estimates approved under subsection (3).

30. (1) The Board shall cause to be kept all proper books and records of account of its income, expenditure, assets and liabilities.

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

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

31. (1) The accounts of the Board shall be audited by the Auditor-General (Corporations).

(2) The Auditor-General (Corporations) shall present to the Board, within a period of six months after the end of each financial year, a report of the examinations and audit of accounts and the report shall also be forwarded to the Minister.

(3) The Minister shall lay the Board's report and the report of the Auditor-General (Corporations) before the National Assembly within thirty days after the receipt of the report by him, or if the National Assembly is not sitting, within fourteen days after the announcement of the next sitting.

PART VIII – MISCELLANEOUS PROVISIONS

32. The Minister may make rules for the efficient carrying into effect of the provisions of this Act and, without restricting the generality of the foregoing, make rules –

- (a) prescribing terms and conditions for the importation and use of any equipment required by the Non-Governmental Organizations for their activities in Kenya;
- (b) prescribing guidelines for advanced training and employment of Kenya nationals in the field of the activities of the Non-Governmental Organizations with such Kenya nationals are in their employment;
- (c) prescribing fees and other dues payable by the Non-Governmental Organizations as part of application for registration or renewal of registration;
- (d) stipulating the categories of local associations or clubs exempted from registration as Non-Governmental Organizations;
- (e) prescribing the format of the reports of activities to be submitted by the Non-Governmental Organizations;

(f) prescribing procedures for application for exemption from payment of taxes.

33. (1) Any person who makes, signs or utters a false statement or declaration in support or request for the exemptions under section 32 shall be guilty of an offence and shall be liable to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding three years or both.

(2) Any person convicted of an offence under this section shall be disqualified from holding office in any Non-Governmental Organization for a period of ten years.

(3) On the first conviction of an official of a Non-Governmental Organization under this section the Board may deregister that Organization.

(4) On the second conviction of an official, under this section the Board shall deregister that Non-Governmental Organization.

(5) Where a non-Kenyan national is convicted under subsection (2) or is found to have aided or abetted others in the office, the Minister may recommend his expulsion from Kenya to the Minister in charge of immigration.

34. (1) The Non-Governmental Organization deregistered under section 33(3) or (4) of this Act may appeal to the Minister against such deregistration.

(2) The Minister shall deliver his decision on the appeal under section (1) within twenty-eight days, and that decision shall be final and binding,

35. (1) The common seal of the Board shall be kept in such custody as the Board directs and shall not be used except upon the order of the Board.

(2) The common seal of the Board shall be authenticated by the signature of the executive director and other member of the board duly authorized by the Board in that behalf.

(3) The common seal of the Board when affixed to any document and duly authenticated under this section shall be judicially and officially noticed and, unless and until the contrary is proved, any order or authorization of the Board under this section shall be presumed to have been duly given.

MEMORANDUM OF OBJECTS AND REASONS

The main object of the Bill is to provide for the registration of Non-Governmental Organizations (NGOs) operating in Kenya. It is proposed that a Non-Governmental Organization Co-ordination Board should be established to co-ordinate their activities. Non-Governmental Organizations are defined as being private voluntary grouping of individuals or associations which have organized themselves nationally or internationally for the promotion of social welfare, development activities, charity or research through the mobilization of resources. The organizations should not operate for profit or for other commercial purposes.

Part II – (clauses 3 to 9) provides for the establishment of the Board and sets out its composition and functions. As provided in clause 7 (a) one of the functions of Board will be to facilitate and co-ordinate the works of all national and international Non-Governmental Organizations operating in Kenya.

Part III – (clauses 23 and 24) provides for the establishment of the Kenya National Council of Voluntary Agencies which will act as a collective forum for all voluntary agencies registered under the proposed legislation. The Council will develop and adopt a code of conduct for Non-Governmental Organizations.

Part IV – (clauses 27 to 31) set out the financial provisions including the power of the Board to invest its funds in approved securities.

The rest of the Bill set out administrative details necessary for the proper enforcement of the proposed legislation.

No additional expenditure of public funds will be incurred as a result of the enactment of the Bill.

5th November, 1990

MATTHEW MULI
Attorney-General

KENYA GAZETTE SUPPLEMENT NO. 85 (ACT NO. 8) 23 OCTOBER 1992

Written Law	Provision	Amendment
The Non-Governmental Organizations Co-ordination Act 1990 (No. 19 of 1990)	s.2	Delete the definition of “Non-Governmental Organization” and insert the following new definition – “Non-Governmental Organization” means a private voluntary grouping individuals or associations, not operated for profit or for other commercial purposes but which have organized themselves nationally or internationally for the benefit of the public at large and for the promotion of social welfare, development, charity or research in the areas inclusive of, but not restricted to, health, relief, agriculture, education, industry, and the supply of amenities and services.
	s.4(1)	Delete the expression “five members” appearing in paragraph (1) and insert ‘seven members’.
	s. 19	Delete the comma and words “, and such a decision of the Minister shall be final” appearing in subsection (3) and insert the following new subsection –

(3A) Any organization aggrieved by the decision of the Minister may, within twenty-eight days of receiving the written decision of the Minister, appeal to the High Court against that decision and in the case of such appeal –

(a) the High Court may give such direction and orders as it deems fit; and

(b) the decision of the High Court shall be final.

s. 34

Delete the comma and words “and that decision shall be final and binding” appearing the subsection (2) and insert the following new subsection –

(3) Any organization aggrieved by the decision of the Minister may, within twenty-eight days of receiving the written decision of the Minister, appeal to the High Court against that decision and in the case of such an appeal –

(a) the High Court may give such direction and orders as it deems fit;

(b) the decision of the High Court shall be final

LEGAL NOTICE No. 151

THE NON-GOVERNMENTAL ORGANIZATIONS CO-ORDINATION ACT, 1990

(No. 19 of 1990)

COMMENCEMENT

IN EXERCISE of the powers conferred by section 1 of the Non-Governmental Organizations Co-ordination Act, the Minister of State responsible for matters relating to Non-Governmental Organizations appoints the 15th June 1992, as the date on which the Act shall come into operation.

Dated the 22nd May, 1992.

N.W. KANYI
Minister of State