

SPECIAL ISSUE

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REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2013

NAIROBI, 30th October, 2013

CONTENT

Bill for Introduction into the National Assembly—

The Statute Law (Miscellaneous Amendments) Bill, 2013 927

The Public Benefits Organisations Act, 2013 (No. 18 of 2013)

s.2

Delete the words “planning and national development” appearing in the definition of “Cabinet Secretary” and substitute therefor the words “public benefits organisations”.

Delete the expression “international non-governmental organisation” and substitute therefor the expression “international public benefits organisation”.

Insert the following new definition in proper alphabetical sequence-

“governing body” means the governing body of a public benefits organisation.

New

Insert the following new section immediately after section 7-

Designation of public Benefits Organisation.

7A (1) An organisation registered under any other law in Kenya or outside Kenya may apply to the Authority to be bestowed with the status of a public benefits organisation.

(2) An application under subsection (1) shall be accompanied by the following particulars in relation to the applying organisation-

(a) the certificate of registration;

(b) the address of the registered office;

(c) the documents governing the operations of the organisation;

(d) the names and the physical and postal addresses of the members of the governing body;

and

(e) such other particulars or information as may be required by the Authority.

s.8(1) Delete the words “constitutive documents” appearing in paragraph (a) and substitute therefor the word “Constitution”.

s.8(3) Insert the following new subparagraph in paragraph (d) immediately after subparagraph (iii)-

(iv) the name, address and other contact information of the organisations seeking to operate under section 11(2)(a).

s.8(8) Delete the expression “sixty days” and substitute therefor the expression “thirty days”.

- s.10(2) Delete the words “a certificate of registration shall be a” and substitute therefor the words “an entry in the register shall be”.
- s.10(4) Delete paragraph (b).
- New Insert the following section immediately after section 10-
- | | |
|--|--|
| Authority to impose terms and conditions | 10A. The Authority may from time to time impose terms and conditions for the grant of certificates of registration, permits of operation and public benefits organisation status. |
|--|--|
- s.11(2) Delete all the words appearing in paragraph (a) immediately before the word “grant”.
- s.12 Delete the words ‘presumption of’ appearing in the marginal note and substitute therefor the word “delayed”.
- s.13 Delete the expression “(1)”.
- Delete the words “the certificate of registration” and substitute therefor the words “An entry into the register”.
- s.15(6) Delete the words “deregistered voluntarily” appearing in paragraph (c).
- s.19(1) Insert the words “or a permit to operate, or revoke public benefit organisation status” immediately after the word “registration”.

- s.19(3) Insert the words “permit to operate or public benefit organisation status” immediately after the word “registration”.
- s.21(1) Insert the word “recognised” immediately after the word “registration”.
- s.21(2) Insert the word “recognised” immediately after the word “registered”.
- s.21(8) Delete the expression “five years” and substitute therefor the expression “three years”.
- s.21(12) Delete the words “to in subsection” appearing immediately after the word “referred”.
- s.22 Delete the expression “35(1) (h) and (i) and substitute therefor the expression “35(1)(i)”.
- New Insert the following new section-
- Funding **27A.** (1) Any funding of a public benefit organization shall be made through the federation and not by an individual member organization.
- (2) A public benefit organisation shall not receive more than fifteen percent of its total funding from external donors.

(3) Notwithstanding subsection (2) the Cabinet Secretary responsible for finance may approve receipt of an amount of more than fifteen percent where there are legitimate and compelling reasons for increasing the amount.

(4) For purposes of funding by the Government, the Cabinet Secretary responsible for finance made regulations to provide for funding by the Government.

(5) The Regulations made under this section shall conform to the laws relating to public financial management and shall establish percentage ceilings of funding to public Benefits Organizations by overseas development assistance.

(6) The Council shall by Regulations come up with facilitative mechanisms on funding of the public benefits organization.

- s.31 Delete the words “six months” and substitute therefor the words “three months”.
- s.33 Renumber the existing provision as subsection (1) and insert the following new subsection-

(2) The provisions of subsection (1) shall not relieve the public benefits organisation of the liability to pay any compensation for any injury to the person, the person's property or to any of the person's interest caused by the exercise of any power conferred by this Act or by failure, whether wholly or partially, of any works.

s.35(1) Delete the expression "Cabinet Secretary" appearing in paragraph (a) and substitute therefor the expression "President".

Delete the word "three" appearing in paragraph (b) and substitute therefor the word "two".

Delete paragraph (h).

Delete paragraph (g) and substitute therefor the following-

(g) the Principal Secretary responsible for matters relating to internal security.

Delete paragraph (h).

Delete paragraph (i) and substitute therefor the following new paragraph-

(i) three members of the federation, at least one of whom shall be of opposite gender, nominated by the members of

the governing board of the Federation and appointed by the Cabinet Secretary.

Delete paragraph (j) and insert the following new paragraph-

(j) the Director- General.

s.35(3) Delete the word “ten” and substitute therefor the word “five”.

s.35(7) Delete.

s.36(1) Insert the words “the governing body of” immediately after the words “membership in” appearing in paragraph (e).

s.38 Delete the words “make and subscribe to a prescribed” and substitute therefor the words “take an”.

s.42

s.45(1) Delete and substitute therefor the following new subsection-

(1) There shall be a Director-General of the Authority who shall be appointed by the Cabinet Secretary.

Insert the expression “-General” immediately after the word “Director” wherever it appears in subsection (1) – (8).

s.45(6) Delete the word “Board” and substitute therefor the expression “Cabinet Secretary”.

s.45(8) Delete and substitute therefor the following new subsection-

(8) The Director-General shall be removed from office by the Cabinet Secretary if the question of such removal has been so recommended by the Board by not less than two-thirds of all its members.

s.46(1) Delete and substitute therefor the following new subsection-

(1) The Board shall appoint such Directors as are necessary for the proper discharge of the functions of the Authority under this Act, upon such terms and conditions of service as it may determine.

s.61(1) Delete the word “deregister” appearing in the introductory portion.

Delete the word “register” appearing in subparagraph (a)(i).

Delete the word “deregistration” appearing in subparagraph (a)(ii) and substitute therefor the word “dissolution”.

s.61(3) Delete the words “deregistration or” appearing in the introductory portion.

s.61(4) Delete the word “deregistered” wherever it appears.

s.68 Delete the words appearing immediately after paragraph (c) and substitute therefor the following-

“apply in writing to the Authority for consideration and recommendation”.

Third Schedule
Para 1 Insert the words “chairperson and” immediately before the word “members”.

Para 2 Delete the words “Permanent Secretary of the Ministry for the time being responsible for planning and national development” and substitute therefor the words “Principal Secretary responsible for matters relating to public benefits organisations.

Para 4 Delete and substitute therefor the following-

4. The Cabinet Secretary shall, within seven days of the expiry of the period prescribed under paragraph 1, consider applications and shortlist five names of persons qualified for appointment as members of the Board in accordance with section 35(1)(b) and (h), and two names of persons qualified for appointment as chairperson of the Board in accordance with section 35(1)(a).

Para 7 Delete the words “the names of six nominees for appointment as members of the Board” and substitute therefor the words “or reject any of the nominees for appointment as members and chairperson of the Board as provided in paragraph 4”.

Para 9 Delete the word “submission” and substitute therefor the word “resubmission”.

Insert the following new paragraph at the end thereof-

12. Upon receipt of the name of the nominee for chairperson the President shall appoint the person so nominated by notice in the Gazette.

Fourth
Schedule.

Para 1(5) Delete the words “or in his absence the chairperson”.

Fifth
schedule

Para 2(3) Delete the word “Commission” and substitute therefor the word “Board”.

Para 6 Delete subparagraphs (1) and (2).

Para 9 Delete.

The Kenya Law
Reform
Commission Act,
2013 (No. 19 of
2013).

s.8(1) Delete the expression “Attorney-General” appearing in paragraph (d) and substitute therefor the expression “Director of Public Prosecution”

Delete the expression “Cabinet Secretary” appearing in paragraph (e) and substitute therefor the expression “Chief Justice”.

s. 8(4) Delete the expression “(1)(c) and (d)” and substitute therefor the expression (1)(d) and (e).”