



THE FEDERAL REPUBLIC OF SOMALIA

NON-GOVERNMENTAL ORGANISATIONS ACT, 2019

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Introduction

The objective of the Act is to provide for a conducive and enabling environment for Non-Governmental Organisations; to strengthen and promote the mutual partnership with Government and provide provisions for the registration of Non-Governmental Organizations (NGOs) operating in the Federal Republic of Somalia (FGS). The Act seeks to coordinate, monitor and regulate NGOs operations through the NGO Coordination Office and Registrar-General, and Registrars.

CHAPTER I – PRELIMINARY

Article 1 Short Title

This Act may be cited as the Non-Governmental Organisations Act 2019.

Article 2 Interpretation

In this Act, unless the context otherwise requires:

“**Certificate**” means a certificate of registration issued under Article 2.7 of the Act;

“**Pre – clearance letter**” means a letter issued by the NGO Coordination Office confirming that the NGO has met all the requirements of registration as a NGO;

“**International Non-governmental Organization**” means a non-governmental organisation established outside Somalia and operating in Somalia under provisions of this Act;

“**Minister**” means the Federal Minister of Planning or the Minister of Interior at the Federal Level whose Ministry is charged with the administration of this Act as per their specific roles outlined in this Act;

“**NGO Coordination Office**” shall mean an office within the Ministry of Planning charged with the administration and enforcement of this Act;

“**National Non-governmental Organisation**” means a non-governmental organisation established in Somalia and in accordance with the provisions of this Act;

“**Non-governmental Organisation**” means an autonomous, independent body or association of persons, or any institution established for a public benefit or purpose; and the income and property

of which is not distributable to its members or office-bearers except as reasonable compensation for services rendered;

“Office-bearer” means any elected or appointed individual in the capacity of a board director, board member or person holding an executive position; or any person who is a member of the committee or governing body thereof;

“Registrars” mean registrars as appointed under article 2.3 for functions at state, regional or district level;

“Registrar-General” means Registrar as appointed under article 2.1 of the Act and has the function of registration in the Federal Republic of Somalia;

“Register” means a register as maintained by the Registrar in accordance with article 2.18 of the Act of which information relating to organisations is recorded, maintained and updated.

Article 3

Application of the Act

1. Subject to sub-article (2), this Act will apply to all organisations:
 - a) That are not established or controlled by the Federal Government or Federal State or local authority or any of their organs directly or indirectly and are precluded from transferring or distributing, whether directly or indirectly; any benefit to its office bearers and members;
 - b) That are established in Somalia that include but are not limited to charity work, education, health, relief, development, gender awareness, human rights, scientific inquiry, environment and natural resources, legal aid, prevention of cruelty to animals and the provision of funds in aid of any one or more of the above;
 - c) That are obliged to apply all its resources for the benefit of the public only; and
 - d) That may not make any payments to its office bearers or members, or to their associates or relatives, except payments may be made in order to provide reasonable remuneration or payment for services actually rendered.
2. This Act will not apply to:
 - a) Any quasi or governmental institution maintained and controlled, by the Federal Government, States or a local authority; or
 - b) Any company as defined by the Laws of Somalia; or
 - c) Any company or association constituted under any written law for the time being in force in Somalia; or

- d) Any trade union, federation of trade unions or employers' organization registered or recognised under the Laws of Somalia; or
- e) Any co-operative society or any building society registered under Laws of Somalia; or
- f) Any board of governors, local education authority, school committee or similar organization; or
- g) any political organization in respect of work confined to political activities; or
- h) Any sports club, small community or informal organisations such as savings clubs or those whose budget is not more than what the Ministry of Finance prescribes from time to time.

Article 4

Objects of the Act

The objects of this Act are to:

1. Register non-governmental organisations and thereby granting them legal personality
2. Protect the fundamental rights of freedom of association, freedom of assembly and freedom of expression as provided in the Federal Constitution of the Federal Republic of Somalia;
3. Create an enabling environment in which non-governmental organisations can flourish including through a permissive administrative and regulatory framework. This will mean that such organisations will be able to operate freely and effectively and not be subject to onerous regulatory requirements or fees and charges that they are not expecting or have not previously been clearly stated as applicable to them;
4. Encourage non-governmental organisations to maintain adequate standards of governance, transparency and accountability, fully meeting recognised international standards;
5. Promote cooperation, collaboration and coordination between Federal Government, Federal Member States, non-governmental organisations, and development partners, resulting in a single registration and regulation process for all throughout Somalia;
6. Promote financial and programming sustainability of the non-governmental organisations.

CHAPTER II – REGISTRATION OF NON-GOVERNMENTAL ORGANISATIONS AND APPOINTMENT OF REGISTRAR-GENERAL

Article 5 Appointment of Registrar-General

The Minister of The Interior at the Federal level shall appoint a Registrar-General of Non-Governmental Organisations whose office shall be established within structures of the Ministry of The Interior and form part of its staff.

Article 6 Functions and Duties of the Registrar-General

1. Subject to provisions of this Act, the functions and duties of the Registrar-General include:
 - a) Contribute to the creation of an enabling environment as provided under the article of this Act;
 - b) To make recommendations to the Ministers on violations of the act in particular leading to immediate actions taken against an organization whose work has been unsatisfactory or seen contrary to the National Security. The scope and range of actions will be clearly set out in subsequent regulations;
 - c) Recommendations in respect to sub article (c) shall not preclude affected organizations from pursuing appeals to the competent courts of Somalia.

Article 7 Appointment and Functions of State Registrars

1. The Federal Member States are independent to appoint the relevant state Ministry that to fulfil this work.
2. The Registrars so appointed shall report to the NGO Coordination Office and communicate for all decisions made within reasonable time, and within 10 working days where real-time information processing systems are not available.
3. The functions of the Registrars shall be limited to:
 - a) Register organizations under this Act;
 - b) To receive, all applications of organizations intending to register under this Act;
 - c) To maintain and update of registered non-governmental organization in accessible formats;
 - d) To receive reports from the NGO Coordination Office of annual compliance from registered non-governmental organisations;

- e) To establish offices for carrying out tasks provided under this Act;
- f) To supervise registrar assistants in the state under this Act; and
- g) To perform such other duties consistent with provisions of this Act.

Article 8

Appointments and Functions of the NGO Coordination Office

The Minister of Planning shall appoint officials who shall assume responsibility of administration and enforcement of this Act. NGO Coordination Office will be located in the Ministry of Planning and shall operate at the Federal and State or Regional levels. The functions of the NGO Coordination Office are to:

1. Represent the Federal Government of Somalia and mandated for administering the registration of International and National NGOs operating in Somalia;
2. Act as a line of communication between the Government and the NGO;
3. Ensure that the process of registration is facilitated delivering an enabling environment for NGOs in Somalia;
4. Consider all completed applications for registration and renewals from organisations as required under this act;
5. Issue of Pre – clearance letter and final Clearance letter to the NGO after fulfillment and approval of the application process;
6. Coordinate among all government ministries, states and NGOs;
7. Ensure that the ACT is enforced;
8. Select the appropriate operational geographical areas based on the needs of states and regions and in accordance with the National Development Plan and other relevant government policies and frameworks;
9. Receive and consider all reports and accounts from registered NGOs on an annual basis;
10. Provide of feedback to NGOs on annual reports and monitoring and evaluation exercises conducted on the NGO activities by at the Ministry of Planning;
11. Forward to the Registrar General or Registrar all complete applications with either confirmation that the application is valid and should be entered onto the Register or that the application is not valid and should not be entered and the application refused;
12. Establish and publish of the NGO Register
13. Formulate, develop and issuing regulations, by – laws and guidelines administering NGOs;
14. Support the enhancement of the capacity of national NGOs;
15. Monitor and oversee NGOs as accorded in this Act and advise the Minister accordingly;

16. Supervise all officials acting in these roles to ensure that they are fulfilling their roles and responsibilities; and
17. Perform such other duties necessary for the delivery of the provisions of this Act.

Article 9

Registration of Non-Governmental Organisations

1.1 Registration of Non-Governmental Organisations

1. Any organisation that is not exempted from registration under this Act shall submit its application to the NGO Coordination Office or their appointees for initial consideration of registration.
2. Unless provided otherwise by this Act, the following are mandatory provisions of a constitution of an organisation that intends to register must:
 - a) State the organisation's name; the acronym;
 - b) The organizations's constitution;
 - c) State the organisation's aims, and objectives;
 - d) State that the organisation's income and property are not distributable to its members or office-bearers, except as reasonable compensation for services rendered;
 - e) State that office bearers and board of directors are distinct from the organisation and changes in composition of its membership or office-bearers does not terminate existence of the organisation;
 - f) Specify the organisational structures and mechanisms for its governance;
 - g) Set out the rules and procedures for decision making, election of office bearers, for convening and conducting meetings, including quorums required for and the minutes to be kept of those meetings;
 - h) Specify the processes and procedure for changing or amending the constitution; and
 - i) Set out a procedure by which the organisation maybe wound up or dissolved.

Article 10

Registration Levels

1. All International NGOs will be registered at National Level while local NGOs are registered at both federal and state level depending on their scope;
2. If a local NGO's operations encompasses within a region, it will be registered at the regional level.

3. If the local NGO's operations extend beyond a region to atleast two regions, it will be registered at the National Level.

Article 11

Application for Registration

1. A non-governmental organisation may apply for registration by submitting to the NGO Coordination Office or their appointees the following documents specifying:
 - a) The prescribed registration form completed in the form specified by the NGO Coordination Office and approved by the Registrar General;
 - b) A copy of the constitution of the organisation and additional copies if required;
 - c) Names and contacts of the founders of the organisation;
 - d) Names of the office bearers of the organisation;
 - e) Suggested names for registration in name search form;
 - f) Profile of the organization which includes its aim and objectives, nature of programs, management structure and head office address.
2. An international non-governmental organisation must submit in addition to requirements under sub article (1):
 - a) Certified or notarized proof of registration or incorporation in its country of origin;
 - b) Details of the key officers of the non-governmental organisation;
 - c) Certificates of good standing of country director and finance manager in a format specified in the regulations made under the provisions of this Act;
 - d) Power of Attorney Letter for the Country Director/Head of Mission from NGO Head Quarters that allows representation.
3. Proof of payment of prescribed fees for name search and registration paid into a specified bank account but so that such fees will only be payable once a pre – clearance letter has been issued by the NGO Coordination Office.
4. The NGO Coordination Office, or their appointees may request further information consistent with the Act for purposes of processing registration.
5. Registration will be processed within 30 days of submission of all required documents. This includes the time needed for the NGO Coordination Office to consider the application and represents the totality of the time needed to register.
6. If an organisation meets the necessary criteria for registration the NGO Coordination Office shall issue a pre – clearance letter serves as an approval for registration and allows the General Registrar or Registrar to register the NGO.
7. The Registrat General will issue a certificate of registration to the NGO after registration is completed and approved by the Minister of Interior at Federal Level for International NGOs and Ministers of Planning at State level for National NGOs.

Article 12

Validity of Registration

1. Upon completion and approval of registration, the NGO Coordination Office shall issue a certificate of registration which shall be valid for a period of 2 years, and will apply from date of issuance.
2. The certificate of registration shall be displayed in all premises, and registration number to be included in all correspondence of the non-governmental organisation as sufficient proof that the organization has met all requirements for registration under this Act.
3. Subject to sub-article (2) above, the Registrars will issue a statement of notification affirming operations of non-governmental organisation in the Federal Member state, district, region or local authority.

Article 13

Memorandum of Understanding

Federal Government Line Ministries and Federal Member states may require non-governmental organisation to sign letter or Memorandum of Understanding after securing registration, provided it shall not be contrary to provisions of this Act and not be interpreted as new or additional registration. Memorandum of understanding would only be required where the non-governmental organisation is working in partnership with the Federal Government or Federal Member State or where their active cooperation is required to deliver the proposed projects. A copy of the MoU should be submitted to the Ministry of National Planning and Development for entry into the register.

Article 14

Prohibition

An NGO is prohibited from:

1. Engaging in any act which is prejudicial to the security and laws of the Country and dignity of its people;
2. Participation in political activities;
3. Engagement in terrorist activities or support, encouragement or financing of terrorism;
4. Import and export activities for commercial purposes;
5. Use of financial resources against national interests;
6. The performance of other illegal activities that are against the Laws of Somalia.

Article 15

Refusal of Registration

1. The NGO Coordination Office may refuse to approve application for registration of an international organisation if satisfied that:
 - a) The activities of an organisation are contrary to provisions of this Act;
 - b) The application has given false or misleading information in any material particular.
2. Upon refusal of registration by the NGO Coordination Office, the organisation shall be informed of the decision in writing not later than 15 days after the decision has being made to inform the applicant organisation of the reasons for refusal;
3. An organisation not satisfied with the decision of the NGO Coordination Office, must lodge its appeal within 30 days of receipt of the decision explaining why they consider the decision to be wrong;
4. If the NGO Coordination Office refuses to change that decision the organisation can then appeal to the Minister of Planning who has the final decision.

Article 16

Renewal of Registration

1. Registration will normally be valid for 2 years, however if the said organisation ceased to function its certificate will be withdrawn by the NGO Coordination Office who shall advise the Registrar-General of this decision;
2. A registered organisation shall within 30 days of notification of the intent to withdraw the certificate have the right to apply for the renewal of the certificate submitting documents for renewal as provided under Article 2.7 on registration to the NGO Coordination Office;
3. Failure to comply with timeframe specified under Article 2.12 shall lead to the withdrawal proceeding;
4. Within 30 days of receipt of the application for renewal, the NGO Coordination Office and the Registrar or their appointees shall process the application and notify the said organisation;
5. During the period of processing of renewal of a registered organisation, such organisation is deemed legally registered and lawfully operating.

Article 17

Annual Reports

1. Every registered non-governmental organisation must submit annual financial and narrative reports to the NGO Coordination Office at the end of financial year for each organisation.
2. The annual reports shall be submitted not later than 31st May after the end of the year.
3. The report should cover progress on activities and workplans, budget utilized and remaining balance, list of assets and staff, challenges faced and lessons learnt.
4. The form and content of the annual reports shall be as provided in the Regulations under this Act and shall cover:
 - a) Progress on approved activities linked to the country Monitoring and Evaluation Framework;
 - b) Budget spent and remaining balance;
 - c) The plan of action for the project showing what it has achieve, not achieved and why;
 - d) Challenges faced and lessons learnt;
 - e) List of staff and assets;
 - f) Annual Audit Report.

Article 18

Changes in Office Bearers, Constitution, and Names

1. A registered organisation shall notify the NGO Coordination Office or their appointees through a prescribed form of the following changes within 30 days of such changes occurring or if less than 30 days before end of the annual year upon submission of annual statements;
 - a) Changes in office-bearers,
 - b) Any other changes that do not alter the name of the organisation or constitution objectives of the organisation
2. On receipt of the changes, the NGO Coordination Office shall inform the Registrar-General or their appointees who shall correct the details in the register within 10 working days and issue a statement of confirmation of changes to the organisation.
3. Changes to the constitution of the organisation that materially alters the objects of the organisation and the mandatory provisions under article 2.5(2) of the Act, will require re-registration of that organisation as a new organisation, provisions of this Act on registration will apply.
4. Changes to the name of the organisation that creates a new name or requests a new name for the organisation but which does not materially alter the objects of the

- organizations shall be approved by the Register-General if that name does not cause any confusion or in any way conflict with the purposed of that organisation.
5. If the proposed name change does materially affect the objects or purposes of the organisation then it shall be deemed as registration of a new organisation, of which provisions of this Act on registration will apply.
 6. If the Registrar considers that the change has resulted in being registered as a new NGO, the rights and obligations of the former NGO will be transferred to the newly registered NGO, and will be verified upon the receipt of the New Registration Certificate.

Article 19. Cancellation of Registration

1. The NGO Coordination Office may cancel the registration of a registered organisation for reasons of failure to comply with provisions of the Act provided that the organisation is
 - a) Warned in writing,
 - b) Reprimanded in writing,
 - c) Order of cancellation issued in writing
2. The order of cancellation issued under sub-article (1)(c) above will be effective within 30 days after issue date, provided it is not rescinded and or, altered by the appeal to the NGO Coordination Office, the Minister or subsequently the competent court.
3. In the event that the order for dissolution of the Registration has been issued and confirmed, the dissolution of the organisation the registration will be handled by the The the NGO Coordination Office in accordance with the regulations specified under this Act and its regulations in respect of assets and liabilities consistent with of this Act. The NGO Coordination Office will ensure that all assets are distributed in accordance with this Act.
4. The debt owed will be prioritized in order of dates taken and importance.
5. In the event that NGO's assets are insufficient to pay off the debt, and it is evident that the assets have been lost due to mis-management by the NGO, the NGO founders, directors and managers will be required to repay their from their personal assets.

Article 20 Voluntary Dissolution, Winding Up

1. A registered organisation that voluntarily dissolves itself shall submit to the NGO Coordination Office a notice of intention of intent to dissolve accompanied by the following:

- a) Resolution of dissolution as provided in the organisation's Constitution;
 - b) Annual reports referred to in article 2.13 for the period from its previous financial year up to the date of the written notice contemplated in this sub article;
 - c) Date of commencement of dissolution.
2. On receipt of the notice, the NGO Coordination Office, shall on the date specified in sub article (1)(c) above:
 - a) Notify the Registrar-General to Cancel the organisation's certificate of registration and update the register accordingly, expunging the record of registration.
 - b) Notify the organisation of the cancellation of the certificate in writing;
3. An organisation that intends to re – register after voluntary dissolution shall follow the procedures of registration as laid out under this Act as new applicant.

Article 21

Finances and Taxes

1. Registered organisations are permitted to:
 - a) Raise by lawful and appropriate means, funds, resources, technical support from inside and outside Somalia;
 - b) Enter into profit making ventures within the confines of the organisation's objectives to raise funds, provided that such ventures shall where applicable be registered in terms of the laws ordinarily applicable to such profit-making ventures;
2. Funds raised under article (1)(b) as a means of raising funds will be tax-exempt;
3. Donations local or foreign from legal and natural persons to non-governmental organizations for the furtherance of their activities will be tax exempt;
4. The registration fee will be determined by a consultation between the Ministry of Planning and the Ministry of Finance;
5. Until a decision is made on the registration fee amount, the NGO Coordination Office may temporary propose a reasonable fee in consultation with the Ministry of Planning for expiring or new registrations;
6. The implemetation of the provision of a temporary registration fee will be discontinued when the Ministry of Planning and the Ministry of Finance at the federal and state levels impose a new registration fee which will be deposited into a federal or state bank account;
7. International NGOs seeking to register within the Federal Republic of Somalia must agree primarily their programs at the Ministry of Planning;
8. International NGOs shall deduct income tax from their employees at source and transfer it to the Ministry of Finance in accordance with the in the tax laws of Somalia;
9. Notwithstanding provisions of Act, all registered organisations must comply with taxations laws of Somalia.

Article 22

Register of Non-Governmental Organizations

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. The Registrar-General shall maintain and update the register as provided under this Act;
3. The register shall be publicly accessible, available for inspection by the public or any interested persons;
4. The Ministry of Planning shall issue operational guidelines;
 - a) On principles of data protection and integrity, such as personal identification information, personal home address, personal contact details;
 - b) Indicating the nature of the register, electronic, manual or both;
 - c) Classification of organisations for register purposes only as, national or international non-governmental organisations.

Article 23

Inspections

The NGO Coordination Office shall be able to request from the relevant government body to conduct inspections into the activities or running of any NGO where:

1. They have received evidence of a Violation of the law of Somalia;
2. They have failed to provide the required documents for annual reporting or accounting;
3. There is evidence of other illegal or inappropriate activity.
4. Inspection shall be done with prior notice of at least 3 days being given to an organisation stating the time and purpose of the inspection. The conduct of investigations will be subject to regulations under this Act.

CHAPTER III – TRANSITIONAL ARRANGEMENTS AND MISCELLANEOUS PROVISIONS

Article 24 Offences and Penalties

1. Any office-bearer, who knowingly provides false information or commits any act of dishonesty pursuant to registration or in compliance of registration of the organisation under this Act is guilty of an offence and liable to a fine or imprisonment or both as prescribed from time to time.
2. Any person who violates any of the provisions of this Act will be guilty of an offence and liable to a fine as prescribed from time to time.
3. It shall be an offence for any person or persons to operate an International Non-Governmental Organization in Somalia without a registration certificate in accordance with the provisions of this Act.
4. It shall be an offence under this Act for expatriate personnel to start work without a valid work permit.
5. The NGO Coordination Office will take measures against offences through:
 - a) Written warning;
 - b) Reprimand;
 - c) Fine. Any Offence under this Act, shall on conviction, be liable to a fine not exceeding \$5000 (Five thousand US Dollars only), or with imprisonment for a term not exceeding 1 year or with both and in case of an expatriate, shall also be expelled Somalia.
 - d) The length of the prison sentence, or the fines and penalties combined, will be determined by the competent court;
 - e) Suspension of registration certificate for a specified period;
 - f) Revocation of registration certificate.
6. Offenses shall be a case by case through a court of justice, and they shall be handled at the state, but if the degree of the offense is higher, a federal court shall handle the case.
7. A conviction for an offence in terms of this Act will not be a bar to a prosecution for an offence under any other provisions of the laws of Somalia.

Article 25 Appeals

1. Any decision of the NGO Coordination Office shall be appealed to the Office within 30 days of receipt of notification of the decision by the organisation.

2. If the complaint is dissatisfied with the review of the decision by the NGO Coordination Office, he or she may appeal to the Minister of Planning at the federal or state level depending on where the events took place.
3. The decision after the appeal on the matter shall be final and binding on all parties concerned and if any one party is dissatisfied may appeal to the competent court.

Article 26

Labor Issues

1. All labour issues shall be governed by the civil employment laws of Somalia.
2. Work permits are mandatory for all foreign staff before start of the mission.
3. NGOs may engage professional expatriate staff, only where there are no qualified nationals. No foreign national should be employed for work that can be done by a Somali national.
4. The Country Director/Head of Mission can be allowed to be Foreign National.

Article 27

Assets

1. International NGOs shall submit to the NGO Coordination Office a list of itemized inventory of its assets of projects on yearly basis as part of the annual reports;
2. On the termination of International NGO's tenure of stay/duty in Country, all residual funds, equipment and materials shall be handed over to partner Line Ministry or Institution named in the original agreement for continuity of the action/purpose.

Article 28

Capacity Enhancement of National NGOs

In recognition of the important role national NGOs play and to increase ownership and promote sustainability development, all International NGOs shall engage in a meaningful partnerships with National NGOs in service delivery. International NGOs shall empower and enhance the capacities of National NGOs and in consideration of this, the NGO Coordination Office will set up common fund account to which all International NGOs will contribute and will be used for trainings and institutional building that will enhance the capabilities of National NGOs in quality service delivery.

Article 29

Regulations

1. The Minister of Planning may make any regulation that is necessary or expedient to achieve the objects of this Act after consultation, provided that:
 - a) Issues a notice by Gazette, widely circulated of intention to issue regulations;
 - b) The notice must specify that draft regulations have been developed and available for inspection, public and concerned parties input;
 - c) A period of 30 days must be allowed for inspection and input.
2. Any regulation affecting State revenue or expenditure may only be made in consultation with the Minister of Finance at the Federal and State level.
3. Regulations made in terms of this article may provide penalties for any contravention thereof, as determined by competent court depending on the magnitude of the offence.

Article 30

Transitional Period

1. This Act shall not derogate from the terms of any agreement concluded between the Federal Government of Somalia, Federal Member States and any international non-governmental organization with respect to its operations in Somalia during the validity of such agreement.
2. Organisations that are already registered under the various Federal and State laws, must be registered in accordance with this Act within 90 days of the effective date of this Act.
3. This Act shall come into operation on such date as the Ministers may, by notice publish.

Article 31

Effectiveness

This Act comes into force when it is ratified by Parliament and signed by the President and will be published in the Official Public Bulletin

Article 32

Language of this Act

The official Language of this Act is Somali. If it is translated into any other language and an ambiguity in any of its provisions is observed, the Somali language version shall be used as the final reference.

CHAPTER IV – REGULATIONS

Article 33

Regulations

1. Regulations

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