

**THE NON-GOVERNMENTAL ORGANISATIONS'
ACT, 2009**

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GOVERNMENT OF ZAMBIA

ACT

No. 16 of 2009

Date of Assent: 26th August, 2009

An Act to provide for the co-ordination and registration of non-governmental organisations; establish the Non-Governmental Organisations' Registration Board and the Zambia Congress of Non-Governmental Organisations; constitute the Council of Non-Governmental Organisations; enhance the transparency, accountability and performance of non-governmental organisations; and provide for matters connected with or incidental to the foregoing.

[28th August, 2009

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY

1. This Act may be cited as the Non-Governmental Organisations' Act, 2009, and shall come into operation on such date as the Minister may, by statutory instrument, appoint.

Short title and commencement

2. (1) This Act does not apply to churches, clubs, political parties, professional groups or organisations, trade unions and religious organisations.

Application

(2) The Minister may, by statutory instrument, extend the application of this Act to such other organisations as the Minister may determine.

3. This Act shall be administered and implemented by the Ministry responsible for community development and social welfare.

Administration of Act

- Interpretation
4. In this Act, unless the context otherwise requires—
- “Board” means the Non-Governmental Organisations’ Registration Board established under section *five*;
- “certificate” means the certificate of registration issued under Part III of this Act;
- “Congress” means the Zambia Congress of Non-Governmental Organisations established under section *twenty-nine*;
- “Council” means the Council of Non-Governmental Organisations established under section *thirty*;
- “international non-governmental organisation” means a non-governmental organisation with the original incorporation in one or more countries other than Zambia;
- “non - governmental organisation” means a private voluntary grouping of individuals or associations, whether corporate or unincorporated, not established or operated for profit, partisan politics or any commercial purposes, and who or which have organised themselves for the promotion of civic education, advocacy, human rights, social welfare, development, charity, research or other activity or program for the benefit or interest of the public, through resources mobilised from sources within or outside Zambia;
- “Register” means the Register for Non-Governmental Organisations; and
- “Registrar” means the Registrar for Non-Governmental Organisations appointed under section *eight*.

PART II

THE NON-GOVERNMENTAL ORGANISATIONS’ REGISTRATION BOARD

- Establishment of Non-Governmental Organisations Registration Board
5. (1) There is hereby established the Non-Governmental Organisations’ Registration Board.
- (2) The provisions of the Schedule apply to the Board.
- (3) The expenses and cost of the Board shall be paid out of funds appropriated by Parliament for the performance of the Board’s functions under this Act.
- Composition of Board
6. (1) The Board shall consist of fifteen part-time members appointed by the Minister.

- (2) The Board shall comprise—
- (a) two members appointed by the Minister by virtue of the members' knowledge or experience in development and welfare management;
 - (b) one person each from the—
 - (i) Ministry responsible for health;
 - (ii) Ministry responsible for home affairs;
 - (iii) Ministry responsible for economic planning;
 - (iv) Ministry responsible for community development; and
 - (v) the Ministry responsible for local government;
 - (c) a representative of the Attorney - General;
 - (d) seven members elected by the Congress; and
 - (e) the Registrar, as *ex-officio* member.

(3) The Minister shall, on receiving the names of the proposed representatives under subsection (2), consider the nominations and may reject any nomination:

Provided that where the Minister rejects any proposed representative, the Minister shall direct the organisation or institution which proposed the representative to avail the Minister with the name of another representative.

(3) The Minister shall, in making appointments under this section, ensure equal gender representation on the Board.

(4) The Chairperson and Vice - Chairperson shall be appointed by the Minister from amongst the members.

(5) A person shall not be appointed as a member of the Board if the person—

- (a) is an undischarged bankrupt;
- (b) is insane or of unsound mind; or
- (c) has been convicted of an offence under any law.

(6) The Board may invite any person whose presence is in its opinion desirable to attend and to participate in the deliberations of a meeting of the Board but such person shall have no vote.

Functions of
Board

7. The functions of the Board are to—
- (a) register non-governmental organisations;
 - (b) approve the area of work of non-governmental organisations operating in Zambia;
 - (c) maintain a register of national and international non-governmental organisations operating in Zambia, with the sectors, affiliations and locations of their activities;
 - (d) recommend the rules and procedures for the audit of the accounts of non-governmental organisations;
 - (e) prescribe rules for the declaration of assets and liabilities by officers of non-governmental organisations;
 - (f) receive and discuss the annual reports of non-governmental organisations submitted by the non-governmental organisations pursuant to section *twenty-six*;
 - (g) advise the Government on the activities of the non-governmental organisations and their role in development in Zambia;
 - (h) conduct a regular review of the Register to determine the consistency of the reports submitted by the non-governmental organisations and the Council;
 - (i) provide policy guidelines to non-governmental organisations for harmonising their activities to the national development plan for Zambia;
 - (j) receive and discuss the reports of the Council and advise on strategies for efficient planning and co-ordination of the activities of non-governmental organisations; and
 - (k) receive, discuss and approve the code of conduct prepared by the Council for the self regulation of non-governmental organisations and their operations in Zambia.

Registrar for
Non-
Governmental
Organisations

8. (1) There shall be a Registrar for Non-Governmental Organisations who shall be a public officer appointed by the Public Service Commission.

(2) The office of the Registrar shall be a department in the Ministry responsible for community development and social welfare.

(3) The Public Service Commission shall appoint such other officers as are necessary for purposes of this Act.

Documentation
Centre

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

PART III

REGISTRATION OF NON-GOVERNMENTAL ORGANISATIONS

10. (1) Subject to section eleven, a person shall not operate a non-governmental organisation that is not registered in accordance with this Act.

Prohibition
of operation
of
unregistered
organisation

(2) An international non-governmental organisation shall not operate in Zambia without registration under this Act.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

(4) Any person who is convicted of an offence under this Act shall be disqualified from holding office in any non-governmental organisation for a period of ten years from the date of conviction.

Application
for
registration

11. (1) A non-governmental organisation shall, within thirty days of its formation or of its adoption of a constitution, apply to the Registrar for registration under this Act.

(2) A non-governmental organisation that submits an application for registration under sub-section (1) may operate until a decision is made by the Board on its application.

(3) An application for registration shall be made to the Registrar, in the prescribed manner and form, upon payment of the prescribed fee.

(4) An application shall not be deemed to have been made until it is received by the Registrar.

(5) An application for registration shall be made by an officer of the proposed non-governmental organisation and shall specify—

- (a) in a list attached to the application, the office bearers of the non-governmental organisation;
- (b) the head office and postal address of the organisation;
- (c) the sections of the proposed operations;
- (d) the districts, divisions and locations of the proposed activities;
- (e) the duration of the activities;
- (f) all proposed sources of funding;
- (g) the national and international affiliation and the relevant certificates of incorporation; and
- (h) such other information as the Minister may, by statutory instrument, prescribe.

(6) An application for registration under this section shall be accompanied by a certified copy of the constitution of the proposed non-governmental organisation and such other information as the Minister may prescribe by statutory instrument.

Organisation deemed to be established in Zambia

12. (1) A non-governmental organisation shall be deemed to be established in Zambia although it is organised and has its headquarters or chief place of business outside Zambia, if any of its officer-bearers or members reside in Zambia or are present therein, or if any person in Zambia manages or assists in the management of such organisation or solicits or collects money or subscriptions on its behalf.

(2) A non-governmental organisation shall not be deemed to be established in Zambia if—

- (a) it is organised and is operating outside Zambia;
- (b) no office, place of business or place of meeting is maintained or used in Zambia by the non-governmental organisation or by any person on its behalf;
- (c) no register of all or any of the members of the non-governmental organisation is kept in Zambia;
- (d) no subscriptions are collected or solicited in Zambia by the organisation or by any person on its behalf; and
- (e) it is not registered under this Act.

Certificate of registration

13. (1) The Registrar shall, upon registering a non-governmental organisation under this Act, issue the organisation with a certificate of registration in the prescribed form on such terms and conditions as the Board may determine.

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

Validity of certificate

14. A certificate shall, unless cancelled, be valid for a period of five years from the date of issue.

Refusal of registration

15. (1) The Board shall reject an application for registration of a non-governmental organisation if—

- (a) the proposed activities or procedures of the non-governmental organisation are not in the public interest;
- (b) the certificate previously held by the non-governmental organisation has been revoked by the Board;
- (c) the applicant submits false information in relation to the requirements under subsection (5) of section *eleven*;

- (d) the Board is satisfied, on the recommendation of the Council, that the application should not be approved;
- (e) the terms of the constitution or rules of the organisation are repugnant to, or inconsistent with, the provisions of any law;
- (f) the application does not comply with the provisions of this Act;
- (g) the Board is satisfied that the non-governmental organisation does not exist; or
- (h) the name under which the non-governmental organisation is to be registered—
 - (i) is identical with that of another existing non-governmental organisation;
 - (ii) resembles the name of another non-governmental organisation and is likely to deceive the public; or
 - (iii) is repugnant or otherwise undesirable.

(2) The Board shall, where it rejects an application, notify the applicant in writing of the rejection of the application and shall state the reasons therefor.

(3) Nothing in this Act precludes a non-governmental organisation whose application for registration is rejected under subsection (1) from making a fresh application for registration.

16. (1) A non-governmental organisation may, at least three months before the expiry of its certificate, apply to the Board for the renewal of the certificate.

Renewal of certificate of registration

(2) The Board may, where an application is made under subsection (1), issue a certificate to take effect from the date of expiry of the applicant's previous certificate.

(3) The Board may, on the issue of a new certificate under this section, vary the terms and conditions attached to the certificate.

17. (1) The Board may suspend or cancel a certificate of a non-governmental organisation where—

Suspension and cancellation of certificate

- (a) the non-governmental organisation violates the terms or conditions attached to the certificate;
- (b) the non-governmental organisation fails to submit the annual reports or the accounts or returns referred to in paragraphs (d) and (e) of section twenty-six;

- (c) the officers or members of the non-governmental organisation misappropriate or misapply the funds of the organisation;
- (d) the non-governmental organisation contravenes any provision of this Act or the Code of Conduct;
- (e) the constitution of the non-governmental organisation is inconsistent with the provisions of any law;
- (f) the Council recommends the suspension or cancellation of the certificate of the non-governmental organisation;
- (g) the organisation alters its objects or pursues objects other than its declared objects; or
- (h) the non-governmental organisation has ceased to exist.

(2) The Board shall serve a notice of the suspension or cancellation of a certificate and the reasons therefor on the non-governmental organisation whose certificate is cancelled or suspended and the suspension or cancellation of the non-governmental organisation, as the case may be, shall take effect fourteen days from the date of that notice.

(3) The Board shall, prior to the suspension or cancellation of a certificate, give the non-governmental organisation an opportunity to submit reasons why the certificate should not be suspended or cancelled.

(4) Upon the suspension of a certificate, the Board shall specify, in writing the period of the suspension and during that period, the certificate so suspended shall be of no legal force or effect and shall be surrendered to the Registrar.

(5) Upon the cancellation of a certificate under subsection (1), the Board shall notify the non-governmental organisation whose certificate is cancelled, in writing of the cancellation and from the date of the notice, the certificate so cancelled shall no longer be of any legal force or effect and shall forthwith be surrendered to the Registrar.

Loss of
certificate

18. (1) Where a non-governmental organisation loses a certificate, the non-governmental organisation shall inform the Registrar within fourteen days of the loss and shall, after a further period of fourteen days, in the prescribed manner and form, apply to the Board for the issuance of a duplicate certificate.

(2) The Board shall, where an application is made under subsection (1), issue a duplicate certificate.

19. (1) The Board may, where it has reasonable grounds to believe that a registered non-governmental organisation has, for any reason, ceased to exist, publish in the *Gazette* a notice calling upon such non-governmental organisation to furnish it, within a period of thirty days from the date of the notice, with proof of its continued existence.

Board may
require proof
of existence

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

(3) The Board shall strike off the Register any non-governmental organisation which fails to provide proof of its existence within the period stipulated under subsection (1) or if the Council report does not confirm the existence of the non-governmental organisation.

(4) The Council shall, where it has reasonable grounds to believe that an organisation has ceased to exist, recommend to the Board the manner of distributing the assets and liabilities of the organisation and the reasons therefor.

20. (1) The Registrar shall keep a Register in which the Registrar shall enter all the particulars and other information relating to non-governmental organisations registered under this Act.

Register

(2) A person may, upon payment of the prescribed fee, inspect the Register during the usual office hours.

(3) Any document purporting to be an extract of any entry in the Register and to be certified under the hand of the Registrar shall be received in evidence as to the matters stated therein in any proceeding under the provisions of the Act.

21. The Registrar shall publish annually, in the *Gazette*—

Publication
of
organisations

(a) every registration effected under this Act;

(b) every suspension or cancellation of registration under this Act; and

(c) every refusal to register a non-governmental organisation under this Act.

22. (1) A non-governmental organisation which is aggrieved with any decision of the Board made under this Part may, within sixty days from the date of the decision, appeal to the Minister.

Appeals

(2) On request from the Minister, the Board 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 the appeal.

(4) Any person aggrieved with the decision of the Minister may within thirty days of receiving the decision from the Minister, appeal to the High Court.

Exempt organisations

23. The Minister may, on the recommendation of the Board, by notice in the *Gazette*, exempt any non-governmental organisation from registration under this Act as the Minister may determine.

No diplomatic privileges or immunities for non-governmental organisations

24. A non-governmental organisation registered under this Act shall not be entitled to diplomatic or consular privileges or immunities granted under the Diplomatic Immunities Act or any other written law.

Cap. 20

PART IV

DUTIES OF REGISTERED NON-GOVERNMENTAL ORGANISATIONS

Change of name, objects, etc.

25. (1) A registered non-governmental organisation which—
 (a) changes its name, its constitution or rules;
 (b) alters its objectives;
 (c) becomes a branch of, or affiliated to, or connected with any organisation or group of whatever nature established within or outside Zambia;

shall notify the Registrar, in writing, within fourteen days thereof.

(2) Any office bearer of a registered non-governmental organisation who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding eighty thousand penalty units or to imprisonment for a period not exceeding three months, or to both.

Information to be furnished by organisation

26. (1) The Registrar may request any registered non-governmental organisation to furnish within such period as the Registrar may determine—

- (a) a true copy of the constitution and rules of the non-governmental organisation;
- (b) the source of funding for the non-governmental organisation;
- (c) a list of the office bearers of the non-governmental organisation or any committee or governing body of the non-governmental organisation;

- (d) the annual reports of the organisation; and
- (e) such accounts, returns and other information as the Minister may, by statutory instrument, prescribe.

(2) A person who fails to furnish information in accordance with subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding eighty thousand penalty units or to imprisonment for a period not exceeding three months, or to both.

27. (1) A non-governmental organisation shall have a registered office and postal address to which all communications and notices sent under, or for the purposes of, this Act may be addressed.

Registered
office

(2) Notice of the situation of the registered office of a non-governmental organisation and of any change thereof or of the postal address of the non-governmental organisation shall be given to the Registrar within seven days from the date of the change and the Registrar shall enter the particulars in the Register.

- (3) Any non-governmental organisation which—
- (a) operates without having a registered office or without giving notice of the situation of such office as required under subsection (2);
 - (b) operates at any place to which its registered office may have been removed without having given notice of the change of situation thereof to the Registrar; or
 - (c) fails to give notice to the Registrar of any change in its postal address as required under subsection (1);

commits an offence and is liable, upon conviction, to a fine not exceeding one thousand penalty units for each day during which such non-governmental organisation so operates or fails to give notice of the change.

28. (1) A non-governmental organisation which changes office bearers shall, within thirty days of such change, notify the Registrar in writing of the change and the Registrar shall enter the particulars of the new officer bearers in the Register.

List of office
bearers to be
furnished to
Registrar on
change of
office bearers

(2) Any person that contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding one thousand penalty units for each day during which the organisation operates without furnishing the list of its office bearers or fails to give notice of the change to the Registrar.

(5) The Board shall ensure that the Code of Conduct is consistent with the national development plan and the laws of Zambia.

33. (1) The Board shall cause the approved Code of Conduct to be published in the *Gazette*. Publication of Code of Conduct

(2) The Code of Conduct shall, upon publication in the *Gazette*, be binding upon the non-governmental organisations.

34. The first twelve non-governmental organisations to be registered by the Board under this Act shall comprise an interim Council competent to develop the Code of Conduct under this Part. Membership of interim Council

PART V

GENERAL PROVISIONS

35. (1) There shall be a transitional registration period, not exceeding ninety days from the date of the commencement of this Act, for the registration of non-governmental organisations which are in existence at the commencement of this Act. Transitional period

(2) A non-governmental organisation which is registered under the provisions of the Societies Act or any other written law shall, within the period specified in subsection (1) or such extended period as the Minister may allow for the registration of the non-governmental organisation, apply for a certificate in accordance with the provisions of this Act. Cap. 1:9

(3) Notwithstanding anything contained in this Act, no non-governmental organisation shall be deemed to be an unlawful organisation until the period or extended period for registration under this section has lapsed.

36. (1) A person commits an offence who— Offences and penalties

(a) makes, signs or utters a false statement or declaration in support of an application or for a request for any exemption under this Act, forges, defaces or alters a certificate;

(b) on being required to do so, fails or refuses to produce to the Registrar a certificate, constitution or other relevant document or information relevant for the purposes of this Act;

(c) knowingly or recklessly gives false or incomplete information for the purpose of obtaining a certificate or other requirement;

and is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding six months, or to both.

(2) Any person convicted of an offence under this section shall be disqualified from holding office in any non-governmental organisation for a period of three years.

(3) On the conviction of an officer of a non-governmental organisation under this section, the Board may de-register that organisation.

Regulations

37. (1) The Minister may, on the recommendation of the Board, by statutory instrument, make regulations for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), regulations under that subsection may make provision—

- (a) for the procedure and forms to be used, and the fees payable, for registration, the declaration of assets and liabilities and other matters under this Act;
- (b) for the information to be supplied in every application for registration and in the declaration of assets and liabilities;
- (c) for the format of the reports and returns to be submitted by the non-governmental organisations;
- (d) for the submission of annual and other periodical returns relating to the constitution, objects and membership of registered non-governmental organisations;
- (e) for the terms and procedure for the Council of Non-Governmental Organisations; and
- (f) for anything required to be prescribed under this Act.

SCHEDULE

(Section 3)

ADMINISTRATION OF BOARD

1. (1) Subject to the other provisions of this Act, a member of the Board shall hold office for a period of three years from the date of appointment and may be re-appointed for a further like period.

Tenure of office of member and vacancy

(2) The office of a member becomes vacant—

(a) upon the member's death;

(b) if the member is adjudged bankrupt;

(c) if the member is absent from three consecutive meetings of the Board of which the member has had notice, without the prior approval of the Board;

(d) upon the expiry of one month's notice of the member's intention to resign, from office given by the member in writing to the Board;

(e) if the member becomes mentally or physically incapable of performing the duties of a member of the Board;

(f) if the member is convicted of an offence under this Act; or

(g) if the member is convicted of an offence under any other written law and a sentenced therefor to imprisonment for a term of six months or more.

2. (1) Subject to the other provisions of this Act, the Board may regulate its own procedure.

Proceedings of Board

(2) The Board shall meet for the transaction of business, at least once in every three months at such places and times as the Board may determine.

(3) Upon giving notice of not less than fourteen days, a meeting of the Board may be called by the Chairperson and shall be called if not less than one third of the members so request in writing:

Provided that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon a shorter notice given by three members of the Board.

(4) The quorum at any meeting of the Board shall be six of the members.

(5) There shall preside at any meeting of the Board—

(a) the Chairperson;

(b) in the absence of the Chairperson, the Vice - Chairperson;
and

(c) in the absence of both the Chairperson and the Vice-Chairperson, such member as the members present may elect from amongst themselves for the purpose of that meeting.

(6) A decision of the Board on any question shall be by a majority of votes of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have, in addition to a deliberative vote, a casting vote.

(7) Where a member is for any reason unable to attend any meeting of the Board, the member may, in writing, nominate another person from the same organisation to attend such meeting in that member's stead and such person shall be deemed to be a member for the purpose of that meeting.

(8) The Board may invite any person whose presence in its opinion is desirable to attend and to participate in the deliberations of a meeting of the Board but such person shall have no vote.

(9) The validity of any proceedings, act or decision of the Board shall not be affected by any vacancy in the membership of the Board or by any defect in the appointment of any member or by reason that any person not entitled so to do, took part in the proceedings.

(10) The Board shall cause minutes to be kept of the proceedings of every meeting of the Board and every meeting of any committee established by the Board.

3. (1) The Board may, for the purpose of performing its functions under this Act, constitute any committee and delegate to any such committee such of its functions as it thinks fit.

Committees
of Board

(2) The Board may appoint as members of a committee constituted under sub-paragraph (1), persons who are or are not members of the Board and such persons shall hold office for such period as the Board may determine.

4. There shall be paid to members of the Board or any committee of the Board such allowances as the Board may, with the approval of the Minister, determine.

Allowances
of members

5. (1) If any person is present at a meeting of the Board or a committee of a Board at which any matter, in which that person or any member of the person's immediate family is directly or indirectly interested in a private capacity, is the subject of consideration, that person shall, as soon as practicable after the commencement of the meeting, disclose that interest and shall not, unless the Board or the committee otherwise directs, take part in any consideration or discussion of, or vote on any question relating to, that matter.

Disclosure of
interest

(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

6. (1) A person shall not, without the consent in writing given by or on behalf of the Board, publish or disclose to any unauthorized person, otherwise than in the course of duties of that person, the contents of any document, communication or information whatsoever, which relates to or which has come to the knowledge of that person in the course of that person's duties under this Act.

Prohibition
of
publication
of, or
disclosure of
information
to
unauthorized
persons

(2) Any person who contravenes the provisions of sub-paragraph (1) commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

(3) If any person, having any information which to the knowledge of that person has been published or disclosed in contravention of sub-paragraph (1), unlawfully publishes or communicates the information to any other person, the person commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

7. An action or other proceeding shall not lie or be instituted against any member of the Board or a committee of the Board, or any member of staff of the Board, for or in respect of any act or thing done or omitted to be done in good faith in the exercise or performance, or purported exercise or performance, of any of the powers, functions or duties conferred under this Act.

Immunity of
members of
Board and
staff