

# **THE COMMUNITY GROUPS REGISTRATION BILL, 2018**

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# THE COMMUNITY GROUPS REGISTRATION BILL, 2018

## A Bill for

AN ACT of Parliament to provide a regulatory framework for the mobilization, registration, coordination and regulation of community groups and for connected purposes;

ENACTED by the Parliament of Kenya, as follows—

### PART —I PRELIMINARY

- Short title            1. This Act may be cited as the Community Groups Registration Act, 2018.
- Interpretation        2. In this Act unless the context requires—
- “amalgamation” means the arrangement where two or more community groups unite to form a joint community group but the constituent community groups retaining their respective identities;
- “Cabinet Secretary” means the cabinet secretary for the time being responsible for social development;
- “community” means people resident in the same geographic locality or who are considered as a unit because of their shared common interests;
- “community based organisation” means a community groups amalgamated in terms of this Act;
- “community development” means projects and interventions that are responsive to community needs intended to facilitate change and the attainment of improved livelihood for that community;
- “community group” means a voluntary association of individuals from the same community which is self-organised for a common purpose of improving the livelihood of the group members or for a community benefit and includes a special interest group, community project, community based organisation but shall not include groups formed to champion a political cause;

“community mobilisation” means the process through which a community is brought together to undertake activities to address a common need on participatory basis;

“Director” means person appointed in accordance to Section 4 of this Act as the Director for Social Development within the Ministry;

“ constitution” means general guidelines or rules formulated by community group members for purpose of managing their affairs ;

“financial record” means any document kept or adopted by a community group to represent its financial transactions and includes a statement of receipts and expenditure;

“Ministry” means the Ministry responsible development;

“merger of groups” means the arrangement where two or more community groups dissolve to unite into a single community group;

“office bearer” person elected a community group in accordance with the constitution to be responsible for the management of the community group for the specified period and includes persons designated as the chairperson, secretary, treasurer, or any other position as established by the constitution;

“Special interest community group” means a community group which the Director declares to be a special interest group under section 8;

“social development officer” means a person appointed by the Ministry as a social development officer.

Objects of the Act

**3.** (1) The object of this Act is to-

- (a) Provide a legal framework for the co-ordination of community groups;
- (b) Provide for the registration of community groups;
- (c) provide guidance for community groups mobilisation;
- (d) provide guidance to governance structures within community groups, promote collaboration and linkages between community groups, State and county organs, financial institutions and other stakeholders; and

- (e) create an enabling operational environment that promotes community empowerment, self-reliance and sustainability of groups and community projects

## **PART II — ADMINISTRATION**

Director responsible  
for registration

- 4. (1) The Director for Social Development is responsible for the administration of this Act.

(2) The Director may in writing delegate to a social development officer such powers or duties as may be specified in the instrument of delegation, which officer shall for such purposes, have all the powers, privileges and authority of the Director under this Act.

Functions of the  
Director

- 5. (1) The functions of the Director are to—
  - (a) mobilise communities to form groups to undertake community initiatives and projects;
  - (b) register community groups and issue certificate of registration in accordance with this Act;
  - (c) renew or cancel a certificate of registration issued under this Act;
  - (d) supervise, monitor and on request by an interested party, investigate a community group activities;
  - (e) coordinate community groups for benefit of the community;
  - (f) establish and maintain a register of all community groups registered under this Act;
  - (g) establish and maintain a community development management information system;
  - (h) advise, promote and conduct education and training programmes for community groups;
  - (i) set standards for group mobilization and development and monitor compliance with such standards; and
  - (j) perform such other functions as may be assigned by the

Cabinet Secretary.

Accessibility of services

6. (1) The Cabinet Secretary shall ensure accessibility to services under this Act through officers within the Ministry.

**PART III — REGISTRATION**

Registration of community groups and community based organisations

7. (1) A group of persons who desire to be registered under this Act as a community group qualify for registration as a community group if the group comprises of at least ten persons, or if it is a special interest community group at least three persons, who have attained the age of eighteen years and have a common goal.

(2) A group to which subsection (1) applies shall make an application for registration in the manner prescribed under this Act.

(3) The Director may, within fourteen days of receipt of an application under this section, call for such further information or carry out such investigations as the Director may consider necessary for the determination of that application.

(4) If the Director is satisfied that an applicant meets the requirements for registration under this section, the Director shall, subject to the provisions of this Act and on payment of the prescribed fee, enter in the Register kept for that purpose, such information as may be prescribed.

(5) The Director shall, upon entering the particulars in accordance with subsection (4) issue to the applicant a certificate of registration.

(6) A community group registered under this section shall file its annual report with the Director.

Special interest community groups

8. The Director may declare a community group to be a special interest group. These are groups of community members with certain conditions or needs such as disability, chronic diseases or others as determined by the Director. The membership for these groups due to the uniqueness of the condition or need should not be less than 3 persons.

Rejection of application

9. (1) The Director may reject an application for the registration made under this Act if—

- (a) documents submitted by the applicant are not in compliance with the provisions this Act;
- (b) the applicant has submitted false or misleading information; or
- (c) the name of the applicant is identical to or so nearly resembles the name of a registered community group as to be likely to mislead the public as to its nature or identity.

(2) If the Director rejects an application under subsection (1), the Director shall, within 14 days of such decision, notify the applicant of the rejection and reasons for the rejection in writing.

Renewal of registration.

**10.** Registration of a community group under this Act shall be valid for a period of one year from date of registration and renewable annually upon payment of a prescribed fee.

Cancellation of registration

**11.** The Director may cancel the registration of a community group registered under this Act, after availing the group an opportunity to be heard and availing an opportunity for any remedy, if—

- (a) the Director has reasonable cause to believe that the community group has among its objects, the pursuit of an unlawful cause or purpose prejudicial to the peace, welfare or good order of the community or is likely to carry out such actions;
- (b) the constitution of the community group is inconsistent with the Constitution or any other written law;
- (c) the community group fails to comply with any directive issued by the Director to ensure compliance with this Act;
- (d) the members of the community group fail to comply with their constitution;
- (e) the community group fails to submit any information required under this Act or as requested by the Director to ensure compliance; or
- (f) the community group submits false information or statements at the time of registration.

- 12.** (1) A community group may dissolve itself voluntarily if the members pass a resolution for voluntary dissolution in accordance with the community group's constitution.
- (2) The Director shall remove from the register the name of any community group, which has been or is deemed to have been voluntarily dissolved.
- (3) A community group that passes a resolution for voluntary dissolution shall notify the Director for de-registration in writing.
- (5) An notification made under subsection (3) shall be accompanied by—
- (a) a written notice of dissolution signed by two thirds of the members;
  - (b) the community group's certificate of registration;
  - (c) a copy of the minutes and the resolution of the meeting recommending the dissolution of the community group stating—
    - (i) its intention to be dissolved voluntarily;
    - (ii) the reasons for resolving to apply for voluntary dissolution;
    - (iii) a date, at least two months after the date of the notice, on which the dissolution is to take effect.
- (6) Upon receipt of a notice for voluntary dissolution the Director shall—
- (a) confirm that the dissolution has been made in accordance with the community group constitution;
  - (b) cancel the certificate of registration of the community group surrendered with the notification;
  - (c) amend the register accordingly; and
  - (d) notify the community group in writing of the dissolution and the date on which the dissolution will become effective.
- (7) The Director shall upon receipt of a notice of voluntary dissolution made under this section, prior to effecting cancellation of registration, ensure the community group has distributed its assets and settled any outstanding claims, and may impose such conditions as the Director considers necessary for the welfare of the members

and of the community.

(8) Notwithstanding the generality of this section, a community group is deemed to have dissolved voluntarily if the community group fails to renew its annual registration for a period of three consecutive years.

Merger of  
community groups

**13.** (1) A community group may, by resolution and in accordance with its constitution, resolve to merge with another registered community group, which, by a resolution, agrees to the merger.

(2) A community group shall not merge with another community group unless—

(a) at least three quarters of all the members of each of the community groups agree to the merger; and

(b) both community groups have notified their creditors, if any, of the intended merger and the creditors do not object to the merger.

(3) A merger of community groups under this Act shall not take effect unless—

(a) the community group has made financial arrangements to settle monies owing to any creditors of the community group, and the creditors have acknowledged settlement of their dues;

(b) all claims of the members of each community group who have not consented to the merger and have exercised their option to leave the group have been met in full or otherwise satisfied;

(c) the information of the intended merger and details about settlement of claims of members and creditors has been submitted to the Director; and

(d) the community group that intending to merge has submitted to the Director, its certificate of registration.

(4) (Where community group merge, they shall cease to exist and all their assets and liabilities shall be transferred to the merged group in accordance to the merging groups' constitutions.

(5) A resolution passed in accordance with subsection (1) shall be sufficient to vest the assets held or liabilities incurred by or on behalf of that community group by the members in the merged community group without any further assurance.

Director to approve merger

- 14.** (1) The Director shall, if satisfied that the community groups have met the requirements under this Act and their respective constitutions in relation to the merger, approve the merger.
- (2) The Director shall on approval of a merger under subsection (1)
- (a) amend the register to reflect the merger and any change in particulars that may result from the merger; and
  - (b) remove the name of the merged community groups from the register.

Amalgamation of groups

- 14.** (1) Two or more community groups may resolve to amalgamate..
- (2) Where two or more community groups resolve to amalgamate, the office bearers of the community groups shall submit to the Director in the prescribed form, an application for the registration of the newly formed community group together with copies of their respective certificates of registration.
- (3) The provisions of section 13 shall apply with such modifications as necessary to an application made under this section.

Director to keep register

- 15.** (1) The Director may from time to time, pursuant to a notice issued by the interested community group, as soon as practicable, make changes or corrections relating to any entry in the Register.
- (2) A notice issued under this section shall be accompanied by—
- (a) the resolution approving the changes passed by the members at a meeting; and
  - (b) a list of members present at the meeting at which the resolution was passed.

**PART IV— REGULATION**

General powers of a community group

- 17.** A community group may, subject to its constitution—
- (a) invest and deal with funds of the community group not immediately required for its purposes;

(b) raise and borrow money on any terms and in any manner as resolved by the members;

(c) secure the repayment of funds raised or borrowed by the community group or the payment of a debt or liability of the community group by giving mortgages, charges or securities on or over all or any of the property of the community group; and

(d) do anything that is incidental or conducive to the attainment of the purposes and the exercise of the powers of the community group.

Contact address

**18.** (1) Every community group shall, on application for registration, provide a contact address..

(2) All communication and notices required under this Act shall be sent through the contact address provided for by the community group in it's application.

(3) A community group shall within one month of change of address give notice to the Director and submit it's new contact address.

Constitution of community group

**19.** (1) A group which desires to be registered as a community group shall adopt a constitution and submit it to the Director together with its application for registration.

(2) A rule or a purpose within the constitution of a community group that is inconsistent with this Act or contrary to law is of no effect.

(3) The Director shall prescribe a model constitution to assist community groups develop their respective constitutions.

(5) A community group which amends its constitution shall submit the amendment to the Director within one month of such amendment.

Officer bearers

**23.** (1) A community group shall ensure its office bearers assume office in accordance with the provisions of this Act and its constitution. “

Restriction of  
appointment of  
certain officer  
bearers.

**24.** (1) A person who has been convicted of a crime involving fraud or dishonesty shall not, for a period of five years from the time sentence is completed, be eligible to be appointed or elected—

(a) as an office bearer; or

(b) to any other office the holder of which is responsible for the collection, disbursement, custody or control of the funds of the community group or for its accounts; or

(c) an auditor of a community group .

(2) No person shall be qualified to be appointed or elected auditor of a community group if that person is an officer of that community group.

Change of officer  
bearers or title of  
office

**25.** (1) A community group that effects a change of office bearers or title of any office before expiry of their terms outlined in the community group constitution shall within a period of thirty days of such change, by notice, inform the Director.

(2) A notice under subsection (1) shall be accompanied-

(a) by the resolution signed by three office bearers of the community group;

(b) signed attendance of members present at the meeting at which such change was adopted; and

(c) the minutes of the meeting at which the change was adopted.

(3) A community group which fails to give notice within the period specified under subsection (1), shall remit to the Director a late filing fee.

(4) The Cabinet Secretary shall make Regulations prescribing the procedure and fines under this section.

Dispute resolution

- 26.** (1) If a dispute occurs amongst members of a community group the disputing parties shall resolve such dispute through the mechanisms established under community group's constitution..
- (2) Where the dispute is not resolved in the manner envisaged under subsection (1), any aggrieved party may refer the dispute in writing to the Director.
- (3) On receipt of a reference under subsection (2), the Director may
- (a) carry out such investigation;
  - (b) summon any member of the community group;
  - (c) call for such documents as the Director considers necessary to resolve the conflict.
- (3) The Director shall within fourteen days of arriving at a decision, inform the members of the decision in writing.
- (4) Any person who defies any summons by the Director under subsection (3) commits an offence.
- (5) A person aggrieved by the decision of the Director under subsection (4) may seek other legal redress.

Purporting to act as office bearer

**27.** (1) Any person who—

- (a) has not been duly appointed or elected as an office bearer of a community group and who acts or purports to act as an office bearer of that community group ; or
- (a) having been appointed or elected as an office bearer of a community group otherwise than at the time of the formation of the community group, acts as an office bearer after the end of the period agreed by the members without giving a notification to the Director;

commits an offence.

Register of members

- 28.** (1) Every community group shall keep a register of its members in such form as may be prescribed, and shall cause to be entered in the register the name and contact address of each member and the date of admission into membership
- (2) A community group which contravenes subsection (1) and every

office bearer commits an offence and—

(a) the community group shall on conviction be liable to a fine not exceeding one hundred thousand shillings or suspension for such period as the offence continues or to both such fine and suspension; and

(b) every office bearer shall on conviction be liable to fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both such fine and such imprisonment.

(3) Every community group shall submit to the Director an updated list of its members—

(i) whenever required by the Director; and

(ii) annually, within such period as may be specified.

(4) A community group which fails to submit an updated list of members within the specified period will attract a penalty for late submission.

(5) A community group shall enter in its register the date on which a person ceases to be a member of the community group within fourteen days from that date.

Inspection of register of members

**29.** Every member of community group shall, subject to the group constitution, have right to inspect the register of members.

Confidentiality of members details

**30.** (1) A person shall not use personal information obtained from the register of members of a community group unless the information—

(a) is directly related to the management or the purposes of the community group ; and

(b) is not prohibited by the constitution of the community group

(2) A person who violates the provision of subsection (1) commits an offence.

## **PART V — FINANCIAL PROVISIONS**

Obligation to keep financial records

- 31.** (1) Every community group shall maintain financial records that—
- (a) correctly record and explain its transactions, its financial position and performance; and
  - (b) enable true and fair financial statements to be prepared.
- (2) Every community group shall retain its financial records for a period of five years after the transactions covered by the records are completed.

Treasurer responsible accounts

- 32.** (1) A community group, in accordance with the constitution, shall designate one of the office bearers as the community group's treasurer and a person designated as such shall be responsible for the accounts of the community group the collection, disbursement, custody and control of its funds and shall —
- (a) at least once in every year at such time as may be specified in the group constitution ; and
  - (b) at any other time as may be required to do so by a resolution of the members of the community group; and
  - (c) upon resigning or otherwise vacating office;

render to the community group and its members a full and true account of all monies received and paid during the period which has elapsed since the date of assuming office or, if such person has previously rendered an account, since the last date upon which that person rendered such account, and of the monies remaining in treasurer's hands at the time of rendering such account, and of all other property of the community group entrusted to that person's custody or under their control.

- (2) After accounts have been rendered, the treasurer shall, if that officer is resigning or vacating office or if required to do so, hand over to the succeeding treasurer, such monies as appear to be due from the treasurer, and all bonds, securities, effects, books, papers and property of the community group in such officer's hands or otherwise under their control.

Annual returns

- 34.** (1) Every community group shall furnish annually to the Director, on or before the prescribed date an annual report comprising of the community group —
- (a) progress report;

- (b) financial report;
- (c ) any other report as may required

- (2) An annual report shall be adopted at the community group annual general meeting before being submitted to the Director under subsection (1).
- (3) Where a community group is unable to comply with subsection (1), it shall notify the Director stating the reason it is unable to comply.
- (4) Any person who wilfully makes or orders or causes or procures to be made any false entry in or omission from annual report furnished under this section commits an offence
- (5) The Director may penalize a community group that files progress reports out of stipulated period.

Inspection of accounts and documents

- 35.** (1) A community group shall make its financial records and all related documents, and a list of the members of the community group available—
  - (a) for inspection by any office bearer or member of the community group at such place and at such times as may be provided for in the constitution of the community group ;
  - (b) for inspection by the Director, or by any person authorized by the Director in writing in that behalf, at the office of the Director at any reasonable time specified;
  - (c) when applying for renewal of registration.

Director may call for information and financial records

- 36.** (1) Where the Director has reasonable cause to believe that circumstances have arisen which render it expedient for the proper performance of the Director’s functions under this Act to do so, the Director may, by order in writing, require a community group to furnish the Director with—
  - (a) a true and complete copy of its constitution;
  - (b) a true and complete list of its officer bearers and members;
  - (c) a true and complete copy of the minutes of any meeting held by the community group at which officer bearers of the community group were elected;

- (e) financial records of the community group covering such period as the Director deems necessary for the purpose for which the order is made;
  - (g) such other accounts, returns and other information as the Director may request.
- (2) A community group shall comply with an order given under subsection (1) within such period as may be specified in such order or on such further period as the Director may, upon request, approve.
  - (3) A community group which has had its registration cancelled for failing to comply with the provisions of this Act concerning registration, fails to comply with an order to furnish financial records under this section, shall not be registered again, and no community group which, in the opinion of the Director, is a successor of such community group shall be registered, unless the application for registration is accompanied by financial records.
  - (6) If any information or document furnished to the Director pursuant of an order given under this section is false, incorrect or incomplete in any material particular there shall be deemed to have been no compliance with the order.

Audit of accounts

**37.** The Director may order for the audit of a community group's financial records at the community group's cost where the Director deems such an action as expedient and necessary to resolve a dispute within the community group.

Resource mobilization

- 38.** (1) A community group may mobilize resources for the benefit of its members or the community through any legal means.
- (2) A person who diverts or misappropriates resources belonging to a community group for personal use, gain or any other use other than for the agreed purposes commits an offence and on conviction shall be liable to a fine not exceeding three million Kenya shillings or imprisonment for a term not exceeding two years or to both such fine or imprisonment.
  - (3) Any community mobilisation initiatives shall be conducted in accordance with the guidelines as may be issued by the Cabinet Secretary and any person who carries out mobilisation initiatives contrary to such guidelines commits an offence.

## PART VI — GENERAL PROVISIONS

- Obstructing the Director
- 39.** Any person who obstructs the Director in carrying out an functions under this Act commits an offence
- General penalty
- 40.** A person who contravenes any provision of this Act for which no penalty is specifically provided shall be liable to a fine not exceeding one hundred thousand shillings or, to imprisonment for a term not exceeding six months or both such fine or imprisonment.
- Cabinet Secretary to make Regulations
- 41.** (1) The Cabinet Secretary may make regulations for the effective implementation of the provisions of this Act.
- (2) Without prejudice to the generality of subsection (1) the Cabinet Secretary may prescribe—
- (a) the forms to be used for purposes of this Act;
  - (b) the particulars to be included in—
    - (i) applications or notifications to the Director;
    - (ii) certificates of registration issued by the Director;
  - (c) the registration, suspension and cancellation of registration of any community group ;
  - (d) information to be included in the register of community group ;
  - (e) the records to be kept in respect of a community group;
  - (f) charges, fees or other payments to be made under this Act;
  - (g) the guidelines for community mobilization;
  - (h) the procedures on engagement of groups with community development actors;
  - (i) guidelines for dispute resolution;
  - (j) any other matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
- Transitional provisions
- 42.** (1) Every community group which was, immediately before the commencement of this Act, registered as a community group by the Ministry shall at the commencement of this Act be deemed to have been

registered under this Act.

Provided that a community group to which this Section applies shall within a period of one year after the commencement of this Act put in place measures necessary to ensure compliance with this Act.