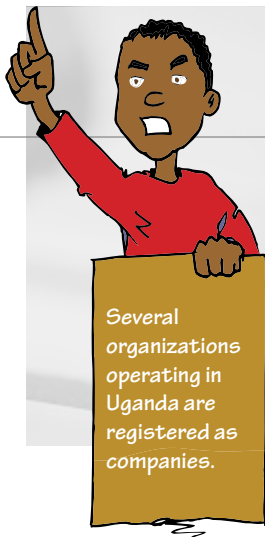




CSO GUIDELINES FOR UGANDA

 **chapter**
four



Registration requirements for companies limited by guarantee

Several organizations operating in Uganda are registered as companies. Whereas some are registered as limited liability companies, majority are companies registered by guarantee. There are different forms of companies including:

- **Limited Liability Company** – this is the most common form of company. It is a strictly business and profit making company where its membership is limited to its shareholders
- **Company limited by guarantee with share capital.** This is a kind of company where the liability of the guarantors is equal to (limited to) the amount they guaranteed in the company. These normally do business and at times can be not for profit.
- **Company limited by guarantee without share capital.** This kind of company has no shares and operates mainly like an NGO.
- **Unlimited company with share capital** – this company allows members to join or leave at any time following particular conditions.
- **Public company** – this company sells shares to the public and anyone is free to sell or buy shares. It is a totally business entity and rarely engages in charity work except for corporate social responsibility.

The process of registering companies is the same. The following is what is required:

1. Apply to reserve a name. Reserving a name is valid for 30 days. So the registration must be done within this time. Note that reserving a name requires paying fees.



the name must not be offensive, must not be of an existing company and should pass the desirability test.

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2. Make a Memorandum & Articles of Association, which are filed with the registrar of companies. (These must specify what kind of company you are creating). Key things in the memorandum include:

- Name of the company
- Address
- Objectives of the company
- Type of company (e.g. company limited by guarantee without share capital)
- Names of promoters and their addresses
- It must be dated and witnessed.

A standard format can be found in “Table C” of the companies act

1. Fill for A1 (statement of nominal capital) and form A2 (declaration of complies with the requirements in the companies act)
2. The documents are filed with company registry upon payment of required fees and the company will be registered.



Obligations to be met under companies

Like under NGOs there are different obligations created by the companies act and other laws. Each company has obligations that are general to the company while some types of companies such as public companies may have more obligations relating to their performance on the stock exchange.

Some of the obligations of every company are:

1. A company must commence business within the first year of operation. Failure of which it can be a ground for closing the company by the registrar
2. A company must have a member's meeting within the first eighteen months of registration and resolutions should be filed with the registrar
3. A company must hold an AGM at least once every year
4. A company once formed must file annual returns to the registrar of companies.
5. A company files a form for the registered office or address at the time of registration, it should inform the registrar in form of a resolution whenever it changes its address
6. Every change in board members or secretary must be communicated to the registrar by resolution
7. The company must inform the registrar when opening of closing a bank account
8. Where activities are temporarily suspended, the registrar must be informed
9. Filing returns under company law

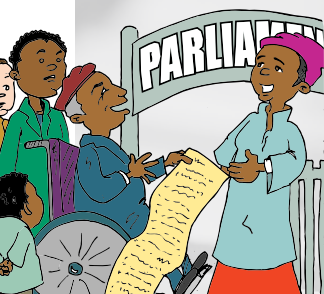
Note: *This will depend on whether the company is registered as a company limited by guarantee, or limited liability etc.*



Most NGOs are registered as companies without share capital. These are required to file returns every year showing the following:

1. The situation of the registered office of the company and the registered postal address of that office; note that if a company changes its offices, it must inform the registrar by changing the registered office.
2. In a cases where the company is a membership company and the register of its members is kept anywhere other than at its registered office, the address where such information is kept.
3. Normally this can be with a bank, the company secretary or lawyers etc.
4. In a case in which any register of holders of debentures of a company or any duplicate of the register or part of the register is, under this Act, kept in Uganda, elsewhere than at the registered office of the company, the address of the place where it is kept;
5. Particulars of all persons who at the time/date of filing the returns are directors of the company and secretary of the company. Note that in case of change of directors or secretary the registrar of companies must be informed.
6. A statement as to the company's compliance with principles of corporate governance contained in Table F of the Companies Act.

Where a company fails to file the returns as noted above, the company and every officer of the company who fails to comply with the law on making returns is liable to a fine of Uganda Shillings five hundred thousand (500,000).



Important legal requirements for CBOs

Meaning of NGO

Under the NGO Act, a Community Based Organization means an organization operating at sub county level and below, whose objectives is to promote and advance the wellbeing of the members of the community.

From the definition, a CBO is required to operate at Sub County Level or below. It would therefore require a special permission from the District Non Government Organisation Monitoring Committee (DNMC) to operate in more than one Sub county.. A CBO cannot operate at district level.

Legal personality

A CBO has no legal personality. This means it cannot own property. A CBO cannot contract in its own name.

Registration of CBOs

The law requires a person(s) who want to start a CBO to do the following;

- make a constitution that will govern the CBO (the constitution shall be signed by persons intending to start the CBO. There is however no limit as to how many these people can be. Any two or more people can start a CBO)
- develop a work plan and budget or strategic plan for the Community Based Organisation
- get a recommendation from the Sub County NGO Monitoring Committee (SNMC) of the sub county where they would like to operate.

- Pay application fees

Note: at the time of developing this leaflet, the fees to be paid had not been passed.

- Fill the application form (the form will be in the regulations)
- Apply for registration to the District Non Governmental Organization Monitoring Committee for registration

The DNMC will register the organization and issue it with a



certificate. Upon registration the CBO is free to operate within the Sub Country which is specified in the certificate.

Refusal to register a CBO

A CBO shall not be registered if

- the objectives of the CBO as specified in its constitution are in contravention with the laws of Uganda
- the application for registration does not comply with the requirements of the NGO Act;
- the applicant(s) have given false or misleading information in any material particular;
- the proposed name of the CBO is the similar to that of an existing NGO or any entity operating within the same district;
- the proposed name of the CBO is confusing or undesirable.

Appeals

A CBO that has been refused to register or where the SNMC or the DNMC have made a decision against an organization, the CBO or organization can appeal to the NGO Bureau.

Where the CBO is not certified with the decision of the Bureau, it can apply to court to have the decision quashed or altered.



Important legal requirements for Non Government Organisations (NGOs) in Uganda

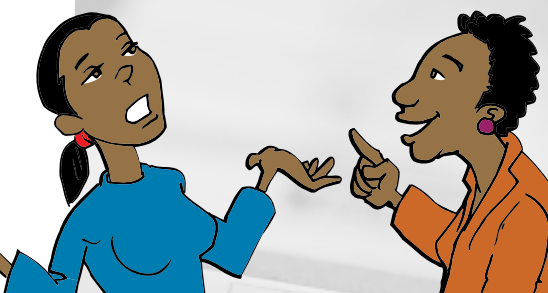
The conditions set for NGOs can range from operational conditions such as: the subject matter on what the NGO can or cannot do, the area of work and other conditions relating to employment of foreigners among others. Below are the key requirements/obligations an NGO must fulfill to operate in Uganda.

Registration requirements

1. An NGO must be fully registered with a Certificate of Incorporation for it to operate in Uganda.
2. Under the new NGO Act, a person intending to start an NGO will need to register (incorporate) the NGO at the Uganda Registration Services Bureau (URSB) and the Non Government Organisation Bureau (NGO Bureau) (URSB and the NGO Bureau will develop guidelines on how this should be done).
3. The NGO must apply to the Bureau with the following
 - Fill in the application form
 - Certificate of Incorporation
 - A copy of the NGO's governing documents (d) A copy of the NGO's governance structure (e) Proof of payment of the prescribed fee
 - A copy of a valid National Identification Document for the promoters
 - A work plan and budget/strategic plan for the NGO
 - Minutes and resolutions of the founders of the NGO

Recommendations from:-

- District NGO Monitoring Committee where its headquarters is located
- Line Ministry or Ministries iii. Two sureties



An NGO shall not operate in Uganda without a valid permit.

Requirements for a permit

- The NGO shall apply for a permit from the NGO Bureau.
- The application made under this section shall specify:
 1. The operations of the NGO;
 2. The areas where the NGO may carry out its activities;
 3. Staffing of the NGO;
 4. Geographical area of coverage of the NGO;
 5. Location of the NGO's headquarters;
- A permit can be issued for a period of not more than 5 years.
- A permit shall be renewed within 6 months before it expires.
- Every NGO has a duty to follow the conditions set in the permit as it operates. Failure to follow these conditions will result in legal action against the NGO or its Directors. Failure to comply may result into closure of the NGO or suspension of its permit.

The NGO must operate within the area specified in the permit. In case of requirement to expand the NGO must inform the Bureau

Other obligations

- The NGO must carry out what was specified in its constitution.
- The NGO must sign an MOU with the district(s) where it operates.
- The NGO must inform the District Monitoring Committee (DNMC) of the activities it is carrying out in the district before conducting the activity.
- The NGO must not engage in acts prejudicial to security.
- The organization MUST file annual returns to the NGO



Bureau every year. The annual returns include

- Audited accounts
- Report of activities
- Income & expenditure statement (submitted to district technical committee and DMNC)
- Workplan(submittedtodistricttechnicalcommitteeand DMNC)
- If the organization is employing any person who is not a citizen of Uganda, the organization should ensure such a person has a valid work permit allowing such a person to work in Uganda. Employing a foreigner without a valid work permit can result into punishment for both the foreign employee and the NGO.
- An organization employing a foreigner should also ensure that before that foreigner is given a job (even if this foreigner is a volunteer) he/she must have been cleared by the Ministry of Internal Affairs. The foreigner will be required to submit photocopies of his/her qualifications, letter from his/her home country on his/her criminal record, valid visa and entry permits etc.

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