

SPECIAL ISSUE

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REPUBLIC OF KENYA



**SAMBURU COUNTY GAZETTE
SUPPLEMENT**

ACTS, 2015

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ACT, 2015**

No. 6 of 2015

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**SAMBURU COUNTY NON-GOVERNMENTAL ENTITIES
REGISTRATION, RECOGNITION AND CO-ORDINATION ACT,**

No. 6 of 2015

Date of Assent: 23rd July, 2015

Date of Commencement: 30th July, 2015

AN ACT of the Samburu County Assembly to make provision for the registration, recognition and co-ordination of the Samburu County Non-Governmental entities and for connected purposes

ENACTED by the County Assembly of Samburu as follows—

Short title and commencement

1. This Act may be cited as the Samburu County Non-Governmental Entities Registration, Recognition and Co-ordination Act, 2015, and shall come into operation upon publication in the Kenya Gazette.

Interpretation

2. In this Act, unless the context otherwise requires—

"board" means the County Non-Governmental Entities Registration, Recognition and Co-ordination Board established by section 3 (1);

"certificate" means Certificate of the registration, exempt of registration or recognition or any other certificate that may be construed applicable issued under this Act;

"county executive committee member" County Executive Committee member for the time being responsible for matters relating to Non-Governmental entities;

"entity" means Non-Governmental Entity, Self Help Group, Community Based Entity, any other body that is not part of National or County Governments structure which the Board through Gazette Notice shall classify as such Entity;

"Gazette" means the Samburu or the Kenya Gazette County Gazette;

"international non-governmental entity" a Non-Governmental Entity with the original incorporation or ratification in one or more countries other than Kenya, but operating within Samburu County under a National certificate of registration;

"interim board" means the County Interim Transitional Board established under Section 23(1);

"non-governmental entity" means a private voluntary grouping of individuals or associations which is registered exclusively in Samburu County with authority to operate within Samburu County, not operated for profit or for other commercial purposes but which have organized themselves within the County for the benefit of the public at large and for the promotion of social welfare, development charity or research in the areas inclusive of, but not restricted to devolved functions of, health, relief, agriculture, education, industry and the supply of amenities and services;

"register" means the register of Non-Governmental Entities maintained by the board.

Establishment of the Board

3. (1) There is hereby established a Board to be known as the County Non-Governmental Entities Registration, Recognition and Co-ordination Board.

(2) The Board shall be a body corporate with succession and a common seal and shall be capable in its corporate name of—

- (a) Suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) Receiving, borrowing and lending money;
- (d) Entering into contracts; and
- (e) Doing or performing all such other things or acts necessary for the proper performance of its functions under this Act, which may lawfully be done or performed by a body corporate.

Composition of the Board

4. (1) The Board shall consist of—

- (a) a chairperson appointed by the Governor after competitive recruitment from qualified university graduates and nominated by the County Public Service Board;
- (b) three members appointed by the County Executive Committee Member of the line portfolio considering other legal requirements, knowledge or experience in social sciences upon competitive recruitment by the county public service board from among qualified university graduates;

- (c) the Chief Officer of the line portfolio for the time being responsible for matters relating to Non-Governmental entities who shall be ex-official.
- (d) the Chief Officer in the portfolio for the time being responsible for Financial matters who shall be ex-official;
- (f) the County Attorney or head of the Legal Department in the County Executive who shall be ex-official;
- (g) one qualified member appointed by the County Executive Committee Member of the line portfolio to represent registered and recognized County Non-Governmental entities interests within the County;
- (h) the Board Secretary who shall be the Director being responsible for matters relating to County Non-Governmental entities and appointed under section 5 (1).

(2) The members of the Board, other than ex-officio members, shall hold office for a period of three years and shall then retire, but shall be eligible for re-appointment once.

(3) A member of the Board, other than an ex-officio member, may resign his appointment by a letter addressed to the line portfolio County Executive Committee Member.

(4) The Board may co-opt such number of persons not exceeding three in number to represent such interests as may be determined by the Board.

(5) The County Executive Committee Member may appoint an interim secretary where the substantive secretary is incapacitated to discharge the day to day management of the business of the Board.

Procedure at meetings of the Board

5. (1) The chairperson shall preside at all meetings of the Board, except that in his absence, the provisions of subsection (2) shall apply.

(2) In the event of the chairperson being absent from any meeting of the Board, the members present shall elect one of the members present at the meeting to preside.

(3) The Board shall meet at least four times in each year but the chairperson may, and upon application by more than half of the members shall, convene a special meeting of the Board.

(4) The quorum necessary for the business of the Board shall be two thirds.

(5) All questions at a meeting of the Board shall be determined by a simple majority of the votes of the members present and voting.

(6) The chairperson shall have in case of equality of votes a right to cast a vote.

(7) The Board shall cause the minutes of all proceedings of meetings of the Board to be entered in books kept for that purpose.

(8) Subject to this Act, the Board shall regulate its own proceedings.

6. The functions of the Board shall be—

(a) (i) Register, exempt registration and Recognize non-governmental entities in accordance with this Act.

(ii) To probe and inquire the work of all County and National Non-Governmental Entities operating in Samburu County;

(b) To maintain the register of national and County Non-Governmental Entities operating in Samburu County, with the precise sectors, affiliations and jurisdiction of their activities;

(c) To receive and discuss the annual reports of the County Non-Governmental Entities.

(d) To advise the County Executive Committee Member on the activities of Non-Governmental Entities and their role in development within Samburu County.

(e) To conduct a regular review of the register to determine the consistency with the reports submitted by the Non-Governmental Entities;

(f) To provide policy guidelines to the Non-Governmental Entities for harmonizing their activities to the County integrated development plan;

(g) to receive, discuss and approve the regular reports of the Non-Governmental Entities and to advise on strategies for efficient planning and coordination of their activities in Samburu County; and

7. The Board shall have power—

(a) To establish such subsidiary committees as may be necessary for the performance of its functions under this Act; and

(b) Subject to this Act, to appoint such officers as may be necessary for the performance of its functions.

Documentation Centre

8. The Board shall establish and maintain a documentation Centre on County Non-Governmental Entities and their activities in Samburu County and such other information as may be necessary for the public on the development contribution of Non-Governmental Entities to National and Samburu County.

Registration of Non-Governmental Entities

9. (1) Every Non-Governmental Entity shall be registered in the manner specified under this Part.

(2) Applications for registration shall be submitted to the Board Secretary in the prescribed form by regulations under this Act.

(3) An application for registration shall be made by the intending entity and specifying—

(a) Other offices of the entity;

(b) The head office and postal address of the entity;

(c) The development sectors of its proposed operations;

(d) The Sub-County, Wards, Locations, Sub-Locations and Villages of its proposed activities;

(e) Its proposed average annual budgets;

(f) The duration of its activities;

(g) All sources of its funding;

(h) The national and international affiliation and their certificates of incorporation;

(i) Such other information as the Board may prescribe.

(4) The Board and by notice in the Gazette, exempt such Non-Governmental Entities from registration.

(5) Application for registration under this section shall be accompanied by a certified copy of constitution of the proposed Non-Governmental Entity as prescribed by the regulations.

Fees

10. An application for registration of Non-Governmental Entity shall be accompanied by such fees as the County Executive Committee Member may from time to time prescribe by regulation.

Certificate of registration

11. (1) Every Non-Governmental Entity registered under this Act shall be issued with a certificate of registration or exemption of registration or Recognition as the case may be and in accordance with this Act.

(2) A certificate of Registration or Exemption or Recognition shall be conclusive evidence of authority to operate throughout Samburu County, or such parts of Samburu County.

(3) A registered Non-Governmental Entity shall by virtue of such registration be a body corporate with perpetual succession capable in its name of—

- (a) Suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) Entering into contracts; and
- (d) Doing or performing all such other things or acts necessary for proper performance of its functions under this Act, which may lawfully be done or performed by a body corporate.

(4) A certificate issued under this Part may contain such terms and conditions as the Board may prescribe.

Refusal of registration

12. The Board may refuse registration of an applicant if—

- (a) It is satisfied that its proposed activities or procedures are not in the Samburu County interest; or
- (b) It is satisfied that the applicant has given false information on the requirements.

Cancellation of Certificate

13. (1) The Board may cancel any certificate issued, if it is satisfied that—

- (a) The terms or conditions attached to the certificate have been violated; or
- (b) The entity has breached this Act; or

(2) Notice of the cancellation of a certificate shall be served on the Entity in respect of whom such cancellation or suspension relates and shall take effect within fourteen days after the date of that notice.

Board may require proof of existence

14. (1) If the Board has reasons to believe registered Entity has, for any reason, ceased to exist, it may publish in the Gazette a notice calling upon such entity to furnish it, within a period of thirty days from the date of the notice, with the proof of its continued existence.

(2) The proof given under subsection (1) above shall accompanied by an authenticated tails under oath.

(3) The Board may strike off the register an entity that has ceased to exist subject to section (1) above.

Appeals

15. (1) Any entity which is aggrieved by any decision of the Board made under this Act is entitled to a review of its decision upon application in writing within thirty days, or seek judicial remedy.

Exempt Entity

16. An entity established or registered by International protocols or conventions, National Government or and County Governments shall not be exempted of registration but shall apply for certificate of exemption of registration and recognition under this Act

Offences and Penalties

17. (1) It shall be an offence for any person to operate a Non-Governmental Entity in Samburu County that dwell on devolved functions such as welfare, research, health relief, agriculture, education, industry, the supply of any other similar purposes without registration and certificate under this Act.

(2) A person convicted of an offence under this Act shall be liable to a fine not exceeding Kenya shillings fifty thousand or to an imprisonment for a term not exceeding eighteen months or both.

(3) Upon sentence the court may order that whole or part of the fine be remitted to the accounts of the Board to defray the cost of its operation.

(4) Any person who has been convicted of an offence under this Act shall be disqualified from holding office in any Non-Governmental Entity for a period of ten years.

Transitional Period

18. (1) There shall be a transitional registration period not exceeding six months from the date of commencement of this Act; but the County Executive Committee Member may extend the period.

(2) All Non-Governmental Entities that are presently registered under any other written law in Samburu County shall, within the period specified in subsection (1), shall apply and obtain applicable certificates of registration or exemption or recognition under this Act.

Establishment of the Transitional Board

19. (1) The responsible County Executive Committee Member shall upon consultation with all stakeholders and in accordance with this Act appoint Transitional Board for a period of three months.

The Council of Non-Governmental Entities

20. (1) There shall be established a Council to be known as the County Non-Governmental Entities Council which shall be composed of the chief executive officers of all Non-Governmental Entities registered under this Act.

(2) The Council shall adopt its own structure, rules and procedures for the efficient administration of its activities: Provided that the first meeting to adopt the structure and procedures of the Council shall be supervised by an official designated by the County Executive Committee Member.

(3) The Council shall provide advisory opinion to the County Executive Committee Member responsible for non-governmental entities.

Code of Conduct

21. (1) The Council shall advise the Board with respect to the code of conduct and such other statutes as may facilitate the regulation of Non-Governmental Entities on matters of activities, County security, training, the development of County manpower, institution building, scientific and technological development and other matters of County interest.

Accounts

22. (1) The Board in consultation with the council and approval by the County Executive Committee Member shall prescribe rules and procedures for the audit of the accounts of Non-Governmental Entities.

(5) The code of conduct shall prescribe the responsibilities of the Non-Governmental entities, Board and the Council which, once approved

and gazetted by the County Executive Committee Member, shall be construed as obligations under this Act.

(6) The Board shall ensure that the code of conduct is consistent with the County, national and foreign policies and all written laws of Samburu County.

(7) The Board shall cause the code of conduct approved under this Act to be published.

Financial Year of the Board

23. (1) The financial year of the Board shall be the period of twelve months commencing on the 1st of July, and ending on the 30th of June in each year.

(2) In the event of any change in the financial year, and for the purposes of the transition from the old financial year to the new financial year consequent upon the change, the transitional period, whether more or less than twelve months, shall be deemed for all the purposes of this Act to be a financial year.

Investment

24. (1) The Board may invest any of its funds in securities in which, for the time being, trustees may by law invest trust funds or in other securities which the Treasury may from time to time approve for the purpose.

(2) The Board may place on deposit with such bank or banks as it may determine, any money not immediately required for allocation or application.

Annual Estimates

25. (1) Before the commencement of a financial year the Board shall cause to be prepared estimates of the revenue and expenditure for the year.

(2) The annual estimates shall make provision for all estimated expenditure of the Board for the financial year concerned, and in particular—

- (a) For the approved recurrent and development expenditure;
- (b) For the payment of salaries, allowances and other charges in respect of the staff of the Board;
- (c) For the payment of pensions, gratuities and other charges in respect of retirement benefits which are payable out of the funds to the Board;

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- (d) For the proper development and maintenance of the properties of the Board;
- (e) For the proper maintenance, repair and replacement of the equipment and other movable property of the Board;
- (f) For the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits or insurance or in respect of such other matters as the Board may deem fit.

(3) Annual estimates shall be approved by the Board, before the commencement of the financial year to which they relate and shall be submitted to the County Executive Committee Member for approval and Submission to the County Assembly Budget Committee which may appropriate.

(4) No expenditures shall be incurred for the purposes of the Board except in accordance with the annual estimates approved under subsection (3).

Books of Accounts

26. (1) The Board shall cause to be kept all proper books of records of account of its income, expenditure, assets and liabilities.

(2) Within three months from the end of each financial year, the Board Secretary shall submit to the Auditor-General of County the accounts of the Board together with -

- (a) Statement of financial activities, income, expenditure during the financial year; and
- (b) A statement of assets and liabilities of the Board existing at the end of the year.

Audit of Accounts

27. (1) The accounts of the Board shall be audited by the Auditor-General of the County.

(2) The Auditor-General of the County shall present to the Board, within a period of six months after the end of each financial year, a report of the examinations and audit of accounts and the report shall also be forwarded to the County Executive Committee Member.

(3) The County Executive Committee Member shall lay the Board's report and the report of the Auditor-General of the County before the County Assembly within thirty days after the receipt of the report by

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him/her/her/her/her, or if the County Assembly is not sitting within fourteen days after the commencement of the next sitting.

Regulations

28. The County Executive Committee Member may make regulations for the efficient carrying into effect of the provisions of this Act and, without restricting the generality of the foregoing, make rules-

- (a) Prescribing terms and conditions for the importation and use of any equipment required by the Non-Governmental Entities for their activities in Samburu County;
- (b) Prescribing guidelines for advanced training and employment of Samburu County inhabitants by the Non-Governmental Entities in their employment;
- (c) Prescribing fees and other dues payable by the Non-Governmental Entities as part of application for registration or renewal of registration or and recognition;
- (d) Prescribing the information to be supplied in every application for registration;
- (e) Prescribing the format of the reports of activities to be submitted by the Non-Governmental Entities;
- (f) Prescribing procedures for application for exemption from payment of taxes.

Uttering false statements

29. (1) Any person who makes, signs or utters a false statement or declaration in support or request for the exemptions under section 32 shall be guilty of an offence and shall be liable to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding three years or to both.

(2) Any person convicted of an offence under this section shall be disqualified from holding office in any Non-Governmental Entity for a period of ten years.

(3) On the first conviction of an official of a Non-Governmental Entity under this section, the Board may register that Entity.

(4) On the second conviction of an official, under this section the Board shall deregister that Non-Governmental Entity.

(5) Where a non-citizen is convicted under subsection (2) or is found to have aided or abetted others in the offence, the County Executive

Committee Member may recommend his expulsion from Kenya to the Cabinet Secretary in charge if immigration.

Custody of Common Seal

30. (1) The Common seal of the Board shall be kept in such custody as the Board directs and shall not be used except upon the order of the Board.

(2) The common seal of the Board shall be authenticated by the signature of the Board Secretary and one other member of the Board duly authorized by the Board in that behalf.

(3) The common seal of the Board when affixed to any document and duly authenticated under this section shall be judicially and officially noticed and, unless and until the contrary is proved, any order or authorization of the Board under this section shall be presumed to have been duly given.