



## KEY CONSEQUENCES OF NON-COMPLIANCE FOR PUBLIC BENEFIT ORGANIZATIONS

The [Public Benefit Organizations Regulations, 2026](#) (“**Regulations**”), gazetted on 18th March 2026 mark a significant shift in the regulation of non-profit making entities in Kenya. The Regulations operationalize the [Public Benefits Organizations Act \(Cap. 134\)](#) (“**PBO Act**”), which repealed the Non-Governmental Organisations Co-ordination Act, 1990 and completed the transition to the current public benefit organisation regime.

Under the PBO Act and its regulations, Public Benefit Organizations (“**PBOs**”) are required to comply with enhanced governance obligations, including timely filing of annual returns, maintenance of proper financial records, disclosure of funding sources where required and adherence to approved governance structures. It is against this backdrop that enforcement becomes central to the regulatory framework, particularly where a PBO falls short of its compliance obligations. In such cases, the law provides for structured intervention through a range of measures as set out below.

### A. Suspension or cancellation of registration

Suspension or cancellation may be invoked where a PBO is found to be in breach of the PBO Act or otherwise operating contrary to the legal and regulatory framework governing PBOs. In practice, this may arise in several circumstances including:

- Failure to file annual returns: Failure to submit annual reports, audited financial statements or other mandatory filings may prompt regulatory action by the Authority.
- Operating outside the registered mandate: A PBO may face enforcement measures where it undertakes activities inconsistent with its registered constitution or approved public benefit objectives.
- Engagement in unlawful activity: Where an organization is involved in fraud, money laundering, economic crimes or other unlawful conduct, the Authority may move to suspend or cancel its registration.



- Cessation of operations or inactivity: Where there is evidence that a PBO has ceased to exist or has remained inactive for a prolonged period, the Authority may initiate cancellation proceedings.
- Failure to remedy notified breaches: Where an organization fails to rectify identified compliance breaches after formal notice and an opportunity to do so, further enforcement action may follow.

## **B. Criminal offences and penalties**

The PBO Act also provides for criminal liability in cases of fraud or misrepresentation. The offences include forging any documents for the purposes of procuring registration, making false statements in applications for registration, making false statements in any document submitted to the Authority or fraudulently holding out an organization as being registered.

Upon conviction, penalties may include a fine not exceeding KES 300,000, imprisonment for a term not exceeding two years or both.

## **C. Administrative sanctions and operational restrictions**

The Authority may impose a range of administrative measures designed to secure compliance and address regulatory breaches without resorting to more severe enforcement action. These measures may include:

- Warning notices;
- Compliance directives requiring corrective action within a specified period;
- Regulatory inspections, inquiries or audits; and
- Enhanced reporting obligations.

The consequences of suspension or cancellation are immediate and significant. The organization may lose access to an array of benefits available under the PBO Act and its regulations, including tax exemptions, donor eligibility and the legal authority to operate as a registered PBO.

## **D. Funding risks and donor confidence**

Non-compliance may give rise to indirect, yet significant, financial consequences. Donors,

grant-making institutions and development partners increasingly require evidence of regulatory compliance before approving, releasing or renewing funding support. Where compliance concerns arise, an organization may face a range of adverse outcomes including:

- Suspension or withdrawal of funding;
- Delays in the disbursement of approved funds;
- Increased reporting, audit or due diligence requirements;
- Exclusion from future funding opportunities; and
- Termination or non-renewal of donor agreements.

For organizations that rely on international support, non-compliance may further affect cross-border funding approvals, foreign remittances and banking relationships, thereby placing additional strain on operational continuity and programme delivery.

## **Practical steps to mitigate risk**

To minimise regulatory exposure and reduce the likelihood of enforcement action, PBOs should adopt proactive and well-structured compliance frameworks. A preventative approach not only strengthens governance but also promotes operational stability and donor confidence. The key measures include:

- Conducting regular legal, governance and compliance audits;
- Ensuring timely filing of statutory returns and regulatory disclosures;
- Maintaining accurate financial, corporate and operational records;
- Strengthening internal controls, risk management systems and board oversight;
- Training directors and senior management on fiduciary and statutory duties; and
- Seeking timely legal advice where regulatory concerns or compliance risks arise.

## **Conclusion**

The public benefit organization regulatory regime has established a more structured and demanding compliance environment for public benefit organizations in Kenya. The expanded



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governance and reporting obligations reinforced by the available enforcement mechanisms reflect a regulatory shift towards accountability, transparency and responsible management of public resources. Against this backdrop, compliance is no longer optional in practice; it is central to an organization's continued legal existence and operational legitimacy. Non-compliance now carries far-reaching consequences, affecting not only regulatory standing but also funding continuity, institutional credibility and long-term sustainability.

### How We Can Help

At CM Advocates LLP, we support public benefit organizations in building and maintaining robust compliance frameworks and governance structures in line with the PBO Act and the Regulations. Our services include:

- PBO End-to-end PBO registration and transition support for entities seeking conversion;

- Continuous regulatory compliance advisory, including interpretation and implementation of obligations under the PBO Act;
- Development, review and alignment of governance frameworks, constitutions and internal policies with legal requirements and best practice standards;
- Comprehensive data protection and privacy compliance, particularly in relation to donor, beneficiary and stakeholder information; and
- Strategic legal representation in regulatory inquiries, enforcement proceedings and constitutional or administrative disputes.

For tailored legal support or further information, please contact us at [corporate.commercial@cmadvocates.com](mailto:corporate.commercial@cmadvocates.com) or reach out to the contributor below.

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