



## KENYA'S TRANSITION FROM NGOS TO PUBLIC BENEFIT ORGANISATIONS (PBOS): KEY GOVERNANCE, COMPLIANCE & INSTITUTIONAL IMPLICATIONS UNDER THE NEW PBO FRAMEWORK

### Publication of the Public Benefits Organisations Regulations, 2026 Operationalizes Kenya's New Regulatory Regime for NGOs, Humanitarian Agencies, Foundations & Social Impact Organisations

*20 May 2026*

#### EXECUTIVE SUMMARY

Kenya's public benefit and not-for-profit sector is currently undergoing one of the most significant legal and regulatory transitions in its modern history following the operationalization of the Public Benefits Organisations Act, 2013 ("PBO Act") and the publication of the Public Benefits Organisations Regulations, 2026.

On 9 May 2024, the Cabinet Secretary for Interior and National Administration published Legal Notice No. 78 of 2024, bringing the PBO Act into force with effect from 14 May 2024. The Act repealed the Non-Governmental Organisations Co-ordination Act, 1990, which had regulated Kenya's NGO sector for more than three decades.

The transition process was further advanced on 18 March 2026, when the Cabinet Secretary for Interior and National Administration, published the Public Benefit Organizations Regulations, 2026 through Kenya Gazette Supplement No. 67 (Legal Notice No. 43). The Regulations were subsequently announced by the Public Benefit Organizations Regulatory Authority ("PBORA") on 23 March 2026, which described them as a major step toward operationalizing the PBO Act and facilitating the transition of organizations previously registered under the repealed NGO framework into the new PBO regime.

PBORA further confirmed that the Regulations were developed jointly with stakeholders within the public benefit sector through a participatory process intended to promote accountability, sustainability and collaborative governance within the sector.



The reforms collectively introduce a significantly more governance-driven and compliance-focused framework for:

- NGOs and PBOs;
- donor-funded organizations;
- humanitarian and relief agencies;
- faith-based institutions;
- charitable foundations and trusts;
- international NGOs;
- social enterprises; and
- regional nonprofit organizations operating from Kenya.

The evolving framework demonstrates increasing governmental focus on governance accountability, donor transparency, operational legitimacy, immigration compliance, financial stewardship and enterprise-wide risk management.

Organizations operating within Kenya's public benefit ecosystem should therefore appreciate that the transition to the PBO framework is not merely administrative. It represents a broader institutional governance and compliance transformation likely to significantly affect operational structures, reporting obligations, donor engagement, staffing models and long-term organizational sustainability.

### **KENYA'S TRANSITION FROM NGOS TO PUBLIC BENEFIT ORGANISATIONS (PBOs)**

The PBO Act fundamentally restructures Kenya's legal framework governing the public benefit and development sector.

Under the new regime, entities previously recognized as Non-Governmental Organisations ("NGOs") are now formally categorized as Public Benefit Organisations ("PBOs"). The transition is intended to modernize regulation of the sector and strengthen governance, accountability and institutional oversight.

The Act defines a PBO as:

*"a voluntary membership or non-membership grouping of individuals or organizations, which is autonomous, non-partisan, non-profit making and which is organized and operated locally, nationally or internationally, engages in public benefit activities and is registered as such by the Authority."*

The framework applies broadly to organizations involved in humanitarian work, healthcare, education, advocacy, governance initiatives, environmental sustainability, charitable activities, faith-based missions and donor-funded development programs.

The reforms also signal increasing regulatory focus on:

- governance standards;
- institutional legitimacy;
- accountability mechanisms;
- transparency in donor-funded operations; and
- stronger oversight of the nonprofit sector.

The transition to the PBO framework should therefore be viewed as part of a broader effort to reposition Kenya's public benefit sector within a more modern, transparent and institutionally accountable regulatory environment.

### **RE-REGISTRATION & TRANSITION OF EXISTING NGOS**

One of the most significant implications of the PBO framework concerns organizations previously registered under the repealed NGO regime.

The PBO Act provides that organizations registered under the former NGO framework are deemed to be registered under the PBO regime upon commencement of the Act. However, organizations are expected to progressively align their governance, operational and compliance structures with the new framework.

The Ministry of Interior and National Administration subsequently extended the compliance transition period under Paragraph 5(1) of the Fifth Schedule to 13 May 2026.

Importantly, the transition framework has also been affected by constitutional litigation.

On 20 June 2025, the High Court in *David Calleb Otieno & Others v Attorney General & Others (Petition No. E519 of 2024)* declared certain provisions of the PBO Act unconstitutional, including mandatory re-registration requirements imposed on NGOs registered under the repealed NGO Coordination Act.

The Court held that organizations registered under the former NGO framework are deemed legally recognized as PBOs by operation of law and emphasized constitutional protections relating to:



- freedom of association;
- equality and non-discrimination;
- administrative justice; and
- due process.

The Court further declared unconstitutional certain provisions relating to compulsory federation membership, aspects of donor and member disclosure obligations, and procedural deficiencies in suspension and cancellation processes.

While the judgment materially affects aspects of implementation, organizations should nevertheless continue reviewing and aligning governance, operational and compliance systems with the broader PBO framework and the newly published Regulations.

Organizations should therefore urgently review:

- constitutions and governance documents;
- board structures and governance systems;
- donor compliance frameworks;
- reporting procedures;
- staffing arrangements;
- institutional controls; and
- enterprise-wide compliance mechanisms.

The transition should therefore be approached not merely as a legal registration exercise, but as a broader institutional governance and operational restructuring process.

## **THE PUBLIC BENEFITS ORGANISATIONS REGULATIONS, 2026**

The publication of the Public Benefits Organisations Regulations, 2026 now provides the detailed procedural and operational framework required to implement the PBO Act.

The Regulations establish a significantly more structured and compliance-oriented regime governing:

- registration and re-registration;
- governance and board structures;
- annual reporting obligations;
- operational supervision;
- financial accountability;
- investigations and enforcement;
- suspension and cancellation procedures;
- exemptions for international organizations; and
- digital compliance systems.

The Regulations also formally revoke the NGO Coordination Regulations, 1992, thereby completing the legal transition from the former NGO regime into the new PBO framework.

Importantly, the Regulations introduce more sophisticated governance safeguards relating to:

- board independence;
- conflict of interest management;
- institutional accountability;
- financial reporting;
- operational transparency; and
- maintenance of institutional records.

The Regulations further recognize digital compliance systems, including:

- electronic registration;
- e-filings;
- online renewals;
- digital certificates; and
- electronic correspondence procedures.

This reflects a broader shift toward a more modernized and compliance-intensive regulatory environment for Kenya's nonprofit sector.

## **GOVERNANCE, COMPLIANCE & INSTITUTIONAL ACCOUNTABILITY**

The new PBO framework significantly elevates governance expectations for organizations operating within the public benefit sector.

Governance is increasingly being treated as a core regulatory requirement rather than merely an internal administrative function. Organizations are expected to maintain governance systems capable of supporting transparency, operational oversight, financial stewardship, donor accountability and enterprise-wide compliance management.

The Regulations introduce safeguards intended to strengthen institutional accountability through governance requirements relating to:

- board composition;
- governance documentation;
- director independence;
- conflict management systems;
- governance disclosures; and
- operational oversight.



Boards, trustees and senior management teams should therefore review:

- governance structures;
- constitutions and governance manuals;
- conflict of interest procedures;
- internal controls;
- delegation frameworks;
- reporting systems; and
- institutional risk management frameworks.

Organizations should also appreciate that governance failures may increasingly affect donor confidence, regulatory standing, immigration approvals, operational legitimacy and long-term sustainability.

### **REPORTING, TRANSPARENCY & ENTERPRISE-WIDE COMPLIANCE**

The PBO framework introduces significantly enhanced reporting and compliance obligations.

Organizations are expected to maintain:

- proper books of account;
- audited financial statements;
- annual institutional reports;
- governance documentation;
- staffing records;
- donor information; and
- operational records.

The framework further promotes transparency through public registration systems, compliance monitoring mechanisms and sector-wide accountability standards.

Importantly, compliance obligations under the new regime extend well beyond legal and company secretarial functions. Compliance now affects governance, HR, immigration, finance, procurement, donor reporting and operational management.

Organizations should therefore implement integrated compliance frameworks capable of managing:

- regulatory risks;
- governance exposure;
- operational risks;
- donor accountability obligations;
- immigration compliance; and
- reputational risks.

### **INTERNATIONAL NGOS, IMMIGRATION & CROSS-BORDER OPERATIONS**

International NGOs and regional organizations operating in or from Kenya should pay particular attention to:

- registration and exemption requirements;
- governance structures;
- local representation obligations;
- operational arrangements;
- staffing models; and
- institutional compliance systems.

The Regulations introduce more structured pathways governing international PBO registration and exempt organization permits. Organizations operating regional structures from Kenya may therefore need to review governance systems, operational models and compliance frameworks.

The evolving PBO framework also has important immigration implications.

Organizations employing expatriate personnel should review:

- work permit classifications;
- sponsorship arrangements;
- workforce localization strategies;
- immigration governance procedures; and
- institutional compliance systems.

The introduction of the Class Q Work Permit is particularly relevant to humanitarian agencies, charitable institutions, faith-based organizations and donor-funded entities employing foreign professionals in Kenya.

Immigration compliance is increasingly interconnected with governance accountability, donor transparency and institutional legitimacy.

### **DONOR ACCOUNTABILITY, DATA PRIVACY & RISK MANAGEMENT**

The evolving PBO framework significantly increases expectations relating to donor accountability, operational transparency and enterprise-wide compliance management.

Donors are increasingly focusing on whether organizations maintain:

- effective governance systems;
- transparent operational structures;
- accountable financial controls;
- anti-fraud safeguards;
- data privacy protections; and
- sustainable institutional models.

The High Court’s decision in *David Calleb Otieno & Others v Attorney General & Others* also raised important constitutional concerns relating to donor confidentiality and privacy rights under Article 31(c) of the Constitution and the Data Protection Act, 2019.

Organizations should therefore strengthen:

- donor confidentiality systems;
- data governance frameworks;
- compliance controls;
- operational oversight systems;
- enterprise risk management structures; and
- institutional resilience mechanisms.

The evolving regulatory environment demonstrates that enterprise-wide compliance is increasingly central to organizational credibility, sustainability and operational continuity.

### PRACTICAL CHECKLIST: WHAT EXISTING NGOS SHOULD DO NOW

Area	Recommended Action
Registration Status	Confirm current NGO registration status and assess implications of the PBO transition framework.
Governance Documents	Review constitutions, governance manuals and internal governance policies for alignment with the PBO Act and Regulations.
Board Structures	Assess board composition, governance independence, conflict management systems and accountability structures.
Compliance Systems	Establish integrated compliance systems covering governance, reporting, immigration, HR and donor obligations.
Annual Reporting	Prepare for enhanced annual reporting, audited accounts and institutional filing obligations.
Donor Compliance	Review donor reporting systems, grant obligations and institutional accountability mechanisms.
Data Protection	Assess donor confidentiality procedures and compliance with the Data Protection Act, 2019.
Immigration Compliance	Review expatriate staffing structures, work permit classifications and institutional immigration systems.
Operational Structures	Review operational controls, regional structures and institutional accountability systems.
Risk Management	Conduct governance, compliance and enterprise risk assessments to identify potential exposure areas.
Policies & Procedures	Update HR, procurement, anti-fraud, conflict of interest and operational policies where necessary.
Regulatory Engagement	Engage proactively with PBORA and seek legal advice regarding transition and compliance obligations.



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## STRATEGIC IMPLICATIONS FOR ORGANIZATIONS

The transition from NGOs to PBOs should not be viewed solely as a legal or procedural exercise. Rather, it represents a broader strategic transformation affecting governance, operational models, donor relationships, staffing structures, immigration compliance, enterprise risk management and long-term institutional sustainability.

Organizations that proactively align with the new framework are likely to be better positioned to:

- strengthen donor confidence;
- improve institutional legitimacy;
- enhance governance systems;
- mitigate regulatory and reputational risks; and
- support sustainable long-term growth and impact.

Conversely, organizations that fail to adapt may face increasing regulatory scrutiny, operational disruptions, governance exposure and donor concerns.

## HOW CM ADVOCATES LLP CAN ASSIST

CM Advocates LLP advises local and international organizations on:

- NGO-to-PBO transition;
- PBO registration and compliance;
- governance restructuring;
- donor compliance advisory;
- constitutional and regulatory compliance;
- immigration and expatriate staffing compliance;
- governance audits;
- board advisory;
- enterprise risk management;
- data protection compliance;
- regulatory investigations; and
- institutional restructuring.

Our multidisciplinary approach integrates:

- governance advisory;
- immigration law;
- employment and labour advisory;
- tax advisory;
- data protection advisory;
- regulatory compliance; and
- institutional risk management.

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