



COMMENTS ON THE DRAFT PUBLIC BENEFIT ORGANIZATIONS REGULATIONS 2025

UPDATE: Petition No. E519 OF 2024, filed in the High Court of Kenya at Nairobi, challenged several provisions of the Public Benefit Organizations Act, 2013 ("the Act") on multiple constitutional grounds, rights and principles. These include freedom of association, the right to privacy, the right to fair administrative action, and the right to a fair hearing. The High Court has now heard and given judgment on the petition has declared sections of the PBO Act unconstitutional null and void.

This requires the sections of the afore-mentioned published Draft Public Benefit Organizations Regulations to be re-drafted to comply with the orders of the court with reference to the now declared unconstitutional provisions that these regulations have sought to operationalise. Additionally, the planned national public participation schedule for the draft regulations may need to be paused pending addressing the Court's finding that the composition of the Authority's Board is unconstitutional.

Below is a snapshot summary of the Court's judgment dated signed and delivered on the 30th of April 2025:

1. No public benefit organization that was previously registered under the repealed Non-Governmental Organizations Co-ordination Act shall be required to apply afresh for registration under the PBO Act to be recognized as a public benefit organization (PBO). The Public Benefit Organizations Regulatory Authority (The Authority) must now transition and register all such organizations as PBOs.
2. The requirement in S.32 of the Act for every PBO to provide to the Authority with the names, physical, business and residential addresses of members of its governing body is unconstitutional.
3. The Board of the Authority, as currently constituted under the Act, is unconstitutional.
4. The provisions (i) that exclude the Judicial Service Commission (JSC) from the appointment of Tribunal members, (ii) providing for the unilateral removal of tribunal members by the Chief Justice without JSC involvement, and (iii) providing for the remuneration of Tribunal members by the PBO Authority rather than the Salaries and Remuneration Commission (SRC) are all unconstitutional.

5. The State is restrained from imposing the National Federation of PBOs as an exclusive or compulsory representative of the PBO sector. No PBO shall suffer any disadvantage or sanction for choosing not to join the Federation.
6. The requirement in the Act that only those self regulation forums that represent a significant number of organizations to be recognized is null and void.
7. The Authority cannot suspend or cancel the registration of a PBO without the right to be heard without an independent and impartial body. Further, a PBO's registration cannot be cancelled on the grounds of violating its own constitution.

The sections of the Act that the High Court has found to be unconstitutional are:

- A. Sections 18(1), 18(2) and 18(3) - in so far as they permit the Authority to suspend or cancel the registration of a PBO without according adequate opportunity for the organization to be heard by an independent and impartial body
- B. Section 19(1)(b)
- C. Sections 21(1) and 21(9) - to the extent that they purport to compel all PBOs to join, belong to, or come under the jurisdiction of the National Federation of Public Benefit Organizations
- D. Section 23(2)
- E. Section 32
- F. Section 35(1)
- G. Sections 50(1), 50(5) and 50(6)(c)
- H. The Third Schedule
- I. Paragraph 5(1) and 5(2) of the Fifth Schedule
- J. Paragraph 6(1) and (2) of the Fifth Schedule

Comments on the Draft Public Benefit Organizations Regulations 2025		
SECTION OF THE REGULATION	COMMENT/PROPOSED AMENDMENT	RATIONALE
PART I - PRELIMINARY		
Note: (i) “Act” means the Public Benefit Organizations Act No. 18 of 2013. (ii) “PBOs” means Public Benefit Organizations.		
Regulation 2 - Interpretation	Amend the following: “forum” means a forum of public benefit organizations recognized in accordance with regulation 24 Amend to read as: “forum” means a forum of public benefit organizations recognized in accordance with regulation 21 (1) and (2).	Regulation 24 is wrongly cited; it refers to the process of application for recognition of a federation of forum Regulation 21 is the correct citation. It provides the definition of a forum.
Regulation 2 - Interpretation	Amend the following: “Register” means the Register of Public Benefit Organizations in accordance with regulation 36 Amend to read as: “Register” means the Register of Public Benefit Organizations in accordance with regulation 38	Regulation 36 is wrongly cited; it refers to engagement in economic activities. Regulation 28 is the correct citation. It refers to the register of public benefit organizations to be maintained by the Authority.
Regulation 2 - Interpretation	Proposal to add/include new provision in interpretation regulation. Proposed new addition below is to interpret S. 3 (a) (i) 3(b) and 4(1) of the Act. Add the following definition: “conducive environment” means an enabling physical, virtual, legal, regulatory, political and policy environment where public benefits organizations can freely and securely operate and secure funding for their work.	Adopting this proposed interpretation strengthens the objects of the Act in S. 3(a) of the Act by ensuring that PBOs can meet the diverse needs of the people of Kenya through operating, participating and communicating without undue hindrance. This interpretation further ensures that the state holds its positive obligation to protect, respect and facilitate the fundamental rights enshrined in Article(s) 33, 34, 35, 36 and 37 of the Constitution of Kenya 2010.
Regulation 2 - Interpretation	Proposal to add/include new provision in interpretation regulation. Proposed new addition below interprets S. 3 (a) (iv) of the Act.	The obligation in S. 3(a) (iv) of the PBO Act to “ <i>create an environment within which the public may have access to information concerning registered public benefit organisations</i> ” must give effect to the right of access to information by citizens as provided under Article 35 of the Constitution and the Access

	Add the following provision: “access to information” has the meaning, purpose and operationalization prescribed in Article 35 of the Constitution of Kenya 2010 and the Access to Information Act 2016.	to Information (ATI Act) 2016. The constitutional provision and the ATI Act provide the legal framework for all public entities and private bodies to proactively disclose information that they hold, and to provide information on request in line with the constitutional principles.
SECTION OF THE REGULATION	COMMENT/PROPOSED AMENDMENT	RATIONALE
New provision proposed for Part 1 section of the regulations- Preliminary. Proposed regulation title - “Objects and Purposes of the Act.”	Proposal to add/include new provision to operationalize S. 4(2) of the Act which requires every State organ to coordinate the implementation of its policies and measures in a manner designed to promote, support and provide an enabling environment for public benefit organizations to perform their functions. Add the following provision: The Authority will collaborate with the PBO sector to produce National Guidelines on the Implementation of Policies towards an Enabling Legal Environment for Public Benefits Organizations.	The Act in S. 4(2) has created a new obligation on every state organ to implement its policies in a matter that supports and promotes an enabling environment for public benefits organizations. This being a new obligation created by the Act, there is currently no standardized guidance to support state organs to fulfill their legal obligation with this regard. This creates potential liability for all state organs arising from failure to meet the aforesaid obligation. This is in the absence of existing technical expertise on policy implementation which supports an enabling environment for public benefits organisations. The development of such Guidelines will support State organs to have a reference document to guide their implementation and measures as required, while mitigating their liability for failure to operationalise the same.
PART II - PRE-REQUISITES FOR REGISTRATION		
Regulation 4(3) – Search and Reservation of a Name	Amend the following: (3) Upon receipt of the application under sub-regulation (1), the Authority shall conduct a search on the proposed name of the public benefit organization Amend to read as follows: (3) Upon receipt of the application under sub-regulation (1), the Authority shall conduct a search within 7 working days on the proposed name of the public benefit organization	In order to protect and operationalise freedom of association as enshrined in Article 36 of the Constitution of Kenya, the process of registration of a PBO must be as predictable and timely as possible. This proposal ensures a feasible timeline by which the Authority must undertake and complete the search process to facilitate timely registration of a PBO. A definitive timeline also ensures

		that registration will not be withheld unreasonably, contrary to provisions of Article 36 of the Constitution of Kenya.
SECTION OF THE REGULATION	COMMENT/PROPOSED AMENDMENT	RATIONALE
Regulation 5 (c) and (d) – Prohibited Names	<p>S.16 of the Act provides 5 grounds for refusal of registration by the Authority.</p> <p>The regulations now seek to introduce 2 more grounds for refusal of registration that are not provided for in the Act in Regulation 5(c) and (d).</p> <p>Delete 5(c) and (d) which provide:</p> <p>(c) in the opinion of the Authority, the name is offensive or undesirable; or</p> <p>(d) in the opinion of the Authority, the name is likely to give the impression that the public benefit organization is connected to a state organ, a county government or any other public entity.</p>	<p>This regulation is erroneously introducing new requirements in the regulations that are not in the Act.</p> <p>The purpose and scope of regulations are to operationalise existing provisions of the Act, not to erroneously amend the Act with new requirements.</p> <p>The existing grounds in S. 16 of the Act, as well as regulation 5 (a) and (b) suffice for the purposes of prohibition of names. These provisions already provide a clear and predictable legal basis for refusal to register a particular name.</p>
PART III - REGISTRATION OF NATIONAL PUBLIC BENEFIT ORGANIZATION		
Regulation 8(4)- Application for registration as a national organization.	<p>Amend this provision: the particulars of the office bearers or directors of the public benefit organization, a third of whom must be Kenyan nationals and resident in Kenya</p> <p>Amend to read: the particulars of the office bearers or directors of the public benefit organization.</p> <p>Delete - “a third of whom must be Kenyan nationals and resident in Kenya”</p>	<p>This regulation seeks to operationalise S.8 of the Act - requirements for registration. Nowhere in this section of the Act is it required for national organisations to have a third of Kenyan nationals or residents in Kenya as the office bearers or directors.</p> <p>This regulation is erroneously introducing new requirements in the regulations that are not in the Act.</p> <p>The purpose and scope of regulations are to operationalise existing provisions of the Act, not to erroneously amend the Act with new requirements.</p>

SECTION OF THE REGULATION	COMMENT/PROPOSED AMENDMENT	RATIONALE
<p>Regulation 8(v) and 10(1) (c) (vi)-</p> <p>Application for registration as a national organization and Application for bestowment of public benefit organization status</p>	<p>Amend the following: details of the physical address and postal address of the organization</p> <p>Amend to read as follows: details of the physical or online address, organisational email address and postal address of the organization where available.</p>	<p>The proposed regulation fails to recognise public interest organisations that are fully digitised. There are many organisations who are unable to maintain the cost of office space both in urban and rural areas.</p> <p>There are also several digital organisations that work purely online serving youth, advancing human rights (including digital rights), and other public benefit areas as provided in the Sixth Schedule in the Act.</p> <p>Such organisations will be dis-incentivised from registering under the Act with provision only for a physical address for the application for registration process.</p> <p>Associations have the right to exist exclusively online and should be supported by the Authority as the regulator to conduct their activities in the form of their choice, including through online and electronic means.</p>
PART IV — BESTOWMENT OF PUBLIC BENEFIT ORGANIZATION STATUS		
<p>Regulation 9 and 10 - Eligibility for bestowment of public benefit organization status.</p>	<p>Amend the cited regulation 9 to include new sections numbered 9(1) and 9 (2) respectively.</p> <p>Section 9(1) to provide as follows:</p> <p>a. Bestowment is the official act of granting public benefit status to an organisation. This grant of public benefit status accords an organisation the same rights, responsibilities, accountability and benefits as a registered public benefits organisation</p>	<p>The current provisions in the Act and regulations for bestowment of public benefit organizations status are vague and unclear on the cited elements in the previous column.</p> <p>Bestowment status must be provided for and implemented in an open, clear and unbiased manner with a clear understanding of its purpose as provided in S.7 of the Act.</p> <p>The wordings must also carry the essence and principles of ‘good self governance’ clearly demonstrating that PBO status enhances benefits. This will motivate non-profits registered under other laws to seek bestowment under the Act.</p>

	<p>Section 9 (2) to provide as follows:</p> <p>An organisation bestowed with public benefit organisation status shall:</p> <ul style="list-style-type: none"> b. Be required to fulfill all administrative requirements in this act, including but not limited to the reporting and information requirements in S. 29, 30, 31 and 32 of the Act. c. Enjoy all the benefits of public benefits organisations in the Act, including but not limited to the Second Schedule of the Act d. Uphold all ethical principles and aspirations in the Act including but not limited S. 27 and Part II of the Act. e. As per the provisions of the Act in S. 6(2), organisations with bestowed public benefits organisation status are not restricted by the Act from having registration under another law subsisting while seeking and maintaining bestowment status under the Act. 	
Regulation 16 (2) (b)	<p>Amend the cited regulation 16 (2) (b) to read as follows:</p> <p>“the organization <i>knowingly</i> fails to comply with the obligations of registered public benefit organization provided under the Act or these Regulations”</p> <p>Insertion of the word “knowingly”</p>	<p>This proposal ensures a PBO is not suspended or cancelled either for a simple administrative or other error that is rectifiable with notification of the same. It also gives a PBO the ability to substantiate their claim and promotes transparency and accountability on suspension/cancellation grounds.</p>

SECTION OF THE REGULATION	COMMENT/PROPOSED AMENDMENT	RATIONALE
Regulation 18 - Restrictions Upon Suspension	<p>Proposal to add/include new provision to replace regulation 18 (a) with the following text:</p> <p>Where an organization whose registration is suspended or cancelled under this regulation appeals under section 19 of the Act, the organization shall not be restricted from continuing with its operations until the determination of the appeal.</p>	<p>This proposal notes that if there is still a legal remedy available to resolve a matter by application of the law, a PBO that has not exhausted the appeals route should be allowed to continue until the final determination of an appeal.</p> <p>It is the case that such an appeal may potentially correct an error or overturn a decision of a previous court.</p>
PART VII- RECOGNITION OF FORUMS AND FEDERATION OF FORUMS		
Regulation 24 (2) (b) - Application for recognition of a federation of forums.	<p>Proposal to add/include new provision to regulation 24, to read as 24(c) as below:</p> <p>Give the public benefit organization an opportunity to be heard and rectify the matters raised in the rejection of the application for recognition as a federation of forums.</p>	<p>For consistency in the regulations, similar to regulation 32(b) which provides an opportunity for PBOs to “rectify the failure” upon deregistration, the same opportunity for rectification should be provided upon refusal of recognition of a federation of forums.</p>
ESTABLISHMENT, POWERS AND FUNCTIONS OF THE AUTHORITY		
Regulation 32 (1) (b)	<p>Proposal to “delete” cited regulation 32 (1) (b)</p>	<p>This introduces a substantive element that was not originally provided for in the Act, thereby extending the scope beyond the intent and framework proposed by the Act.</p> <p>It suffices that regulation 32 (1) (c) provides for de-registration of an organisation for contravening other laws in Kenya;</p>
PART X — MISCELLANEOUS PROVISION		
Regulation 36 – Engaging in economic activities	<p>Proposal to add new provision 36(3) to operationalise the Second Schedule (1) of the Act with the proposed text below:</p> <p>Any organization seeking exemption from tax where the exemption sought is in respect of;</p>	<p>The tax exemptions were crafted as one of the provisions that would not only support the domestic sustainability of the sector, but also to incentivise migration to the Act as one of the benefits of registration under the Act.</p> <p>In order to properly operationalise this provided benefits of registering under the Act, it is imperative that the process of tax exemptions be thoroughly canvassed and systematically</p>

	<ul style="list-style-type: none"> i. income tax on income received from membership subscriptions and any donations or grants; ii. income tax on income acquired from the active conduct of income producing activities if the income is wholly used to support the public benefit purposes for which the organization was established; iii. tax on interest and dividends on investments and gains earned on assets or the sale of assets; iv. stamp duty; v. employment tax preferences and; vi. all other tax exemptions provided for in the Second Schedule of the Act <p>apply to the Authority for a letter providing that the Authority has done due diligence in registering the organization and can confirm it is a PBO undertaking public benefit activities for the purposes of the sought grant of tax exemption(s) under the tax regulatory framework in Kenya.</p> <p>The Board shall, on receipt of any request for a letter in this regulation, process the request with 15 working days and;</p> <ul style="list-style-type: none"> (i) provide the letter to the requesting organization on or before the end of the 15 working day period. (ii) if the Board not satisfied that it could issue the requested letter, it will decline to provide the letter giving 	<p>provided for in the regulations in consultation with stakeholders and the relevant public institutions, key being the Kenya Revenue Authority (KRA).</p>
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	reasons for the decision and informing the applicant of the duration, which shall be a period not exceeding thirty days from the date of the notice, during which to comply with requested requirements to have the letter issued.	
SECTION OF THE REGULATION	COMMENT/PROPOSED AMENDMENT	RATIONALE
Regulation 39 on penalties	A proposal to amend the regulation to be less punitive. The penalty should be revised to a fine not exceeding KES.100,000.	While it is important to ensure compliance and deter wrongdoing within the framework, the proposed penalty and custodial sentence is disproportionately severe especially. Overly harsh penalties risk discouraging organizations from registration within the legal framework. International principles of freedom of association provide that criminal penalties are inappropriate if they are specific to public benefit organisations, restate existing offences, or impose additional penalties.
FIRST SCHEDULE - FEES		
General comment: The proposals below are made on the basis that PBOs are non-profit organisations. Based on the non-profit basis, the proposals below propose 40% less fees than for profit companies as provided in the rationale column.		
1 - Application for a name search and reservation of a proposed name for a public benefit organization	Amend fee for application for a name search and reservation of a proposed name for a public benefit organization Currently provided as Kshs 2000/= Propose amend to: Kshs 480/= as per calculation provided in the rationale column.	On a comparative basis with other legal regimes search and reservation of name costs, the proposed costs are disproportionately high and should be revised downwards to match other public institutions reasonable fees which provide for example: Business Registration Service fees: Official search (business names) Kshs 250 Registration of business name: Kshs 950 Total: Kshs 1200

SECTION OF THE REGULATION	COMMENT/PROPOSED AMENDMENT	RATIONALE
1 - Application for extension of a proposed name for a public benefit organization	<p>Amend fee for application for extension of a proposed name for a public benefit organization</p> <p>Currently provided as Kshs 2000/=</p> <p>Amend to: Kshs 320/= as per calculation provided in the rationale column.</p>	<p>Similar comparative basis with other public institutions as above.</p> <p>Business Registration Service fees: Change of name of Company/Business Name/Limited Liability Partnership = Kshs 800. This is a similar process in terms of input/output (of not more so rigorous) as reservation of name and the cost is reasonable compared to the proposed cost in the First Schedule of Kshs 2000/=</p>
1 - Application for registration as a national public benefit organization	<p>Amend fee for application for registration as a national public benefit organization</p> <p>Currently provided as Kshs 20000/=</p> <p>Amend to: Kshs 4,000 as per comparative fee provided in the rationale column.</p>	<p>Similar comparative basis with other public institutions as above.</p> <p>Business Registration Service fees: Registration of a company ltd by guarantee = 10,000</p>
1 - Application for bestowment of public benefit organization status	<p>Amend fee for application for bestowment of public benefit organization status</p> <p>Currently provided as Kshs 20000/=</p> <p>Amend to: Kshs 4,000/= as per comparative fee in the rationale column.</p>	<p>Similar comparative basis with other public institutions as above.</p> <p>Business Registration Service fees: Registration of a company ltd by guarantee = 10,000</p>
1 - Application for registration as an international public benefit organization	<p>Amend fee for application for registration as an international public benefit organization</p> <p>Currently provided as Kshs 20000/=</p> <p>Amend to: Kshs 4,000/= as per comparative fee in the rationale column.</p>	<p>Similar comparative basis with other public institutions as above.</p> <p>Business Registration Service fees: Registration of a foreign company = Ksh 7550 Registration of a company ltd by guarantee = 10,000</p>

SECTION OF THE REGULATION	COMMENT/PROPOSED AMENDMENT	RATIONALE
1 - Application for recognition of a forum and federation of forums of public benefit organizations	<p>Amend fee for application for application for recognition of a forum of public benefit organizations</p> <p>Currently provided as Kshs 20000/=</p> <p>Amend to: Kshs 4, 000/= as per rationale provided</p>	<p>Similar comparative basis with other public institutions as above.</p> <p>Business Registration Service fees: Registration of a company ltd by guarantee = 10,000</p> <p>The application is not for registration, rather for recognition therefore should not be the same expense but rather less costly. This proposal is also mindful that organisations will also have potentially paid individual fees to register under this Act therefore high additional fees are disproportionate.</p>
1 - Application for filing of annual returns for a registered public benefit organization	<p>Amend fee for application for filing of annual returns for a registered public benefit organization</p> <p>Currently provided as Kshs 4000/=</p> <p>Amend to: Kshs 400/=as per rationale provided</p>	<p>Similar comparative basis with other public institutions as above.</p> <p>Business Registration Service fees: Filing fee annual returns = 1,000</p>
1- Notification of material changes in a public benefit organization	<p>Amend fee for notification of material changes in a public benefit organization</p> <p>Currently provided as Kshs 15,000/=</p> <p>Amend to: Kshs 800/= as per rationale provided</p>	<p>Similar comparative basis with other public institutions as above.</p> <p>Business Registration Service fees: Change of Particulars of LLP = 2,000</p>
1-Application for a replacement or certified copy of a certificate of registration or permit of registrations	<p>Amend fee for application for a replacement or certified copy of a certificate of registration or permit of registration</p> <p>Currently provided as Kshs 5,000/=</p> <p>Amend to: Kshs 2,000/= as per rationale provided</p>	<p>A replacement or certified copy of a certificate of registration is not a new process. The PBO's details and registration is fully complete, this is simply a request for re-issuing the certificate or permit/requesting a certified copy. Therefore, a nominal admin fee and cost of a hard copy document is reasonably placed at the proposed amended fee.</p>

SECOND SCHEDULE - FORMS		
FORM 1: APPLICATION FOR REGISTRATION OF A NATIONAL PUBLIC BENEFIT ORGANIZATION		
Part 2(a)	Amend “adres” to “address”	Correction of spelling error to ensure the form meets standards of legal drafting and clarity
Part 3 Sections 1 & 2	Re-draft to merge the two sections into one section	The information required in the two sections of the form is repetitive. Adopting the recommendation will ensure better streamlining for collection of information and efficiency
SECTION OF THE REGULATION	COMMENT/PROPOSED AMENDMENT	RATIONALE
Part 3 (5)	Re-draft to include remote and hybrid modes of operation. The section presumes only physical operations of an organisation which is not the reality of the status of organisations.	This proposal recognises that a number of organisations have adopted modern, efficient and digital working arrangements which the regulations must accommodate in order to be inclusive of operational structures
Part 5	Delete all fields of information requested found to be unconstitutional by the High Court of Kenya as per the above-mentioned judgment of Petition No. E519 OF 2024, filed in the High Court of Kenya at Nairobi	Section 32 of the Act has been declared unconstitutional for violating Article 31(c) of the Constitution (right to privacy) to the extent that Section 32 compels public benefit organizations to disclose personal information of their members, donors or beneficiaries or other private affairs without sufficient safeguards or justification, it is invalid.
Part 7	Clearly label section. It is currently unclear if the section is for applicants or official use.	As currently drafted, it is unclear whether the applicant or Authority has the responsibility to provide the information in the section. The proposed clarity in the section label will prevent

		confusion and ensure the correct completion by the responsible party.
FORM 3: APPLICATION FOR BESTOWMENT OF PUBLIC BENEFIT STATUS		
Section 2	Insert the year of the Public Benefit Organizations Act as “2013”	The proposed addition will ensure legal precision and accurate statutory reference
SECTION OF THE REGULATION	COMMENT/PROPOSED AMENDMENT	RATIONALE
Part 8	Delete all fields of information requested found to be unconstitutional by the High Court of Kenya as per the above-mentioned judgment of Petition No. E519 OF 2024, filed in the High Court of Kenya at Nairobi	Section 32 of the Act has been declared unconstitutional for violating Article 31(c) of the Constitution (right to privacy) to the extent that Section 32 compels public benefit organizations to disclose personal information of their members, donors or beneficiaries or other private affairs without sufficient safeguards or justification, it is invalid.
Forms 9, 10 & 11	<p>Add section to provide reasons for the cancellation or suspension of registration.</p> <p>The section may also need to be further reviewed more comprehensively to comply with the court findings on Petition No. E519 OF 2024, filed in the High Court of Kenya in Nairobi which found that; Sections 18(1), 18(2) and 18(3) of the Act are unconstitutional - in so far as they permit the Authority to suspend or cancel the registration of a PBO without according adequate opportunity for the organization to be heard by an independent and impartial body</p>	<p>It is required that the reason(s) for cancellation or suspension are provided in order for it to be established that it is a lawful reason for the cancellation or suspension. Further, the PBO must have an opportunity to correct the said lawful grounds as relevant in order for its registration to be reinstated.</p> <p>This section of the regulation must also comply with the judgment of Petition No. E519 OF 2024, filed in the High Court of Kenya in Nairobi.</p>

Forms 12, 13, 14 & 15	The four forms are subject to a comprehensive review based on the findings of the High Court on Petition No. E519 OF 2024, filed in the High Court of Kenya in Nairobi. In particular, the finding that the requirement in the Act that only those self regulation forums a significant number of organizations shall be recognized by the Authority violated Articles 24 and 36 of the Constitution of Kenya.	The enumerated forms in the regulations must comply with the judgment of Petition No. E519 OF 2024, filed in the High Court of Kenya in Nairobi.
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Cross-cutting Observations and Recommendations

1. There is no clear indication whether documentation is to be submitted manually, digitally or if submission in both formats is an available option. Furthermore, it is not clear whether in line with other public institutional practice, E-Citizen will be the main platform of use, or the Authority will use its own platform for the purposes of receiving documentation. This needs to be clarified in order for PBOs to submit their documentation through the proper channels for timely and efficient processing.
2. There is a lack of express provisions on how persons with disabilities or special needs can access information for compliance in disability friendly formats or receive the Authority’s assistance to fill out any required forms/data/information. Such provisions are necessary to ensure persons in those categories can comply with ease in factored inclusivity. This will ensure that the rights of persons with disabilities enshrined under Article 54 of the Constitution are protected and upheld.
3. The Second Schedule to the Public Benefits Organisations (PBO) Regulations currently fails to prescribe a form to facilitate the exemption of PBOs from court fees, as provided for under the Public Benefits Organisations Act, 2013(Second schedule 1(a)v). This constitutes a regulatory gap that undermines the full operationalisation of the statutory entitlements granted to PBOs. To remedy this omission, it is recommended that a new form be introduced titled “**Application for Exemption from Court Fees by a Registered PBO.**” The proposed form should include, at a minimum, the name and registration details of the PBO, a clear reference to its registration under the PBO Act, 2013, the nature of the proceedings for which exemption is sought, the signature and designation of an authorised officer, and where applicable, endorsement by the PBO Authority. The inclusion of this form will enhance administrative consistency and provide a clear, standardised procedure through which registered PBOs may assert their entitlement to exemption from court fees. This measure will also promote access to justice, affirm the statutory rights of PBOs under the enabling legislation, and ensure harmonisation of practice across judicial and quasi-judicial forums. In light of the foregoing, the amendment of the Second Schedule to incorporate the afore-mentioned form is necessary and legally prudent.