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for things to do*

LAWS OF SOUTH SUDAN

NON-GOVERNMENTAL ORGANIZATIONS BILL, 2013

Bill No. [63]

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LAWS OF SOUTH SUDAN

NON-GOVERNMENTAL ORGANIZATIONS BILL, 2013

In accordance with Articles 55(2) and (3)(b) and 85(1) of the Transitional Constitution of the Republic of South Sudan, 2011, the National Legislative Assembly, with the assent of the President of the Republic of South Sudan, hereby enacts the following:

CHAPTER I - PRELIMINARY PROVISIONS

1. Title and commencement

This Bill shall be cited as the "Non-Governmental Organizations Bill, 2013" and shall come into force on the date of its assent by the President.

2. Repeal and saving

The Non-Governmental Organizations Act, 2003, is hereby repealed; provided that any orders, regulations, appointments or decisions made and any actions taken under the repealed Act shall remain in force unless repealed by or inconsistent with this Bill.

3. Purpose

The purpose of this Bill is to provide for establishment of a regulatory framework for the registration, co-ordination and monitoring of operations of non-governmental organizations in the Republic of South Sudan, and for other related matters.

4. Authority and application

(1) This Bill is in accordance with Article 52 and Schedule (A), paragraph 51 of the Transitional Constitution of the Republic of South Sudan, 2011, which confer on the National Government authority to regulate non-governmental, civil society and faith-based organizations.

(2) The provisions of this Bill shall apply throughout the territory of the Republic of South Sudan.

5. Interpretation

In this Bill, unless the context otherwise requires:

“Board” means the Non-Governmental Organizations Co-Ordination Board established by section 8 of this Bill;

“Chairperson” means the chairperson of the Board;

“Civil society” means a non-government and a non profit organization that has presence in public life, expressing the interests and values of their members or others, based on ethical, culture, scientific, religions or philanthropic considerations

“Commission” means the Relief and rehabilitation Commission;

“community-based organization” means a public or private non- for- profit, including religious entitle, that is representative of a community or a a significant segment of a community, and is engaged in meeting human, educational environmental, or public safety community needs.

“Country agreement” means an agreement entered into by an international non-governmental organization and the Government intended to regulate the entry and carrying out of voluntary projects by the organization in the Republic of South Sudan;

“Executive Director” means the Executive Director of the Board appointed under section 13 of this Bill;

“Government” means the Government of the Republic of South Sudan;

“Humanitarian or environmental emergency” means any emergency that threatens human life or the environment as a result of natural or man-made factors;

“International non-governmental organization” means any non-governmental *or semi-governmental* organization established in a foreign country *and registered in South Sudan in accordance with section 18 of this Bill*;

“National non-governmental organization” means any non-governmental organization *registered in accordance with section 17 of this Bill*;

“Minister” means the national Minister responsible for humanitarian affairs and disaster management;

“Ministry” means the national Ministry responsible for humanitarian affairs and disaster management;

“Non-governmental organization” means a not-for-profit voluntary organization formed by two or more persons, not being public bodies, with the intention of undertaking voluntary or humanitarian projects;

“President” means the President of the Republic of South Sudan;

“Reconstruction, Rehabilitation and Resettlement” includes, but is not limited to, projects and activities aimed at removal of damage resulting from a humanitarian or environmental emergency;

“Register” means the register of non-governmental organizations kept pursuant to Chapter IV;

“Registered” in relation to a non-governmental organization means listed in the register;

“Registrar” means the Registrar of non-governmental organizations appointed under section 16 of this Bill;

“Regulations” means regulations made by the Minister under section 34 of this Bill;

“State” means a state of the Republic of South Sudan;

“State government” means a government of a state of the Republic of South Sudan provided for by Chapter I of Part Eleven of the Transitional Constitution, of the Republic of South Sudan, 2011.

“Voluntary or humanitarian project” means the undertaking of any voluntary or humanitarian activity by organization individually or in collaboration with the public or jointly with other organizations;

“voluntary or humanitarian work” means any voluntary activity carried out by a non-governmental organization individually or in collaboration with the Government or with a state government or with other organizations in the field of welfare, social research, health relief, agriculture, education, civic education, human rights, good governance, industry, the supply of amenities or any similar field, including reconciliation, reconstruction, rehabilitation and resettlement;

CHAPTER II - PRINCIPLES AND OBJECTIVES OF VOLUNTARY AND HUMANITARIAN WORK

6. Principles governing voluntary and humanitarian work

Non-governmental organizations shall, in doing voluntary or humanitarian work, observe the following principles:

- (a) non-discrimination on basis of race, gender, ethnicity , political affiliation or religious belief;
- (b) fairness in selection of geographical areas for allocation of projects, taking into consideration areas with greater need of support;
- (c) accountability to beneficiaries, donors and relevant public institutions responsible for delivery of services in the area, and other entities to be specified in the regulations;
- (d) sustainability of programmes by creating conditions that enable the local communities to be self-reliant in the management of programmes;
- (e) participation by local communities and beneficiaries;
- (f) Mentoring and Capacity Building for South Sudanese nationals involved in the work of Organizations
- (g) Respect for the sovereignty of the Republic of South Sudan, its institutions and laws.

7. Objectives of non-governmental organizations

The objectives of non-governmental organizations involved in voluntary or humanitarian projects shall include:

- (a) emergency relief to communities affected by any natural or man-made disaster;
- (b) prevention, mitigation and management of risks to people or the environment resulting from any such disaster;
- (c) co-ordination of relief with reconstruction, rehabilitation and resettlement and development projects
- (d) co-ordination with relevant public institutions in formulating and implementing relief and reconstruction, rehabilitation and resettlement programmes;
- (e) rehabilitation of economic and social infrastructure affected by disaster;
- (f) consultation with beneficiaries and any relevant Government institution or state government in determination of relief and reconstruction, rehabilitation and resettlement priorities;
- (g) building local capacity of Government institutions, including state governments, in policy formulation and implementation and in other critical areas of development.

CHAPTER III – ESTABLISHMENT, FUNCTIONS AND POWERS OF THE NON-GOVERNMENTAL ORGANIZATIONS CO-ORDINATION BOARD

8. Establishment of the Co-ordination Board

- (1) There is hereby established a Board to be known as the Non-Governmental Organizations Co-ordination Board, [*whose appointment order shall be issued by the Minister*].

(2) The Board shall be a body corporate with perpetual succession and a common seal, and shall, in its corporate name, be capable to:

- (a) Sue and be sued;
- (b) Take, purchase or otherwise acquire hold, charge or dispose of moveable or immoveable property;
- (c) Receive, borrow or lend money;
- (d) Enter into contract; and
- (e) Do or perform all such other things or acts as are necessary for the proper performance of its functions under this Bill and which may lawfully be done or performed a body corporate.

9. Composition of the Board

(1) The Board shall consist of:

- (a) the Chairperson of the Commission who by virtue of his or her office shall be Chairperson of the Board;
- (b) the Undersecretary of the Ministry by virtue of that office;
- (c) three members appointed by the Minister on the basis of their knowledge or experience in development and welfare management;
- ④ (d) One representative from each of the following Ministries, nominated by the respective Minister;
 - (i) the Ministry responsible for internal security;
 - (ii) the Ministry responsible for interior affairs;
 - (iii) the Ministry responsible for foreign affairs;

- (iv) the Ministry responsible for finance;
- (v) the Ministry responsible for labour matters;
- (vi) the Ministry responsible for justice;

(d) two representatives of all the national and international non-governmental organizations operating in South Sudan, nominated by those bodies;

(e) two representatives of other civil society organizations and community-based organizations nominated by those bodies;

(f) the Executive Director as Secretary to the Board.

(2) Members of the Board, other than ex officio members, shall hold office for three years but are eligible for re-appointment for a similar term.

(3) A Member of the Board, other than an ex officio member, may resign his or her appointment by a letter addressed to the Minister.

(4) The Board may co-opt up to three other persons as members to represent such interests as the Board may determine.

(5) one-quarter of the membership of the Board shall be Women.

10. Functions of the Board

The functions of the Board are:

(a) Facilitate, regulate and co-ordinate the work of all national and international non-governmental organizations operating in South Sudan;

(b) Maintain a registry of national and international non-governmental organizations operating in South Sudan with precise sector, affiliations and locations of their activities;

- (c) Receive and discuss the annual reports of non-governmental organizations
- (d) Advise the Government on the activities of non- governmental organizations and their role in the development of South Sudan;
- (e) Conduct regular reviews of the registry to determine the consistency of the reports submitted by non- governmental organizations with their activities;
- (f) Provide policy guidelines to non-governmental organizations for harmonizing their activities with National Development Plan for South Sudan and other national and state policies;
- (g) Advise on strategies for efficient planning and co-ordination of the activities of non-governmental organizations in South Sudan;
- (h) Prepare and publish regular reports of the Board;
- (i) Prepare and publish a code of conduct for self-regulation of non-governmental organizations and their activities in South Sudan;
- (j) Advise the Government on policy and other matters relating to non-governmental organizations;
- (k) Oversee the work of the Registrar in maintaining the Register and issuing, renewing and revoking registration certificates;
- (l) Ensure so as practicable that this Bill is adhered to by non-governmental organizations;

11. Powers of the Board

The Board shall have the following powers:

- (a) establish such subsidiary organs as may be necessary for the performance of its functions ;
- (b) appoint such officers as may be necessary for the performance of its functions;
- (c) Receive and consider applications for work permits in respect of prospective employees of a registered non-governmental organization and make necessary recommendations to the Director General responsible for passports and immigration and the Undersecretary in the Ministry responsible for labour.

12. Proceedings of the Board

- (1) The chairperson shall preside over meeting of the Board
- (2) In case the Chairperson is absent, the members present shall elect one from among them to preside over the meeting;
- (3) The Board shall meet at least four times in year but the Chairperson:
 - (a) May, upon his or her initiative, convene a special meeting; and
 - (b) Shall upon written request by at least six members, convene a special meeting to discuss any item stated in the request.
- (4) The quorum necessary for the transaction of the business of the Board shall be a simple majority of all the members;
- (5) All decisions at a meeting of the Board shall be a simple majority of the members present and voting;

(6) The Chairperson shall, in case of equal votes, have a casting vote in addition to his or her deliberative vote;

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

(8) Subject to this bill, the Board may determine its own procedures.

13. Appointment of the Executive Director

(1) The Minister shall, in accordance with public service rule and regulations, appoint the Executive Director who shall be the Secretary of the Board and responsible for day to day management of the business of the Board;

(2) The Executive Director shall be an ex officio member of the Board but shall not have the right to vote at any meeting.

14. Functions of the Chairperson

The functions of the Chairperson are:

- (a) To preside over meetings of the Board;
- (b) To represent the Board in other bodies or forums;
- (c) To advise the Government on policy and other matters regarding non-governmental organizations;
- (d) To ensure that operations of non- governmental organizations follow their regulations;
- (e) To encourage co- operation with sector ministries in matters relating to non-governmental organizations;
- (f) To perform such other functions as may be assigned to the Chairperson by the Board.

15. Database

The Board shall establish and maintain a database of non-governmental organizations and their activities in South Sudan and containing such other information as may be

necessary or appropriate for understanding and promoting the contribution of non-governmental organizations to the national development.

CHAPTER IV – REGISTRAR AND REGISTRATION OF NON-GOVERNMENTAL ORGANIZATIONS

16. Appointment, of the Registrar

The Minister shall, after consulting the Chairperson of the Commission, appoint an experienced and qualified Legal Counsel seconded from Ministry of Justice to be the Registrar of non-governmental organizations;

17. Functions of the Registrar.

The Registrar shall have the following functions:

1. Register all non-governmental organizations that apply and are eligible for registration in accordance with this Bill;
2. Monitor the operations of registered non-governmental organizations to ascertain their conformity with their instruments of establishment and the provisions of this Bill;
3. For sufficient cause, to reject or revoke the registration of non-governmental organizations in accordance with this Bill;
4. Maintain a database of instruments of establishment and other basic documents registries and periodic reports of non-governmental organizations;
5. Perform any other functions that may be assigned to his or her by the Board.

18. Registration generally

- (1) Subject to section 20 Exemptions every non-governmental organization shall be registered in the manner specified under this section;
- (2) An application for registration shall be submitted to the Registrar in the prescribed form;
- (3) An application for registration shall be made by the chief executive officer of the proposed organization and shall specify:
 - (a) Other officers of the organization;
 - (b) The head office and postal address of the organization;
 - (c) The sectors of the proposed operations;
 - (d) State, county and payam locations of the proposed operations;
 - (e) The proposed annual budget;
 - (f) All known or probable sources of funding for the organization;
 - (g) The national or international incorporation or affiliation and certificates of incorporation;
 - (h) The proposed duration of activities;
 - (i) Such other information as the Board may require in respect of the organization.
- (4) The Minister may, by notice in the official gazette, exempt any non-governmental organization from registration, as he or she may deem necessary.

An application for registration under this section shall be accompanied by:

 - (a) the prescribed fee;
 - (b) copies of documents showing incorporation or affiliation;
 - (c) a certified copy of the Constitution document of the proposed non-governmental organization;
- (5) The Registrar shall refer to the Board every application for registration;

- (6) No non-governmental organization shall operate in South Sudan unless it has been dully registered with the Board established under section 8 of this Bill and has a valid permit issued by the Board and remains registered under this Bill;
- (7) A non-governmental organization registered under this Bill is not by virtue of registration, entitled to diplomatic or consular privileges or immunities.

19. Registration of international non-governmental organizations

(1) Any international non-governmental organization shall be registered on meeting the following additional requirements;

- (a) Country Agreement with Ministry responsible for Humanitarian Affairs on behave of the Government;
- (b) The application for registration shall include the names and addresses of all its directors;
- (c) The application shall be accompanied by a copy of its organizational structure;
- (d) The application shall include the name and contact details of a person authorized to sign documents on behave of the non-governmental organization and a certified copy of such authorization.

(2) For the purpose of registration the international non-governmental organization shall fulfil the following requirements.

- (a) the application must be accompanied by a copy of its certificate of registration or incorporation certified in the Country of origin;

- (b) the application must include a description of the voluntary or humanitarian work it intends to carry out in South Sudan;
- (c) the application must include evidence of the organization's financial capacity to perform the proposed work;

20. Certificate of registration

- (1) A certificate of registration is a conclusive evidence of authority to operate throughout South Sudan or in the parts of South Sudan as are specified in the certificate;
- (2) A certificate issued under this Bill may contain such terms and conditions as the Board may consider appropriate in any particular case;
- (3) A registered non-governmental organization that is not already a body corporate shall, by virtue of such registration, be a body corporate able in its name to:
 - (a) Sue and be sued;
 - (b) Take, purchase or otherwise acquire, hold, charge or dispose of movable and immovable property;
 - (c) Enter into contracts; and
 - (d) Perform all such other things or acts as are necessary for the proper performance of its functions and which may lawfully be done or performed by a body corporate
- (4) A registered non- governmental organization shall not by virtue only of such registration, be entitled to diplomatic or consular privileges or immunities.

21. Exemption from registration

- (1) The United Nations, its specialized agencies, and the International Committee of the Red Cross and Red Crescent shall be exempted from registration under this Bill,

provided that a country agreement is in effect with the Ministry responsible for voluntary and humanitarian work;

(2) The Ministry, by notice in the official gazette, may exempt any non-governmental organization from registration, or from particular requirements for registration, as the Ministry, on the advice of the Board, may consider necessary or appropriate.

(3) Every Community-base organization shall register at the State or Country in which it operates.

22. Refusal or renewal of registration

(1) the registrar may after due enquiry, refuse registration or renewal of registration of any non-governmental organization if:

- (a) *non-governmental organization's* Its intended activities appear to contravene the principles set out in section 6 of this Bill;
- (b) *non-governmental organization's* Its application for registration or renewal contains incorrect information;
- (c) *non-governmental organization* It fails to satisfy the registration or renewal requirements in section 17 or 18 22 of this Bill, as the case may be; or
- (d) *non-governmental organization's* Its intended activities contravene an existing law of the Republic of South Sudan.

(2) If the Registrar proposes to refuse an application for registration or renewal of a certificate of registration he or she shall:

- (a) Give written notice to non-governmental organization, with reasons for the decision; and
- (b) Give the organization an opportunity to be heard, orally or in writing, as to why the application should be allowed.

(3) The Registrar shall notify in writing the non-governmental organization whose application for registration or renewal has been refused, giving reasons for the decision,

(4) The decision of the Registrar may be petitioned to the Board within ten days from the date of receipt and if not satisfied with decision of the board, after being heard as

~~In subsection~~ of this Section, provided for section 2 (a) (b), the non-governmental organization may, ^{within} with fifteen days, petition the Minister, whose decision shall be final,

(5) Notwithstanding subsection (4) of this section, non-governmental organization whose application for registration or renewal has been refused may petition for judicial review of the decision of the Minister to court of competent jurisdiction

23. Renewal of permit

(1). A registered non- governmental organization may renew its permit upon payment of a prescribe fee, and in accordance with the regulations

(2) Where a non-governmental organization applies for renewal of permit or registration at least two weeks before the expiry of its permit or certificate, and submits the prescribed fee, the organization may continue to operate as though it has a valid permit, unless the Registrar communicates otherwise.

24. Investigation of non- governmental organizations

(1) The Registrar may, on his or her own, initiative, or upon a petition, conduct necessary investigations into the affairs of a non-governmental organization to establish whether:

- (a) The registration or renewal of permit was obtained by fraud or false statements ;
- (b) The organization has contravened the provisions of this Bill or the regulations or any other applicable law or any condition of the registration certificate, or the principles set out in section 6;
- (c) The organization has failed without justification to perform its activities for a period of one year or more;
- (d) The organization has used humanitarian aid for obtaining unlawful gains;

- (e) The organization has submitted a resolution from its governing body seeking the endorsement of its voluntary dissolution or cancellation of its registration.
- (2) The Registrar may, after establishing any of the circumstances mentioned in subsection (1) recommend to the Board for the following actions:
- (a) Draw the attention of the organization to a contravention of this Bill or any other applicable Law or any condition of the certificate of registration;
 - (b) Issue a warning to the organization about such contravention;
 - (c) Suspend the activities of the organization for a period not exceeding six months;
 - (d) Prohibit any individual involved in a contravention of this bill or any other applicable Law or any condition of the certificate of registration from being actively involved in the formation or operation of a non- governmental organization for a period not exceeding one Year;
 - (e) Revoke the registration certificate of the organization.
- (3) if the registrar proposes to take action in respect of a non-governmental organization under paragraph (c) or (e) of subsection (2) other than revocation at the request of the organization he or she shall:
- (a) Give written notice to the non-governmental organization, with reasons for the decision; and
 - (b) Give the organization an opportunity to be heard, orally or in written, as to why the registration should not be suspended or revoked.

(4) if the registrar proposes to take action in respect of an individual under paragraph (d) of subsection (2) he or she shall:

(a) Give a written notice to the individual, with reason for the decision; and

(b) Give the individual an opportunity to be heard, orally or in written, as to why the action should not be taken.

CHAPTER V – NETWORKING OF NON-GOVERNMENTAL ORGANIZATIONS

25. Offices and networks of organizations

(1) Registered non-governmental organizations may, after notifying the Chairperson of the Board, establish offices in any state of South Sudan in accordance with the regulations.

(2) Registered non-governmental organizations with similar objectives may establish networks among themselves and with other regional and international organization to exchange experiences and promote their professional skills in the mobilization of efforts to promote voluntary or humanitarian work.

26. National forum and union

(1) Registered ^{national} non-governmental organizations may establish a national forum or union for exchange of information and experiences and promotion of voluntary and humanitarian work;

(2) ^{A Civil Society or} Every ^{Community-based} organization proposing to undertake voluntary or humanitarian work at the state or ^{Country} level shall register in the state or ^{County} in which it operates in accordance with the regulations

CHAPTER VI - FINANCIAL PROVISIONS

27. Financial statement of the Board

(1) the financial Year of the Board shall be the period of twelve months commencing *beginning* from 1st July ~~and end on~~ 30th June; the ~~other year~~ *following year*

(2) Where there is a change in the financial Year, and for the purpose of transition from said financial Year, the period of the time shall, where it is less or more than twelve, be financial Year, for the purpose of this Bill.

(3) The Board shall cause to be kept all proper books and records of accounts of its income, expenditure, assets and Liabilities;

(4) The executive Director shall within three months from the end of each financial Year submit to Auditor General the accounts of the Board, together with:

(a) A statement of the Board's financial activities, income and expenditure during the Year, and

(b) A statement of the assets and liabilities of the Board existing at the end of the Year.

(5) The Minister shall present the report of the Auditor General:-

to the Council of Ministers as soon as reasonably practicable; and

To the Assembly within 30th days after receiving the report, if the Assembly is not sitting, within fourteen days after the convening of next sitting.

Chapter VI- Miscellaneous Provisions

28. Seal and Logo

(1) The Board shall have a Seal and logo, whose form and specifications shall be determined by the Board.

(2) The Seal of the Board once affixed on a document signed by any authorized officer of the board shall render such document authentic, unless proved otherwise.

29. Offences and Penalties

(1) a non-governmental organization that performs any voluntary or humanitarian work in South Sudan when there is not in effect in relation to that organization, a valid registration certificate issued under this Bill, commits an offence and is liable on conviction to a fine of ten thousand South Sudanese Pounds.

(2) An individual who knowingly involves in the operation of a non-governmental organization, when there is not in effect in relation to that organization, a valid registration certificate issued under this Bill, commits an offence and is liable on conviction to a fine of five thousand South Sudanese Pounds.

(3) ^A Every member of the executive body of non-governmental organization shall be presumed to be knowingly involved in the operation of the organization unless he or she proves otherwise.

30. Access to Non-governmental organization Information

Any person may, upon payment of the prescribed fee, and as provided by the regulations, obtain information about any registered non-governmental organization held by the Registrar.

31. Exemption from duties and taxes

The Minister responsible for finance may, on the recommendation of the Minister, in writing, exempt any registered non-governmental organization from the payment of customs duties and taxes on specified assets and equipment imported or purchased for the purpose of the voluntary or humanitarian work of the organization.

^{Alteration Termination}
32. alteration and termination of activities of Organization

Any registered non-governmental organization registered in accordance with the provisions of this Bill shall obtain prior written approval of the Registrar to engage in activities other than those agreed with the Government as set out in its certificate of registration.

33. Employment by non-governmental organizations

- (1) Subject to this section, and the Laws governing employment of the Labour in South Sudan, a non-governmental organization may hire national ^{or} international personnel as its employees;
- (2) Any non-governmental organization so hiring shall:
 - (a) Give priority to South Sudan nationals for employment and promotion opportunities;
 - (b) Not discriminate against any applicant or employee on the ground of race, religion, gender or political affiliation;
 - (c) Ensure that not than less 80 percent of the total number of staff employed in the organization are South Sudan nationals; provided that if the organization is registered specifically to provide technical support to Government institutions, undertake research or carry out similar activities, the total number of South Sudanese employees shall ^{not} be ~~not~~ less than 55 percent;
 - (d) Engage Profession staff from oversea only if there are no qualified South Sudanese Professionals available;
 - (e) Ensure that all overseas employees have work permits and any other document required by Law;
 - (f) Abide by Legal requirements in respect of safety at the work place, and any minimum wages requirement set by the Government from time to time;
 - (g) Deduct personal income tax from wages of South Sudanese consultants and transfer it to the Government.

34. Dissolution and Withdrawal of a non-governmental organization.

(1) A non-governmental organization may at any time withdraw from any voluntary or humanitarian project, sector or state for any reason, but shall before withdrawal give written notice to the Board, governmental authority in the area of its operation, and the beneficiaries, giving reasons for its withdrawal.

(2) A non-governmental organization ^{withdrawing} withdrawal from any voluntary or humanitarian project, sector or state shall file the notice issued under subsection (1) with the registrar not less than thirty days before the intended withdrawal, unless special circumstances exist

35. Regulations.

(1) The Minister may upon the recommendation of the Board, make regulations for the implementation of this Bill.

(2) The regulations may include, but are not limited to such matters as:

- (a) Prescribed fees in connection with registration;
- (b) Prescribed forms for use in connection with registration;
- (c) The procedure for renewal of a registration certificate;
- (d) The establishment of networking offices by organizations
- (e) The registration of non-governmental organizations operating in states and counties, including the appointment of registrars for the purpose;
- (f) The inspection of the register by members of the public;
- (g) The keeping and audit ^{-ing} of accounts of non-governmental organizations;
- (h) Periodic reporting by non-governmental organizations

(36) Transitional Provisions

Upon commencement of this Bill a non-governmental organization registered under the repealed Non-Governmental organizations Act, 2003, shall be deemed to have been registered under this Bill when the date of renewal falls due.
