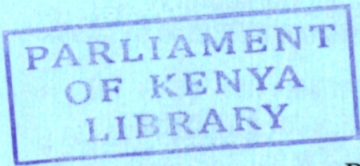


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THE RELIGIOUS ORGANISATIONS BILL, 2024

A Bill for

AN ACT of Parliament to provide for a legislative framework for the regulation of religious organisations; for the registration of religious organisations and umbrella religious organisations; and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Religious Organisations Act, 2024.

Short title.

2. In this Act—

Interpretation.

“Advisory Board” means the Advisory Board of the Office of the Attorney General established under section 20A of the Office of the Attorney General Act;

“county executive committee member” means the county executive committee member in charge of social services and culture in a county;

“Office” means the Office of Registrar of Religious Organisations established under section 4(1);

“officer”, in relation to an umbrella religious organisation or a religious organisation, means—

- (a) any religious leader, director, manager or secretary of the organisation; and
- (b) any other person who is, because of a provision of this Act, to be treated as an officer of the organisation for the purposes of the provision;

“religious leader” includes a clergy, imam, swami, rabbi or any other title assigned to a leader in a religious organisation;

“religious organisation” means an organization whose identity and mission is religious or spiritual in nature and which does not operate for profit;

“Register” means the register of umbrella religious organisations and religious organisations maintained under section 7;

“Registrar” means the Registrar of Religious Organisations appointed under section 5(1); and

“umbrella religious organisation” means a religious body consisting of at least twenty five religious organisations and registered in accordance with Part III.

3. The object of this Act is to—

Objects.

- (a) regulate the formation and administration of religious organisations;
- (b) provide for the registration of religious organisations;
- (c) oversee the management of religious organisations; and
- (d) ensure compliance with the regulatory provisions under this Act.

PART II—REGISTRAR OF RELIGIOUS ORGANISATIONS

4. (1) There is established the Office of Registrar of Religious Organisations.

Office of
Registrar of
Religious
Organisations.

(2) The office consists of—

- (a) the Registrar of Religious Organisations; and
- (b) Deputy Registrars of Religious Organisations and such other staff as may be necessary to assist the Registrar in the performance and exercise of the Registrar’s powers under this Act.

5. (1) The Registrar of Religious Organisations, Deputy Registrars and the staff shall be competitively recruited by the Advisory Board.

Appointment of
Registrar and
Deputy Registrar.

(2) A person is qualified for appointment as Registrar if that person—

- (a) holds a master’s degree from a university recognised in Kenya;
- (b) has at least five years’ experience in a position of senior management; and
- (c) meets the requirements of Chapter Six of the Constitution.

(3) A person is qualified for appointment as Deputy Registrar if that person—

- (a) holds a degree from a university recognised in Kenya;
- (b) has at least five years' experience in a management position; and
- (c) meets the requirements of Chapter Six of the Constitution.

(4) The Registrar shall serve for a term of three years and are eligible for reappointment for one further term of three years.

(5) The registrar shall be paid such remuneration as the Advisory Board may, in consultation with the Salaries and Remuneration Commission, determine.

6. (1) The registrar shall—

Functions of the Registrar.

- (a) issue, suspend or revoke certificates of registration in accordance with this Act;
- (b) maintain a register of all umbrella religious organisations registered in accordance with this Act;
- (c) maintain a register of all religious organisations registered in accordance with this Act;
- (d) keep and maintain all documents and records received by applicants under this Act;
- (e) regularly and at least once every year inspect the premises and records of registered religious organisations to ensure compliance with this Act; and
- (f) perform such other functions as may be necessary for the regulation of religious organisations.

(2) The Deputy Registrars shall deputise the Registrar in the performance of the registrar's functions.

(3) The Registrar may operate such offices as are necessary to ensure that the Registrar's functions are performed in an accessible and timely manner.

(4) In particular and without prejudice to the generality of subsection (3), the Registrar shall operate offices in all regions of Kenya to ensure access to the services offered by the Office.

7. (1) The Registrar shall keep and maintain a register of all umbrella religious organisations and religious organisations registered under this Act in the prescribed form. Register.

(2) The Register shall contain—

- (a) the name of the organisation;
- (b) date of entry into the register;
- (c) the postal and physical address of the organisation;
- (d) the constitutive document of the organisation;
- (e) the names and contact information of the board of trustees of the organisation; and
- (f) in the case of religious organisations, the names and contact information of the religious leaders of the organisation.

(3) The Registrar shall maintain the Register in an electronic format.

(4) The Registrar shall ensure that the Register is accessible to members of the public.

(5) The Register shall be open for inspection by members of the public during official working hours at offices designated by the Registrar on the payment of the prescribed fee.

8. The Registrar shall cease to hold office if he or she—

Vacation of office
of the Registrar .

- (a) resigns in writing, addressed to the Advisory Board;
- (b) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- (c) is found liable for gross misconduct or abuse of office in contravention of the Public Officers Ethic Act or any other relevant law;
- (d) is declared bankrupt;
- (e) is unable to perform the functions of office by reason of mental or physical infirmity; or
- (f) dies.

9. (1) The county executive committee member shall cooperate with the Registrar in the enforcement of the provisions of this Act on religious organisations operating only in their counties.

Role of County Governments.

(2) Without prejudice to subsection (1), the county executive committee member shall—

- (a) carry out inspections of religious organisations operating only in their specific counties to ensure compliance with this Act;
- (b) supervise elections of members of the management structure of religious organisations operating only in their specific counties;
- (c) enforce good governance in the management of religious organisations;
- (d) mediate in disputes involving religious organisations;
- (e) collaborate with religious organisations on various social and community initiatives; and
- (f) in consultation with the County Executive Member in charge of the environment, ensure that religious organisations adhere to county specific noise levels.

PART III—REGISTRATION OF UMBRELLA RELIGIOUS ORGANISATIONS AND RELIGIOUS ORGANISATIONS

10. (1) A person shall not establish, manage, operate or assist in the establishment, management or operation of a religious organisation or an umbrella religious organisation unless the organisation is registered in accordance with this Act.

Requirement for registration.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three years or to both.

11. An entity is eligible to be registered as a religious organisation if the—

Eligibility for registration of a religious organisation.

- (a) registration is supported by at least twenty five natural persons who profess the same faith;
- (b) registration is endorsed by an umbrella religious organisation;
- (c) entity has a constitution detailing its doctrine;
- (d) entity has a management structure consisting of—
 - (i) a board of trustees, at least two thirds of whom are Kenyan citizens;
 - (ii) at least one religious leader with a degree, diploma or certificate in theology who may form part of the board of trustees; and
 - (iii) other religious leaders who shall not form part of the board of trustees; and
- (e) entity meets the requirements of this Act.

12. An entity is eligible to be registered as an umbrella religious organisation if the—

Eligibility for registration of an umbrella religious organisation.

- (a) application for registration is supported by at least twenty five proposed or registered religious organisations professing a common faith;
- (b) registration is endorsed by at least five natural persons who have not been convicted of a criminal offence;
- (c) entity has a constitution detailing its doctrine;
- (d) entity has a management structure consisting of—
 - (i) a board of trustees, at least two thirds of whom are Kenyan citizens; and
 - (ii) a staff compliment comprising at least one financial professional and one legal professional; and
- (e) entity meets the requirements of this Act.

13. (1) A person who intends to establish a religious organisation or an umbrella religious organisation shall submit an application for registration to the Registrar in the prescribed form.

Application for registration.

(2) An applicant for registration under subsection (1) shall submit the application together with—

- (a) the constitution of the proposed organisation;
- (b) the postal and physical address of the proposed organisation;
- (c) a list of persons endorsing the registration together with—
 - (i) information on their respective physical address;
 - (ii) certified copies of their national identification cards;
 - (iii) certified copies of their tax clearance certificates; and
 - (iv) certified copies of their police clearance forms;
- (d) in the case of a religious organisation—
 - (i) a list of the religious leaders containing their formal education;
 - (ii) a recommendation from a registered umbrella religious organisation;
 - (iii) a statement of doctrine of the religious organisation;
 - (iv) The purposes for which the religious organisation is created;
 - (v) the principal activities the religious organisation may be engaged in;
 - (vi) details of affiliations or partnerships of the religious organisation within and outside Kenya, if any;
 - (vii) the physical address of the principal place of operation of the proposed organisation; and
 - (viii) the physical address of the branches of the proposed organisation, if any;
- (e) the prescribed fees; and
- (f) any other information that the Registrar may consider necessary to determine whether the

organisation meets the requirements for registration under this Act.

(3) The constitution of an organisation under subsection (2)(a) shall contain information on—

- (a) the organisation's name and principal objective;
- (b) the board of trustees and detail its membership;
- (c) the organisational and governing structure;
- (d) a governing body of not less than five natural persons;
- (e) the authorised agent, in the case of an international religious organisation;
- (f) rules for convening meetings, quorum and minutes to be kept by the board of trustees and any other governing body;
- (g) the manner in which decisions are made;
- (h) the procedure of admission of members into the proposed organisation;
- (i) the circumstances for suspension or termination of membership;
- (j) the operation of bank accounts specifying the signatories to the bank accounts;
- (k) purposes for which the funds of the proposed religious organisation may be used;
- (l) the procedure for amending the constitution;
- (m) the procedure by which the organisation may be wound up; and
- (n) any other matter necessary for the effective operation of the proposed organisation.

(4) A religious organisation registered under this Act is a body corporate with perpetual succession and a common seal and is, in its corporate name, capable of —

- (a) suing and being sued;
- (b) purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;
- (c) borrowing and lending money; and

- (d) doing or performing all other things or acts which may lawfully be done or performed by a body corporate.

14. (1) The Registrar shall, within twenty one days of receipt of an application under section 13(1)—

Consideration of application for registration.

- (a) examine the application and supporting documents; and
- (b) if the Registrar considers it necessary, request for such further information or carry out inspections as may be necessary for the determination of the application.

(2) Where the Registrar is satisfied that an application meets the requirements for registration under this Act, the Registrar shall enter the name and particulars of the organisation in the Register.

(3) The Registrar shall, upon entering the name and particulars of an organisation in the register, issue to the organisation a certificate of registration in the prescribed form.

(4) Where the Registrar determines that an application does not meet the requirements for registration under this Act, the Registrar shall, with reasons set out in writing, reject the application.

(5) The Registrar shall determine and communicate the decision under this section to the applicant within sixty days of receipt of an application.

(6) Where the Registrar has called for further information from an applicant, the timeline under subsection (5) shall be suspended until the Registrar receives the information.

15. A certificate of registration issued by the Registrar under section 14(3) is conclusive evidence that the organisation has—

Effect of registration.

- (a) met all the requirements for registration under this Act; and
- (b) been registered in accordance with this Act unless it is proved that registration of the organisation has been revoked.

16.(1) A religious organisation or an umbrella religious organisation shall display, in a conspicuous place at the location of its operations, the certificate of registration issued under this Act.

Display of
certificate of
registration.

(2) A religious organisation and each of its branches shall display, in a conspicuous place at the location of their respective operations, the certificate of registration issued under this Act

(3) An organisation which contravenes subsections (1) or (2) commits an offence and is liable, on conviction, to a fine not exceeding one million shillings.

(4) Where an organisation commits an offence under subsection (3), each of its officers is guilty of the offence and is liable, on conviction, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both.

(5) An official shall not be liable under subsection (4) if they proves that, through no act or omission on their part, they were not aware that the contravention was taking place or was intended or about to take place, or that they took all reasonable steps to prevent it taking place.

17.(1) The Registrar may suspend or cancel a certificate of registration issued under this Act where—

Suspension or
Cancellation of
registration.

- (a) the organisation has contravened a provision of this Act or any other written law; or
- (b) the organisation has contravened a provision in its constitution.

(2) The Registrar shall cancel a certificate of registration issued under this Act where the organisation is wound up or has ceased to exist.

(3) Where the certificate of registration is suspended or cancelled under subsection (1) or (2), the Registrar shall, within seven days of the suspension or cancellation, —

- (a) notify the respective organisation of the decision;
- (b) direct the organisation to cease operations; and
- (c) delete the name and particulars of the organisation from the Register.

(4) The Registrar shall accord officers of an organisation an opportunity to be heard before making a determination under this section.

18. (1) The Registrar may, at any time and in writing, require an umbrella religious organisation or a religious organisation to furnish the Registrar with —

Call for information or accounts.

- (a) a certified list of its officers;
- (b) a certified copy of the minutes of any meeting held by a board of trustees, leadership or members of the organisation;
- (c) audited accounts of the organisation for such period as the Registrar may determine;
- (d) any theological training curricula or guidelines set by the organisation; or
- (e) any other accounts, returns or information as the Registrar may require.

(2) The Registrar shall specify the period within which an organisation is required to comply with a requirement under subsection (1), which period shall not be less than twenty eight days and not be more than sixty days.

(3) An organisation which contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding ten million shillings and every official of the organisation is guilty of an offence and is liable, upon conviction to a fine not exceeding five million shillings or to imprisonment for a term not exceeding ten years, or to both.

(4) An official shall not be liable under subsection (3) if they proves that, through no act or omission on their part, they were not aware that the contravention was taking place or was intended or about to take place, or that they took all reasonable steps to prevent it taking place.

PART IV—MANAGEMENT OF UMBRELLA RELIGIOUS ORGANISATIONS

19. An umbrella religious organisation shall—

- (a) oversee and regulate religious organisations registered under the organisation;

Responsibilities of umbrella religious organisations.

- (b) provide a forum for consultation among the religious organisations registered under the organisation;
- (c) develop a theological training curricula and a code of conduct for religious leaders;
- (d) review and set qualifications of leaders of religious organisations registered under the organisation;
- (e) review doctrines and religious teachings of religious organisations registered under the organisation;
- (f) develop and implement guidelines on the activities of the religious organisations registered under the organisation;
- (g) establish an internal dispute resolution mechanism for its members; and
- (h) promote interfaith cooperation and create a culture of peace, justice and healing among religious organisations.

20. (1) Every umbrella religious organisation shall establish a board of trustees comprising—

Board of trustees of an umbrella religious organisation.

- (a) a chairperson;
- (b) a vice chairperson;
- (c) a treasurer;
- (d) a secretary;
- (e) a religious leader with a degree, diploma or certificate in theology; and
- (f) such number of members as may be necessary for the efficient functioning of the board.

(2) A religious leader is not eligible for membership of a board of trustees under subsection (1)(a), (b), (c), (d) and (f).

(3) A board of trustees established under subsection (1) shall—

- (a) register religious organisations with a common religious doctrine;

- (b) register leaders of religious organisations it has registered;
- (c) monitor and oversee the religious leaders it has registered;
- (d) ensure the umbrella religious organisation complies with this Act and other laws; and
- (e) maintain records of the umbrella religious organisation required to be maintained under this Act.

21. (1) An umbrella religious organisation shall keep and maintain a register of religious organisations in the prescribed form.

Register of religious organisations.

(2) An umbrella religious organisation shall enter in its register of religious organisations—

- (a) the names and addresses of the registered religious organisations; and
- (b) the names and contacts of the religious leaders and members of the board of trustees of each registered religious organisation.

(3) Every umbrella religious organisation shall update its register annually.

(4) An umbrella religious organisation which contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding two million shillings and every official of the umbrella religious organisation commits an offence and is liable, upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years, or to both.

(5) An official shall not be liable under subsection (4) if they prove that, through no act or omission on their part, they were not aware that the contravention was taking place or was intended or about to take place, or that they took all reasonable steps to prevent it taking place.

22. (1) Every umbrella religious organisation shall, at least once in every year, hold a general meeting in the manner prescribed under its constitution.

Annual general meeting of an umbrella religious organisation.

(2) The board of trustees of the umbrella religious organisation shall, at the general meeting—

- (a) render a full and true account of the moneys received and paid by the umbrella religious organisation, the account being audited in accordance with the constitution of the organisation; and
- (b) cause to be elected or appointed all such officers, trustees and auditors as are required in accordance with the constitution of the umbrella religious organisation.

(3) An umbrella religious organisation which contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five million shillings and every official of the umbrella religious organisation commits an offence and is liable, upon conviction to a fine not exceeding three million shillings or to imprisonment for a term not exceeding five years, or to both.

(4) An official shall not be liable under subsection (3) if they prove that, through no act or omission on their part, they were not aware that the contravention was taking place or was intended or about to take place, or that they took all reasonable steps to prevent it taking place.

23.(1) Every umbrella religious organisation shall submit to the Registrar, on or before the 31st day of July each year, such returns, accounts and other documents in accordance with section 32 for the preceding year.

Annual returns of
an umbrella
religious
organisation.

(2) An umbrella religious organisation which contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding ten million shillings and every official of the umbrella religious organisation commits an offence and is liable, upon conviction to a fine not exceeding three million shillings or to imprisonment for a term not exceeding two years, or to both un

(3) An official shall not be liable under subsection (2) if they prove that, through no act or omission on their part, they were not aware that the contravention was taking place or was intended or about to take place, or that they took all reasonable steps to prevent it taking place.

PART V—MANAGEMENT OF RELIGIOUS ORGANISATIONS

24. (1) A religious organisation shall promote public good and encourage social cohesion within the society.

Responsibilities of religious organisations.

(2) Without prejudice to the generality of subsection (1), a religious organisation shall—

- (a) promote the sanctity of human life and other human rights enshrined in the Constitution;
- (b) denounce religious teachings that violate or subvert human rights;
- (c) respect the dignity of all people;
- (d) promote gender equality and social inclusion;
- (e) promote religious, ethnic, political and cultural tolerance; and
- (f) ensure transparency and accountability in the conduct of its activities.

25. (1) A religious organisation shall establish a board of trustees of not less than seven members comprising—

Board of Trustees of a religious organisation.

- (a) a chairperson;
- (b) a vice chairperson;
- (c) a treasurer;
- (d) a secretary;
- (e) a religious leader with a degree, diploma or certificate in theology; and
- (f) two or more other members.

(2) A religious leader is not eligible for membership of a board of trustees under subsection (1)(a), (b), (c), (d) and (f).

(3) A board of trustees established under subsection (1) shall—

- (a) monitor and oversee the religious leaders of the organisation;
- (b) exercise financial oversight and ensure that the religious organisation maintains financial accountability and solvency;

- (c) make recommendations for salary and other allowances payable to religious leaders and other officers;
- (d) ensure the religious organisation complies with all legal requirements under this Act and with legislation applicable to it;
- (e) monitor conflict of interest between the religious organisation and the leadership or other members; and
- (f) maintain records of the religious organisation which are required to be maintained and submitted to the Authority under this Act.

26. (1) A religious organisation shall keep and maintain a register of members in the prescribed form.

Register of members.

(2) A religious organisation shall enter in its register of members the names and contacts of each member and their respective date of admission into the organisation.

(3) Every religious organisation shall update its register of members annually.

(4) A religious organisation which contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding one million shillings and every official of the religious organisation commits an offence and is liable, upon conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one year, or to both.

(5) An official shall not be liable under subsection (6) if they prove that, through no act or omission on their part, they were not aware that the contravention was taking place or was intended or about to take place, or that they took all reasonable steps to prevent it taking place.

27. (1) A religious organisation shall, at least once in every year, hold a general meeting.

Annual general meeting of religious organisations.

(2) The board of trustees shall during the meeting—

- (a) render a full and true account of the monies received and paid by the organisation, the account being audited in accordance with the constitution of the organisation; and

- (b) cause to be elected or appointed officers, trustees and auditors as are required in accordance with the constitution of the organisation.

(3) A religious organisation which contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five million shillings and every official of the organisation commits an offence and is liable, upon conviction to a fine not exceeding two million shillings or to imprisonment for a term not exceeding one year, or to both.

(4) An official shall not be liable under subsection (3) if they prove that, through no act or omission on their part, they were not aware that the contravention was taking place or was intended or about to take place, or that they took all reasonable steps to prevent it taking place.

28. (1) Every religious organisation shall furnish the Registrar, on or before the 31st day of July each year, such returns, accounts and statements in accordance with section 32, for the preceding year.

Annual returns of
a religious
organisation.

(2) A religious organisation which contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding ten million shillings and every official of the organisation commits an offence and is liable, upon conviction to a fine not exceeding three million shillings or to imprisonment for a term not exceeding two years, or to both.

(3) An official shall not be liable under subsection (2) if they prove that, through no act or omission on their part, they were not aware that the contravention was taking place or was intended or about to take place, or that they took all reasonable steps to prevent it taking place.

PART VI—INCOME AND RETURNS

29. (1) The income of a religious organisation or an umbrella religious organisation may include—

Income and
property.

- (a) offerings and tithes;
- (b) donations of money, securities and property;
- (c) bequests;
- (d) gifts;

- (e) grants;
- (f) real property; and
- (g) income, gains or profits generated from any lawful economic activities undertaken by the religious umbrella or a religious organisation.

(2) The income in subsection (1) shall—

- (a) in the case of money, be deposited in a bank account held under the name of the relevant registered religious organisation or umbrella religious organisation;
- (b) in the case of real property, be registered in the name of the relevant registered religious organisation or umbrella religious organisation; and
- (c) in the case of shares, bonds and other securities, be held in the name of the relevant registered religious organisation or umbrella religious organisation.

(3) A religious organisation or umbrella religious organisation which contravenes subsection (2) commits an offence and is liable, on conviction, to a fine not exceeding one million shillings and every official of the religious organisation or umbrella religious organisation commits an offence and is liable, upon conviction to imprisonment for a term not exceeding two years, or to both.

(4) An official shall not be liable under subsection (3) if they prove that, through no act or omission on their part, they were not aware that the contravention was taking place or was intended or about to take place, or that they took all reasonable steps to prevent it taking place.

30.(1) All religious organisations and umbrella religious organisations shall at the annual general meeting appoint auditors qualified under the Accountants Act.

Audit.

(2) For purposes of audit, religious organisations and umbrella religious organisations shall maintain proper records including—

- (a) payroll;

- (b) payroll deductions;
- (c) employee expenses;
- (d) accounts payable and accounts receivables records;
- (e) bank statements for all accounts maintained by the religious organisation;
- (f) records of checks and reconciliation;
- (g) records of acquisition and disposition of property;
- (h) contribution records;
- (i) minutes of meetings;
- (j) general ledgers;
- (k) tax payment or exemption records; and
- (l) any other necessary document.

(3) The records in subsection (2) shall be maintained for not less than six years.

31. (1) For purposes of taxation, religious organisations or umbrella religious organisations shall establish and maintain separate bank accounts for—

Taxation.

- (a) offering, tithes and other monies donated or gifted to the religious organisations or umbrella religious organisations;
- (b) income, gains or profits generated from any lawful economic activities undertaken by the religious organisations or umbrella religious organisations.

(2) Offerings, tithes, donations, bequests, gifts granted to religious organisations and umbrella religious organisations shall only be exempt from taxation where the religious organisation or umbrella religious organisation demonstrates that such income is for purposes beneficial to the society.

(3) Income, gains or profits generated from any lawful economic activities undertaken by the religious organisations and umbrella religious organisations shall not be exempt from taxation unless the entirety of those proceeds are applied towards charitable causes.

32. Every religious organisation and umbrella religious organisation shall furnish, annually, to the Authority returns which shall include—

- (a) audited accounts for the financial year;
- (b) a register of members indicating changes in the number of members and providing details of any new members and the members who have ceased to be members;
- (c) a list of all religious leaders for that year and their educational qualifications;
- (d) a declaration of the current assets and liabilities of the religious organisation or umbrella religious organisation for that year;
- (e) a declaration of assets which have been transferred to third parties by the religious organisation or umbrella religious organisation;
- (f) a tax exemption or clearance certificate of the religious organisation or umbrella religious organisation;
- (g) bank statements of all accounts operated by the religious organisation or umbrella religious organisation;
- (h) the details of the physical address of the religious organisation or umbrella religious organisation and branches, if any, which shall include the details on the land reference number or plot number, building, floor and the street or road on which the religious organisation or umbrella religious organisation is situated;
- (i) and relevant operating licenses and permits as shall be determined by the Registrar;
- (j) statement on the source of funding of the religious organisation or umbrella religious organisation;
- (k) a detailed statement of the charitable, educational and commercial activities carried out by the religious organisation or umbrella religious organisation which shall be duly authenticated by

two thirds of the members present during the annual general meeting; and

- (l) such other information as the Registrar shall prescribe.

33. (1) A religious organisation or umbrella religious organisation shall make its books of accounts and all documents relating thereto and a list of the members available for inspection by—

Inspection

- (a) any officer or member of the religious organisation or umbrella religious organisation and at such times as may be provided for in its constitutive documents; and
- (b) the Registrar.

(2) The Registrar may at any time he or she considers fit inspect the operations and bank accounts of a religious organisation or an umbrella religious organisation to confirm compliance with this Act.

(3) A religious organisation or an umbrella religious organisation which fails to make available to the Registrar at the specified time, any books of account, documents or lists of members which as required under subsection (2) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand shillings and every official of the religious organisation or umbrella religious organisation commits an offence and is liable, upon conviction to imprisonment for a term not exceeding one year, or to both.

(4) An official shall not be liable under subsection (3) if they prove that, through no act or omission on their part, they were not aware that the contravention was taking place or was intended or about to take place, or that they took all reasonable steps to prevent it taking place.

PART VII—MISCELLANEOUS

34. (1) A person shall not—

Offences.

- (a) convert or attempt to recruit into their religion or convert any person from one religion to another by misrepresentation, force, undue influence or coercion;

- (b) recruit, convert or attempt to convert a child from one religion to another without the consent of their parent or guardian;
- (c) use religion to violate the rights of children;
- (d) offer religious teachings to a child without the consent of their parent or guardian;
- (e) practice or preach a religious doctrine which seeks to hurt, harm or destroy any person;
- (f) indoctrinate any person with a religious doctrine;
- (g) use religion to exploit another person financially;
- (h) promote religious intolerance; or
- (i) promote anarchy or lawlessness in religious teachings.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding five years or to both.

35. The Attorney-General shall make Regulations prescribing—

Regulations.

- (a) the procedures and forms required to be prescribed under this Act; and
- (b) the fees payable under this Act.

36.(1) An umbrella religious organisation and a religious organisation existing immediately before the commencement of this Act shall comply with the provisions of this Act within two years of its commencement.

Transitional provisions.

(2) Despite subsection (1), the requirement that a religious leader holds a degree, diploma or certificate in theology under section 11(d)(ii), 20(1)(e) and 25(1)(e) shall take effect six years after the commencement of this Act.

37. Section 2 of the Societies Act is amended in the definition of the term “society” by inserting the following new paragraph immediately after paragraph (j)—

Amendment to
section 2 of Cap.
108.

- (k) an umbrella religious organisation or a religious organisation registered under the religious organisations Act.

MEMORANDUM OF OBJECTS AND REASONS

Statement of objects and reasons

The principal object of this Bill is to provide for the regulation of religious organisations. Article 32 of the Constitution of Kenya provides for the right to freedom of conscience, religion, thought, belief and opinion which includes the right, either individually or in community with others, in public or in private, to manifest any religion, or belief through worship, practice, teaching or observance of a day of worship, the right not to be denied access to any institution, employment or facility or the enjoyment of any right because of the person's belief or religion; the right to not be compelled to act or engage in any act that is contrary to the person's belief or religion.

Kenya has for a long time had little regulation around religious organisations resulting in the emergence of extremist and predatory religious organisations. The regulatory regime is fragmented across various statutes thereby presenting a challenge because there is lack of an approval and enforcement agency to ensure that religious organisations operate within the law. The current framework neither promotes transparency and accountability in management of funds, nor provides for self-regulation. While the freedom of religion and belief is guaranteed under the Constitution, the outward manifestation of the belief is subject to legitimate guidelines that seek to promote a just and safe society that respects the right to life, human dignity, security of the person, freedom from servitude, privacy, and freedom of association and expression. There is therefore a need to enact a single all-inclusive legislation, a strong enforcement agency vested with sufficient resources to monitor the registration of religious organisations, their activities and their returns.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill delegates legislative powers to the Attorney-General to make regulations on the forms and fees charged under the Bill.

The Bill does not limit fundamental rights and freedoms.

Statement on how the Bill concerns county governments

Religious practice is intertwined with daily lives of people in counties influencing their aspects of development. Religious organisations promote social cohesion, social support, are involved in development projects such as running schools, hospitals, water projects and provide vocational training. Religious organisations also run charitable activities to support vulnerable populations and promote economic stability in counties.

Furthermore, the brunt of religious extremism is felt within counties. All these roles intersect with county functions in Part 2 of the Fourth Schedule including health provision, pre-primary education, and polytechnics, and disaster management.

Additionally, there are many small religious organisations operating out of only one county. County Governments are best placed to inspect religious organisations operating only in their specific counties to ensure compliance with this Act, supervise elections of members of the management structure of such religious organisations, enforce good governance in the management of religious organisations, mediate in disputes involving religious organisations, collaborate with religious organisations on various social and community initiatives and in consultation with the County Executive Member in charge of the environment, ensure that religious organisations adhere to county specific noise levels in line with Paragraph 3 of Part 2 of the Fourth Schedule. As such, the Bill concerns county governments in terms of Article 110(1)(a) of the Constitution.

Statement that the Bill is not a money Bill, within the meaning of Article 114 of the Constitution

This Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 31st July, 2024.

DANSON BUYA MUNGATANA,
Senator.

Section 2 of Cap. 108 which it is proposed to amend-**2. Interpretation**

(1) In this Act, except where the context otherwise requires—

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible

for matters relating to societies;

"constitution or rules" includes regulations or by-laws of a society registered or exempted from registration before the commencement of this Act;

"exempted society" means any society for the time being exempted from registration under this Act;

"liquidator" means a liquidator appointed under section 33;

"officer", in relation to a society, means the president, vice-president, chairperson, deputy chairperson, secretary or treasurer thereof, or any member of the committee, council or governing body thereof, or any person who holds in the society any office or position analogous to the foregoing, but does not include a trustee, auditor or patron who takes no part in the management of the society;

"registered society" means any society for the time being registered under this Act, but does not include a society the registration of which is for the time being suspended;

"the Registrar" means the Registrar of Societies appointed under section 8 of this Act, and includes a person appointed under that section to be a Deputy or Assistant Registrar;

"society" includes any club, company, partnership or other association of ten or more persons, whatever its nature or object, established in Kenya or having its headquarters or chief place of business in Kenya, and any branch of a society, but does not, except in paragraphs (i) and (ii) of section 11(2)(f) of this Act, include—

- (a) a company or foreign company registered under the Companies Act (Cap. 486);
- (b) any corporation incorporated by or under any other written law;
- (c) a registered trade union within the meaning of the Labour Relations Act (Cap. 233), including a branch of a trade union registered under that Act, a probationary trade union within the meaning of that Act and a trade union or a branch of a trade union

whose application for registration has been made and not determined;

- (d) a company, firm, association or partnership consisting of not more than twenty persons, formed and maintained with a view to carrying on business for profit;
- (e) a co-operative society registered as such under any written law;
- (f) a school registered under the Basic Education Act (Cap. 211), Advisory Council, Board of Governors, District Education Board, School Committee or similar organization established under and in accordance with the provisions of any written law relating to education;
- (g) a building society as defined by the Building Societies Act (Cap. 489);
- (h) a bank licensed under the Banking Act (Cap. 488);
- (i) any international organization of which Kenya is a member, or any branch, section or organ of any such organization;
- (j) any combination or association which the Cabinet Secretary may, by order, declare not to be a society for the purposes of this Act;

"unlawful society" has the meaning assigned to that expression in section 4(1) of this Act.

(2) For the avoidance of doubt, it is declared that, for the purposes of this Act, where any body of persons, whether incorporated or unincorporated, is a member of an association, all members of that body are members of that association.