

The Ins and Outs of NGO - Guide

2018-2019



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THE INs AND OUTs OF NGO

1. The ins and outs of NGOs

In 2012 the United Arab Emirates closed down various international Non-governmental Organisations (NGOs) as well as domestic organizations. This occurrence led to the State coming to the understanding that there was a need to regulate the process of the establishment of an NGO and ensure that the new legal framework takes cognizance of the sovereignty of the State.

Having declared 2017 as the Year of Giving, the issuance of a new legal framework governing the establishment and regulation of NGOs took place in Dubai, namely Dubai Law Number 12 of 2017. This issuance was in pursuance of the UAE governments key strategy to formulate a comprehensive framework for charities and humanitarian organizations.

For the Emirates that do not have a legal framework of their own on NGOs, Federal Law Number 2 of 2008 concerning public-benefit regulates a particular form of NGO.

Due to the translation of the relevant legislation, in some translations, non-governmental organizations are referred to as civil society association or establishment. But for the objective of this guide, it will be seen as a non-governmental organization.

2. How to describe a non-governmental organization.

A non-governmental organization (NGO) as described by the international NGO governing authority is any non-profit, autonomous group of citizens organized on a local or international level. NGOs will participate in a variety of humanitarian or service activities. These activities are inclusive of but are not limited to, education, human rights, bringing the concerns of citizens to the higher authorities of the State, environment, training, health, ensuring compliance by the Government, and providing citizens with information which enables them to participate in matters that concern them actively.

2.1. Federal Law Number 2 of 2008

The Federal Law Number 2 of 2008 describes a non-governmental/public benefit organization as a group that is constructed for a determined or undetermined amount of time, comprising natural or juristic persons. This organization must be established to achieve a specific activity or humanitarian services, whether through economic or moral assistance. Its primary aim is the achievement of Public Welfare, and it cannot be for the obtaining of an economic benefit.

2.2. Dubai Law Number 12 of 2017

The Dubai Law Number 12 of 2017 regulating non-governmental organizations in the Emirate of Dubai in Article 2 describes a non-governmental organization as a composition of natural or juristic persons, conducting the activities as prescribed in Article 5 of the Law, which exists for an indefinite period. This Law makes a distinction between two types of NGOs based on the non-governmental establishment apportioning property to the activities found in Article 5 of this Law and non-governmental association being the other.

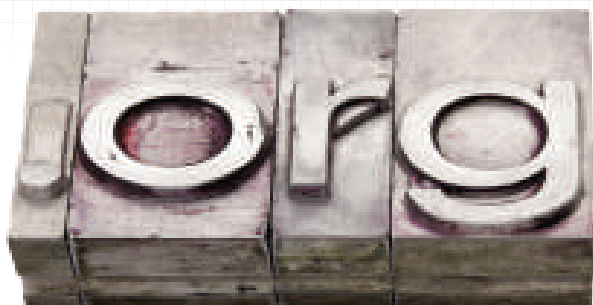


3. The entities that are not considered NGOs in the eyes of the Law?

3.1. Federal Law Number 2 of 2008

Article 52 of the Federal Law excludes the following organizations from the ambit of this Law:

- i. Schools and institutes;
- ii. Unions and societies;
- iii. Youth and sports clubs; and
- iv. Centers concerned with youth affairs.



*Because we cannot use
old solutions to new issues...*

3.2. Dubai Law Number 12 of 2017

Article 3 of the Dubai states that the provisions of the Law will apply to NGOs that have been in existence from the date the Law came into force and all NGOs that would proceed this Law. Thus this results in the exclusion of all NGOs which came into being before the coming into force of the Law. The governing of these NGOs will be by the Federal Law Number 2 of 2008

Article 3 goes on to provide for the exclusion of entities established under the following Laws:

Article 52 of the Federal Law excludes the following organizations from the ambit of this Law:

- i. **Bodies** found under Federal Law by Decree Number 7 of 2008;
- ii. **Objects** created by legislation issued by the Ruler;
- iii. **Entities** established under the Executive Council Resolution Number 26 of 2013; and
- iv. **Business** councils created under Law Number 8 of 1997

4. What is the difference between an NGO and a charity

The organization objectives of a charity as defined by Dubai Charity Law deal with religious or charitable affairs, there is no restriction on an NGO to be established for only philanthropic matters. There may be occurrences where the establishment of an NGO is in pursuance of objectives of a charitable nature, and in these cases, it is advisable to refer the question to the relevant authority.

5. Does an NGO have to be licensed?

5.1. Dubai Law Number 12 of 2017

According to Article 7 of the Law, it states that no entity as defined in Article 2 as an NGO may perform any functions mentioned in Article 5 of the Act unless it has obtained a License from the Concerned Entities as well as the CDA. This Article goes on to prohibit, until the granting of the relevant license, the use of any public or private entity facilities for NGO activities.

The permit is granted for one (1) year, with the option, upon approval of the CDA to extend the license for three (3) years.

6. What is the CDA and what is the extent of its authority

The CDA is an association which was brought into existence to achieve the Government of Dubai's' goal of attaining sustainable development and cohesive, happy society. Its mission is to work with the private and non-profit organization to achieve this goal while strengthening community engagement.

The Dubai Law Number 12 of 2008 provides the CDA with its authority – according to Article 3 of this Law, the CDA is a public authority having legal personality and the legal capacity necessary to undertake its activities.

The CDA functions are found in Law Number 12 of 2008 and include, but are not limited to the following duties relevant to NGOs:

- i. Draft the social policies and strategies of the Emirate, particularly those related to Social Development, Social Sector, human rights, etc.

The CDA is given its power of governance concerning NGOs by the Dubai Law. The CDA has the exclusive powers and duties to license NGOs and their branches in the Emirate. The CDA also can put forward legislation to regulate NGOs in the Emirate; and when complaints surface, the CDA has the power to hear, investigate and take appropriate action; and to exercise any other purposes for the achievement of the objectives of the law.

7. What are the requirements and processes for establishing an NGO

7.1. Federal Law Number 2 of 2008

According to the Federal Law, the below conditions are necessary for incorporation:

- i. There may not be less than twenty (20) founders – however, there may be exceptions to this rule at the instance of the Minister;

The only test for a moral society is what it does for its children.



- ii. The founders must be eighteen (18) years or older;
- iii. The members must have clean criminal records – unless he/she has been successfully rehabilitated, and be of sound character;
- iv. All founders and employees must hold citizenship to the United Arab Emirates

Where the founders are juristic persons, the abovementioned requirements apply to the extent that they refer to juristic persons.

Article 4 then goes on to provide that the founders must, after completion of the abovementioned, hold an assembly to draft the NGOs Articles of Association. They must include the following:

- i. The name of the NGO formulated according to its objectives; the place of its headquarters and the scope of its activity;
- ii. The goals of the NGO;
- iii. All details about membership – conditions, categories, procedures, rights, and duties;
- iv. All particulars around the Board of Directors;
- v. Rules and processes for General Assemblies;
- vi. The requirements for making amendments to the articles of association;
- vii. The management of NGO resources, including but not limited to, utilization, disposing and controlling;
- viii. Provide the conditions for voluntary winding up of the NGO.

Following this, the founders shall, according to Article 6 of this Law, elect an interim committee which will be the NGOs representative from the registration procedures as stipulated under this law. The elected representative will provide to the relevant authority three (3) copies of the application together with the following

- i. The NGOs articles of association, along with a summary there of;
- ii. The founders' minutes of the meeting – signed by all the members in attendance;

- iii. The interim committee's minutes of the meeting;
- iv. A list providing the details of the founder members';
- v. The interim committee's resolution in which they elected a representative to submit the registration papers.

7.2. Dubai Law Number 12 of 2017

The Dubai Law differentiates between non-governmental associations and non-governmental institutions for the establishment of such. However, Article 37 provides the rules of governance relating to non-governmental associations will also govern non-governmental institutions in matters concerning licensing, registration procedures and obligations.

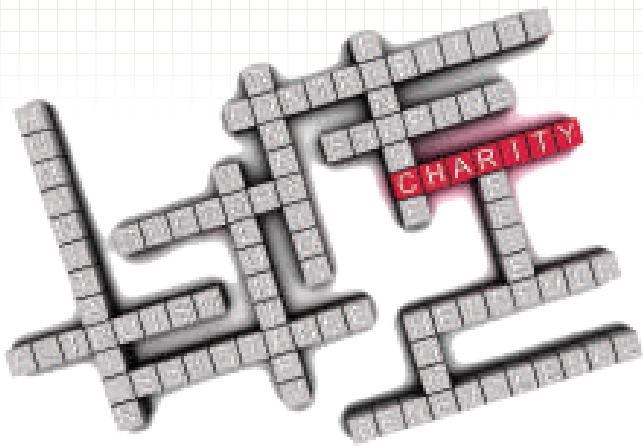
The Law of Dubai provides the list of requirements for establishing an NGO; in Article 8 of the Law. They are as follows for a non-governmental association:

There must be a group of founders:

- i. There may not be less than ten (10) founders, two (2) of which must be UAE nationals – this can, however, be subject to certain exceptions;
- ii. The founder must be twenty-one (21) years of age or older, have the full legal capacity, and must be held to be a fit and proper person without out any criminal history, unless rehabilitation has taken place;
- iii. Should the founder be a national of any of the Gulf Cooperation Council states – he must be a resident of the UAE;
- iv. Where the founder is not a UAE resident – he must have a valid residency visa and must have lived in the UAE for at least (3) years;
- v. The founder must have submitted the NGOs Charter, and such Charter complies with the principles of this Law.

The Charter must include the following information:

- i. The proposed name of the NGO, which must indicate the objectives of the NGO;



We rise by lifting others - Robert Ingersoll

- iii. The proposed location and geographic scope of the work of the NGO;
 - iv. The establishment reasons for the NGO
 - v. The names, origins, employment, and places of residence in the UAE, of founder members; papers.
 - vi. All necessary provisions regarding memberships, membership acceptance, revocation of membership, conditions for forfeiture and cessation of such and the rights and obligations of the members;
 - vii. All aspects regarding the General Assemblies of the NGO;
 - viii. Methods of forming the Board of Directors and its functions;
 - ix. The rules for amendment;
 - x. Provide the means for use and allocation of financial resources,
 - xi. Conditions for dissolution of the NGO;
 - xii. Any other information the CDA deems necessary
- The Articles of association must include:
- i. The associations' name, area, and proposed seat;
 - ii. The purpose, objectives and focus areas;
 - iii. Provide the details of the founders;
 - iv. The details of membership, namely the conditions, type, procedure, cancellation, acceptance and rights and duties;
 - v. The rules governing general assemblies, both ordinary and extraordinary;
 - vi. The method for forming the Board of Directors;
 - vii. The regulations for amendment;
 - viii. The source of the associations' financial resources;
 - ix. The rules governing the association expenditure; and
 - x. Provide the provisions for dissolution and liquidation.
- The founders must formulate an interim committee which is responsible for electing one representative to act on behalf of the NGO in the licensing procedure.

Such procedure is crucial for the NGO as it cannot function without such license.

For a non-governmental establishment the following will conditions will be prevalent:

There must be a group of founders:

- i. There must be one (1) or more founders;
- ii. One (1) trustee must be of UAE Nationality;
- iii. A founder may be required to be a UAE resident or otherwise hold a valid residency of at least three (3) years.

The Articles of association must include:

- i. The institutions' name, the area of application and headquarters;
- ii. Its purpose and focus area;
- iii. A detailed statement of funds to be allocated to achieve the institutions' objectives;
- iv. The governance regulations – which should detail the appointments of the board of trustees, director, and chairman;
- v. The provisions which provide for dissolution and liquidation.

8. Can a foreign or international NGO establish itself or a branch in Dubai?

8.1. Dubai Law Number 12 of 2017

Article 8 (4) of the Law states that an NGO may not be a branch of a licensed association outside of the UAE and Article 38(13) says that an NGO may not be a branch or a party affiliated to any association outside the UAE. According to these provisions, it is evident that foreign or international NGOs cannot establish in Dubai under the new Law.

9. What is the timeframe for obtaining a license?

9.1. Federal Law Number 2 of 2008

Article 7 of the Federal Law states that the Ministry will examine and decide on an application within sixty (60) days from the date of submission and decided whether to accept or reject the application.

A graceful act to assist the Needy.



The Ministry may request additions to be made for the application to be approved.

9.2 Dubai Law Number 12 of 2017

According to Article 11 of the Dubai Law, an NGO will apply for a license through the CDA. The CDA has prescribed the form on which the applicant must provide the necessary details, in conjunction with the other required documents. The CDA will then consider the application, and may require additional certificates, approvals or authorizations by Concerned Entities. The CDA will provide the applicants with a decision within thirty (30) days from the day the application was submitted. However, CDA may grant an extension of this period in the form of an additional thirty (30) days.

On conclusion of this process, Article 12 of Law provides that the CDA will provide the applicant with initial approval of the NGO licensing. This initial approval does not mean that the NGO may conduct any activities according to its agenda at this phase.

Article 14 of the Law provides further requirements to be fulfilled by the applicant before final acceptance can take place. The applicant must satisfy these requirements no later than six (6) months from the date of being granted initial approval

10. What are the underlying expenses for creating an NGO?

9.1. Federal Law Number 2 of 2008

The costs for establishing an NGO are, according to Article 57 of the Dubai Law which states that in exchange for the services provided by the CDA, a fee will be payable to the CDA, the amount of which is prescribed by a resolution of the Chairman of the Executive Council.

The CDA has not yet issued an amount for such fees under Article 57.

11. Where can one find an open list of NGOs?

11.1. Federal Law Number 2 of 2008

Article 9 of the Federal Law states that registration of the NGO will be in a particular register at the Ministry

and that details thereof are under the executive bylaw of this Federal Law.

11.2. Dubai Law Number 12 of 2017

The CDA maintains a register of all NGOs that have satisfied all the requirements found in this Law

12. Is the conducting of fund-raising activities acceptable under the Law?

12.1. Dubai Law Number 12 of 2017

The First Instance Court rendered the judgment ratifying the arbitral award. The Respondent appealed before the Court of Appeals to set aside the verdict passed by First Instance Court, and the Court of Appeals upheld the judgment. The Respondent further challenged the Appeals Court judgment before the Court of Cassation.

13. What are the uses of the funds raised by an NGO?

13.1. Federal Law Number 2 of 2008

Article 39 of the Federal Law provides that an NGO shall use its funds for the achievement of its objectives and that it may not engage in trading or financial manipulations. Upon approval of this Minister, however, the NGO may invest surplus funds to generate higher economic returns to achieve its goals.

13.2. Dubai Law Number 12 of 2017

The spending of the funds raised by an NGO must be on the achievement of its objectives; the utilization of the funds must not be for trading or financial speculation. The distribution of any revenues or returns, may not be distributed to any members of the NGO. An NGO may, subject to the necessary approval, invest surplus funds should it need to generate financial returns – this is subject to specific provisions.

14. Does an NGO have to open a bank account with a National Bank?

14.1. Federal Law Number 2 of 2008

Article 38 states that an NGO must deposit its funds in its name in one or more national banks in the State. The NGO must notify the ministry about such deposit and must provide the department with notice when changing banks.



Charity starts from Home but it doesn't end there.

14.2. Dubai Law Number 12 of 2017

Article 33 of the Dubai Law states that an NGO must deposit its funds with any of the national banks licensed in the Emirate. It does not provide a provision for the deposit of funds into any other bank.

15. Can an NGO enter into partnerships or agreements with other NGOs?

15.1. Dubai Law Number 12 of 2017

Article 38 of the Dubai Law prohibits any NGO from establishing any entity in association with another NGO within or outside of the UAE.

16. What other provisions of this Law provide for further approvals from the CDA or relevant authority?

16.1. Dubai Law Number 12 of 2017

Article 38 of the Dubai Law, provisions 4, 5, 6, 11, 14 and 18 provide activities and actions which require further approval from the CDA/relevant authority.

The written approval must first be obtained from the CDA or relevant authority if the NGO wishes to partake in any activity other than those activities it is authorized to do; if the NGO wants to conduct any commercial business; if the NGO hopes to open a bank account with a national bank. The NGO will also need the written approval from the CDA or relevant authority if it wants to partake in conferences, seminars, meetings, lectures, or any other events within or outside the UAE; and if it wishes to invite any essential persons to the Emirate.

17. Is this law applicable to NGOs in a free zone?

It is unlikely that the Dubai Law Number 12 of 2017 will apply to NGOs in the Free Zones. The provision will only apply to NGOs established in the free zones if such NGOs wish to partake in business outside of the free zone.

18. What is the composition of membership within an NGO and what are their responsibilities and obligations?

18.1. Federal Law Number 2 of 2008

According to the Federal Law, the membership of an NGO

will fall into three (3) categories, namely; active membership, associate membership, and honorary membership

Active members:

- i. Active members are the founding members; and
- ii. Any UAE national member that is joining the NGO regarding its articles of association.

Associate members:

- i. Non- UAE national members; and
- ii. They have joined as per the NGOs articles of association.

Honorary members:

- i. Members of the Board of Directors elect;
- ii. The selection will be due to their high position and opinions;
- iii. They have rendered valuable services to the State or the society.

Each NGO will have a Board of Directors according to the Law. Such Board of Directors will be in place to manage the affairs of the NGO and to provide the necessary means for it to realize its objectives.

The NGOs articles of Association specify all the requirements and functions of the Board of Directors.

Article 24 of the Law depicts that the Board of Directors may designate one director from among them to act as the NGO representative and to carry out the internal executive duties of the NGO.

18.2. Dubai Law Number 12 of 2017

Directors have the following duties and liabilities:

- i. Management of the NGOs affairs and providing it with the necessary tools for it to conduct its activities and achieve its objectives, this is according to Article 23 of the Law;
- ii. The Chairman will be the NGOs representative should the NGO need to be present before the courts;

Making a difference!

NON PROFIT

iii. The Chairman will be the NGOs representative should the NGO need to be present before the courts;

iv. The Conditions that the Board of Directors must meet are in the articles of association.

Trustees have the following duties and liabilities:

v. The trustees will have the same responsibilities and obligations as the Board of Directors will.

19. What is the Law around members of the Board of Directors being members of more than one NGO?

19.1. Federal Law Number 2 of 2008

Article 25 of the Federal Law states that no Member of the Board of Directors may act as a member in more than one NGO working towards the same or similar activities. The Minister may make individual exceptions to this rule if the Minister deems it necessary and justified

19.2. Dubai Law Number 12 of 2017

Article 25 of the Federal Law states that no Member of the Board of Directors may act as a member in more than one NGO working towards the same or similar activities. The Minister may make individual exceptions to this rule if the Minister deems it necessary and justified

20. Is a member of the Board of Directors of an NGO able to receive financial compensation for services completed?

20.1. Federal Law Number 2 of 2008

Article 26 of the Federal Law provides that the Board of Directors may offer financial incentives to any member of the NGO who has provided services to the NGO worthy of compensation and in motivation towards submitting the same work in the future. Under the same provision, the Law establishes that the Board of Directors may receive remuneration for their duties through a proposal by the Board of Directors and upon approval thereof of the General Assembly.

20.2. Dubai Law Number 12 of 2017

Members of the Board of Directors may be paid remuneration for their services to the NGO. However, this is

subject to a resolution of the General Assembly and requires approval from the CDA. This principle is according to Article 52 of the Dubai Law.

Article 5 of the 1992 Law retained the provision that a principal was not permitted to use the services more than one agent in the specific area of activity for the same commercial business covered by the agency. In the recent years, Bahraini law also permits the foreign companies to appoint different agents for different brands for the same general class of product.

21. What are the legal implications for contravening the provisions of the Law?

21.1. Federal Law Number 2 of 2008

Article 57 of the Federal Law provides the penalties for breaching this Law. It states that any violation of any of the provisions of this law will be subject to:

- i. A fine not exceeding ten thousand (AED10, 000) Dirhams;
- ii. When there is a violation of Article 43 of this Law, the court shall confiscate the funds of the society which it obtained without a license.

21.2. Dubai Law Number 12 of 2017

Concerning the Dubai Law, Article 46 and 47 of this Law provides for the penalties for breaching this Law, these penalties include, without prejudice to any stricter provisions stipulated in any other legislation, the following:

- i. A warning;
- ii. A fine, not less than five hundred (AED500) Dirhams and not more than one hundred thousand (AED 100, 000) Dirhams. The penalty will double if the NGO commits the same breach within one (1) year from the date of the sentence,
- iii. Suspending the activities of the NGO for a period not exceeding three (3) months;



- iv. Dissolution of the Board; and
- v. Closure, disintegration, and revocation of the license of the violating NGO.

The CDA has the discretion to implement any of the abovementioned penalties, in no particular order. Thought will be given to the degree and gravity of the committed violation when deciding on the severity of the punishment. The CDA may also prescribe that the violating NGO remedy such violation. Failure of such remedy may result in the violating NGO being liable to pay the relevant costs incurred.

Article 47:

The Director-General may issue a resolution, to which it has provided reasons for the involuntary dissolution of an NGO. The involuntary decomposition will take place in the following cases:

- i. Where an act committed by the NGO violates the public order or morality;
- ii. Where there has been a final court judgment passed down against the NGO for acting against the public interest;
- iii. Where the NGO is violating the provisions of paragraph (1) of Article (8) of this Law in that the number of members of the NGO falls below the minimum amount prescribed;
- iv. Where the NGOs activities fail to achieve its objectives, or it becomes unable to meet its goals;
- v. Where the NGO disposes of its property in a manner not prescribed by this Law;
- vi. Where an NGO is unable to fulfill its financial obligations;
- vii. Where the NGO refuses to comply with the CDA where the latter wishes to perform an investigation of the non-governmental authority;

*To move forward you have to give back .
- Oprah Winfrey*

- viii. Where the NGO has shown a gross breach of the NGOs Charter, of the Dubai Law or legislation in force in Dubai;
- ix. Where there is a failure by the General Assembly of the NGO to convene for two (2) consecutive years; and
- x. The court will award the payment of costs where there has been a failure to comply with Article 54 of the Dubai Law.

Conclusion

The Federal Law provides somewhat of a legal framework for NGOs in the United Arab Emirates. For the provisions to comply with the UAE's goal of formulating a comprehensive framework for charities and humanitarian organizations revision of the Law is necessary.

The Dubai Law Number 12 of 2017 regulating non-governmental organizations in the Emirate of Dubai is a comprehensive law governing NGOs in Dubai, and it provides a framework which takes cognizance of state sovereignty while also providing for the establishment of NGOs. Once the inclusion of the appropriate fees takes place, the Law will be all-encompassing.



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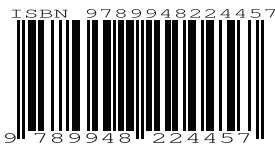
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