



## Frequently asked questions

Company secretarial online registration system

## Frequently asked questions on company secretarial online registration system

### When was the online registration system introduced?

#### Kenya

On 15<sup>th</sup> October 2017, the Registrar of Companies gave a directive that all registered companies be set up on the E-Citizen platform as a way of migrating services from manual to online. The responsibility of the companies' registry was to verify details submitted online with the records held by them for businesses registered under the old companies Act, Cap 486. Details are captured and made available on the E-Citizen platform for businesses registered under the new Companies Act, 2015.

#### Tanzania

The Business Registrations and Licensing Agency (BRELA) launched the Online Registration System (ORS) effective 22<sup>nd</sup> March 2018, enabling registration of Companies, Business Names, Trade and Service Marks. The aim of the new system is to enable customers to access BRELA services online. The responsibility of uploading the company's records since incorporation vests with the director(s) or company secretary which are then verified by BRELA.

#### Uganda

The Uganda Registration Services Bureau (URSB) has not yet launched an online system. However, moves towards the establishment of an online registration system are slowly taking shape with the set up of a Business Registration System (BRS), introduced in November 2016. The URSB has over the last few years been uploading information from the physical files to the BRS platform. The BRS at present, can only be used for carrying out a search for a registered company as well as for downloading company forms. Online submissions have not yet been opened to the public and no future date has been provided. Filing of documents is therefore still being done manually by physically delivering the documents to URSB for registration.

### What are the requirements in terms of online filing? Does it have to be from incorporation to date?

#### Kenya

No. The company is required to submit certified copies of only the missing documents at the companies' registry records to enable them to verify. After verification, one is able to file annual returns and make changes to the company online.

#### Tanzania

Yes. All filings from incorporation to date have to be filed online.

#### Uganda

Not applicable.

### What documentation is required to be submitted to commence the application process?

#### Kenya

For the company to be set up on e-citizen platform, the following details for Directors, Shareholders and Sole Proprietor/Partner (for business names) have to be provided:

- ID number for Kenyans
- Passport number for non-Kenyans
- Foreigners certificate number for Kenyan residents
- Email address
- Telephone number
- Postal address
- Company number (for corporates)

The process can only be done through the e-citizen accounts of a Company Secretary, Director, Shareholder (for limited companies) and Sole Proprietor/Partner (for business names) who have e-citizen accounts.

#### Tanzania

For incorporation of a new company:

- Name Reservation at BRELA
- Directors, Shareholders, Company Secretary – contact details, passport copies if foreigner, National ID and personal TIN certificate if local
- Shareholders and Company Secretaries that are entities; foreign companies must have registration documents from country of origin; local companies must have certificate of incorporation and must be uploaded and approved on ORS
- Memorandum and Articles of Association whereby the business activity must be in line with the ISIC version 4 requirements. The Memarts must be signed by the shareholders
- Shareholding entity(ies) must have a resolution confirming investment in the new forming company as well as names of two directors who will sign on behalf of the company

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- Forms 14b (Declaration of Compliance Form)
- Integrity Pledge signed and stamped
- Consolidated Company Statement summarising the company's information duly signed by the directors and Company Secretary

For uploading an old company on ORS, the following is mandatory:

- Directors, Shareholders, Company Secretary – contact details, passport copies if foreigner, National ID and personal TIN certificate if local
- Shareholders and Company Secretaries that are entities, foreign companies must have registration documents from country of origin; local companies must have certificate of incorporation and must be uploaded and approved on ORS already
- TIN certificate of the company
- Last audited and signed Annual Accounts of the company
- Details on shares and shareholding

### Uganda

#### For incorporation of a new company:

- Reservation of name form plus proof of payment to the Uganda Revenue Authority
- Company forms approved and signed by directors; these are Forms 20 (particulars of directors and company secretary, S.18 (subscribers and nature of business) and 18 (physical location of the business)
- Shareholders, directors, company secretary's details like National ID or driving permit for Ugandans and pass port copies for foreigners; Memorandum and Articles signed by shareholders
- The above are submitted to URSB for verification, approval and uploading on the BRS

#### For an old company:

- For the company to be set up on the Business Registration System, you need to have the following details for Directors, Shareholders, Company Secretary and Sole Proprietor/Partner (for business names); All these are manually delivered to URSB.
- National ID/passport copies/driving permits for Ugandans
- Passport copies for non-Ugandans
- Email Address
- Telephone number
- Postal address
- Company number (for corporates)

## Can an entity file its new returns without having uploaded data relating to the previous years?

### Kenya

No. The Registrar has to first verify that all previous documents held by them are up to date for new returns to be filed.

### Tanzania

No. The previous years' records must be updated before new filings can be uploaded.

### Uganda

No. The Registrar has to first verify that all previous documents held by them are up to date for new returns to be filed.

## Is filing of annual audited financial statements mandatory along with the annual returns?

### Kenya

#### Public company

It is unclear on the submission of financial statements for a public company.

**Part 8 of the annual return (Form CR29) states:** Annual return for a public company and company limited by guarantees is required to be accompanied by:

- a) Copies of the documents required to be sent to every member of the company under Section 666 of the Act (Duty of company to send financial statements and reports to persons entitled) – Certified by a director or company secretary of the company to be true copies; and
- b) If any of the documents mentioned in paragraph (a) is in a language other than English, a certified translation (to be annexed to that document) in English of the document.

**Section 684(1) of the Act states:** The deadline for lodging with the Registrar financial statements and report for a public company is six months after the end of the company's relevant accounting reference period.

#### Private company

**As per Section 684 (a) of the Companies Act, 2015 – Private companies** are required to file financial statements and reports nine months after the end of the company's relevant accounting reference period.

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As per the Companies Act, 2015 annual returns are filed:

- a) For a newly incorporated company – on the anniversary of the company's incorporation or
- b) If the company's last return was made up to a different date – the anniversary of that date.

### Tanzania

S 167 (1) of the Companies Act requires every company to deliver to the Registrar a copy of the annual accounts together with a copy of the Auditor's report and Directors' report. The accounts have to be delivered and laid before the company within seven months from the accounting year end for a public company and ten months in the case of a private company. Failure to lay and deliver the accounts is an offence subject to a daily default fine.

### Uganda

#### Private Company limited by shares

Filing of financial statements along with the annual return is not required and not mandatory as per S.135 subsection 5 of the Companies Act 2012.

#### Public limited Companies

Per Section 135 of the Companies Act, 2012, it is mandatory for these companies to annex to their annual returns audited financial statements.

#### Private Companies limited by guarantee

These must also annex audited financial statements to their annual returns (S.135).

## For share transfers, what is the documentation requirement?

### Kenya

For share transfer, the company is required to attach a stamped share transfer form which must have been witnessed by a lawyer along with board minutes approving the transfer. The company is also required to attach a pay-in-slip as proof that stamp duty was paid.

### Tanzania

For share transfer, the company is required to have a BOD Resolution, sale purchase agreement, share transfer document, Capital Gains Tax form duly filled and signed by the transferor and transferee. A proof of payment of Stamp Duty paid on the transfer and a copy of the Tax Clearance certificate is submitted to Brela to officiate the transfer and list the new shareholders in the annual returns.

When the above documents are submitted to TRA, a certified copy of the company's Memarts, audited and signed annual accounts of the company, certified copy of COI and TIN must also be attached.

### Uganda

For a share transfer to be effected, a board resolution approving the transfer, share transfer form, valuation report certified by an auditor and Uganda Revenue Authority (URA) receipts for proof of payment. A share purchase agreement may also be included but is optional.

## For transmission, what is the documentation requirement?

### Kenya

The Registrar in cases of demise of a shareholder will require either Confirmation of Grant of Probate or Letters of Administration to support transfer of shares from the deceased to the beneficiary.

### Tanzania

For transmission of shares, all the above documents mentioned for share transfers are required for share transmission. In addition, copy of the death certificate, probate stating the executor and a copy of the will of the deceased if available should also be attached. The same procedure of submitting to TRA and paying the stamp duty on the value of shares and obtaining a Tax Clearance Form is required.

### Uganda

Board resolution, share transfer form signed by the administrator of the estate, valuation report, URA receipt and a death certificate.

## Is a foreign branch required to file returns?

### Kenya

No. A branch is only required at least once in every calendar year and at intervals of not more than fifteen months, lodge a copy of financial statements of the parent company.

## Frequently asked questions on company secretarial online registration system

### Tanzania

No. A branch is only required at least once in every calendar year and at intervals of not more than seventeen months, to lodge a copy of financial statements of the parent company.

### Uganda

A foreign branch is required to file returns under Section 254 of the Companies Act.

## What happens when there is double registration (similar names)?

### Kenya

If there is a double registration, the company that registered its name first is allowed to maintain the name and the one that registered after is required to change its name.

### Tanzania

If there is a double registration, the company that registered its name first is allowed to maintain the name and the one that registered after is required to change its name.

### Uganda

If there is a double registration, the company that registered its name first is allowed to maintain the name and the other company is required to change its name.

## What do you do when a file is missing at the registry?

### Kenya

You are required to re-construct a new file by providing certified copies of all documents from incorporation.

### Tanzania

You are required to re-construct a new file by providing certified copies of all documents from incorporation.

### Uganda

A letter is written to the Registrar General informing him that a file is missing. The company is requested to provide certified copies of all required documents. A temporary file is opened while a search is carried out to find the missing file.

## How long does the verification process take?

### Kenya

This will depend on the availability of the file, how compliant the company is and the person handling the file at the registry.

### Tanzania

This will depend on the availability of the file, how compliant the company is and the person handling the file at the registry.

### Uganda

This will depend on the availability of the file, how compliant the company is and the person handling the file at the registry.

## Which entities are required to be set up on e-citizen platform?

### Kenya

All registered business entities are required to be set up on the e-citizen platform.

### Tanzania

All registered business entities are required to be set up on the ORS.

### Uganda

All registered business entities are required to be registered on the Business Registration System (BRS).

If you require further help, please contact us.

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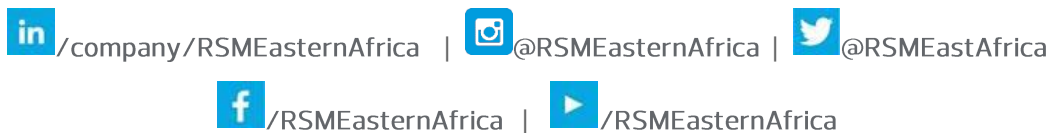
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