

GOVERNMENT NOTICE No. 485 published on 21/7/2023

THE COMPANIES ACT,
(CAP. 212)

LIBRARY FB ATTORNEYS

REGULATIONS

(Made under section 455A)

THE COMPANIES (RETENTION AND DISPOSAL OF COMPANY DOCUMENTS)
REGULATIONS, 2023

ARRANGEMENT OF REGULATIONS

Regulation Title

1. Citation.
2. Application.
3. Interpretation.
4. Requirement to retain company documents.
5. Period of retention.
6. Disposal of documents.
7. Documents required in investigation and legal proceedings.
8. Penalty for contravention.

SCHEDULES

THE COMPANIES ACT,
(CAP. 212)

REGULATIONS

(Made under section 455A)

THE COMPANIES (RETENTION AND DISPOSAL OF COMPANY
DOCUMENTS) REGULATIONS, 2023

| | |
|---|---|
| Citation | 1. These Regulations may be cited as the Companies (Retention and Disposal of Company Documents) Regulations, 2023. |
| Application | 2. These Regulations shall apply to companies incorporated or registered under the Act. |
| Interpretation | 3. In these Regulations, unless the context otherwise requires- |
| Cap. 212 | “Act” means the Companies Act; |
| Cap. 442 | “document” has the meaning ascribed to it under the Act; “electronic record” has the meaning ascribed to it under the Electronic Transactions Act; and “retention period” means the period prescribed for a company to keep and maintain its documents under these Regulations. |
| Requirement to retain company documents | 4.-(1) A company shall ensure maintenance and availability of all original documents required to be kept under the Act or any other written law. (2) Company documents shall be retained in paper form or electronic record. |
| Period of retention | 5.-(1) Unless otherwise provided under any other written law, a company shall retain documents for the period specified in the First Schedule to these Regulations. (2) Without prejudice to sub regulation (1), a company may adopt a policy for retention of documents |

prescribing a different retention period which shall not be less than the period prescribed in these Regulations.

(3) The Registrar may, by giving reasons in a written notification, direct any company to retain any documents beyond the period prescribed in these Regulations.

(4) The period of retention prescribed under these Regulations shall begin to run from the date the document is no longer in use.

Disposal of documents

6.-(1) The Company may, on its own, dispose its documents upon expiration of retention period prescribed under these Regulations.

(2) Disposal of company documents shall be done under the authority of the Board of Directors, administrator, administrative receiver, receiver or liquidator of the company.

(3) The company secretary, director, administrator, administrative receiver, receiver or a liquidator of the company shall enter the particulars of all documents to be disposed in the disposal form prescribed in the Second Schedule to these Regulations, and shall be present at the disposal of the documents to be disposed.

(4) After completion of disposal of documents, the company secretary, director, administrator, administrative receiver, receiver or liquidator of the company present during disposal shall sign the disposal form.

(5) The company shall deliver the disposal form to the Registrar within twenty-eight days from the date of the disposal.

(6) In the event of non-compliance of sub regulation (5), the company and every officer of the company who is in default shall be liable to a default fine.

Documents required in investigation and legal proceedings

7.-(1) Notwithstanding the prescribed retention period, documents which may be required for any investigation or pending legal proceedings or claims shall not be disposed until the completion of legal proceedings or claims or investigation as the case may be.

(2) Where it has been determined that a document is required in any proceedings or claim or investigation

and such document is disposed, it shall be deemed that such document has been deliberately disposed.

(3) In the event of non-compliance of this regulation, the company and every officer of the company who is in default shall be liable to a default fine.

Penalty for
contravention

8. The company and every officer of the company who contravenes any provision of these Regulations commits an offence and shall upon conviction be liable to a fine of not less than one million shillings but not exceeding ten million shillings.

FIRST SCHEDULE

(Made under regulation 5(1))

PERIOD OF RETENTION OF COMPANY DOCUMENTS

| S/N | Type of Document | Retention Period |
|-----|---|------------------|
| 1. | Memorandum and Articles of Association and Alterations or Amendments | 10 years |
| 2. | Application for Registration of a new company - Consolidated Form – Form 14a | 10 years |
| 3. | Integrity Pledge Form | 10 years |
| 4. | Return and declaration delivered for registration by a foreign company – Form 434 | 10 years |
| 5. | Certificate of Incorporation or Certificate of Compliance | 10 years |
| 6. | Particulars of Beneficial Owners - Form 14b | 5 years |
| 7. | Notice of Ceasing to be a beneficial owner – Form 14c | 5 years |
| 8. | Declaration by the registered owner of shares but who does not hold the beneficial interest in such shares – Form 14d | 5 years |
| 9. | Declaration by the beneficial owner who holds or acquires beneficial interest in shares but whose name is not entered in the register of members – Form 14e | 5 years |
| 10. | Change of Beneficial Owners particulars – Form 14f | 5 years |
| 11. | Certificate of Change of Name | 10 years |
| 12. | Notice of increase in number of members – Form 10 | 10 years |
| 13. | Declaration of satisfaction in full or in part of mortgage or charge – Form 104 | 10 years |
| 14. | Notice of Change In Situation Or Address Of Registered Office – Form 111 | 5 years |
| 15. | Annual returns – Form 128 | 10 years |
| 16. | Appointment, Termination or Change Particulars of a Director or Secretary – Form 210a, 210b & 210c | 10 years |
| 17. | Notification of ceasing to be a private company – Form 29 | 5 years |
| 18. | Liquidator's statement of receipts and payments – Form 305 | 10 years |
| 19. | Members voluntary winding-up declaration of solvency – form 338 | 10 years |
| 20. | Return of final meeting in a members voluntary winding-up – Form 345 | 10 years |
| 21. | Notice of appointment of liquidator voluntary winding-up – Form 360a | 10 years |
| 22. | Notice of appointment of liquidator voluntary winding-up for insertion in gazette – Form 360b | 10 years |
| 23. | Proof of debt general form – Form 365a | 10 years |
| 24. | Affidavit of debt – Form 365b | 10 years |
| 25. | Particulars with respect to the position of the liquidation – Form 394 | 10 years |

Companies (Retention and Disposal of Company Documents)

GN. NO. 485 (Contd.)

| | | |
|-----|--|----------|
| 26. | Receiver or managers abstract of receipts and payments – Form 414 | 5 years |
| 27. | Notice of appointment of administrative receiver – Form 420 | 5 years |
| 28. | Statement of affairs administrative receiver – Form 421 | 5 years |
| 29. | Return of alteration in the charter statutes etc of a foreign company - Form 436a,436c,436d | 10 years |
| 30. | Return of alteration in the address of registered office etc. of a foreign company – Form 436b | 10 years |
| 31. | Particulars of a mortgage or charge foreign company – Form 437a | 5 years |
| 32. | General description of the property charged – Form 437b | 5 years |
| 33. | Particulars of an issue of secured debentures in a series foreign company – Form 437c | 5 years |
| 34. | Particulars of a mortgage or charge subject to which property has been acquired foreign company – Form 437d | 5 years |
| 35. | Declaration of satisfaction in full or in part of mortgage or charge foreign company – Form 437e | 5 years |
| 36. | Return of allotment of share – Form 55a | 10 years |
| 37. | Particulars of a contract relating to shares Allotted – Form 55b or Contract | 10 years |
| 38. | Statement of the amount in connection with the subscription of shares – Form 56 | 5 years |
| 39. | Notice of increase in Nominal capital – Form 66 | 10 years |
| 40. | Particulars of a mortgage or charge – Form 96 | 5 years |
| 41. | Particulars for the registration of a charge – Form 98a | 5 years |
| 42. | Particulars of an Issue of Secured Debentures in a Series – Form 98b | 5 years |
| 43. | Appointment of Receiver or Manager – Form 106 | 5 years |
| 44. | Resolutions and Minutes of board and members meetings | 5 years |
| 45. | Notices | 5 years |
| 46. | Company Registers (including but not limited to Directors, Members, Beneficial Owners, Securities or Charges) | 10 years |
| 47. | Director's Certificate of Solvency | 10 years |
| 48. | Transfer or Transmission Instruments | 10 years |
| 49. | Annual Accounts or Financial Statements | 10 years |
| 50. | Disposal Form | 10 years |
| 51. | Any other document or information that a company is required to keep in terms of the Act or any other written law. | 10 years |

SECOND SCHEDULE

(Made under regulation 6(3))

DISPOSAL FORM OF COMPANY DOCUMENTS

DETAILS OF THE COMPANY:

| | |
|--|--|
| Name of the Company | |
| Type of the Company (Public/Private/Company Limited by shares/guarantee) | |
| Incorporation Number | |
| Address of the Registered Office | |

| S/N | NAME AND DESCRIPTION OF DOCUMENT | DATE OF GENERATING DOCUMENT | LAST ACTION DATE | RETENTION PERIOD | MODE OF DISPOSAL |
|-----|--|-----------------------------------|------------------------|---------------------|---------------------|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

WITNESSED BY:

NAME:

SIGNATURE:

DATE:

DESIGNATION:

SEAL

REMARKS:

.....
.....
.....
.....

Dodoma,
23rd June, 2023

ASHATU K.KIJAJI,
*Minister for Investment, Industry
and Trade*