

Processes and procedures of starting a business in Tanzania.

Starting a business is a dream of many people in our society. However, dreaming and executing are different things and sometimes execution fails due to one reason or the other, including lack of useful information.

This piece seeks to guide anyone who wishes to start a business but has not yet executed their idea on some key issues for consideration or simply what to do to start a business in our country.

The first step is to register a business name in the form of a partnership or sole proprietorship which identifies you in the market. You can incorporate a limited liability company for local entity or obtain a certificate of compliance for foreign company opening a branch in Tanzania.

The registrar of the companies and business names at the Business Registration and Licensing Agency (BRELA) is the one mandated by law to register companies and business names and issue certificate of incorporation for the locally registered companies, certificate of registration for business names and certificate of compliance for foreign companies opening branches in Tanzania.

There are various advantages of incorporating a limited liability company than registering a business name which we shall point out in brief herein specifically what you need to know when you want to register a local company or business name and how to undergo the entire process.

Company formation means the process of incorporating a business in the form of limited liability company. The law recognizes that there are people who may assist another person to incorporate a company. These people are called promoters.

Section 40 of the Company Act provides for a person or entity permitted by owner to established a company and complete the whole process until it starts operation. Once the incorporation and other processes are completed, then the promoter is discharged of the duty.



AUTHOR

EMMANUEL G. MBUGA
PARTNER

QUALIFICATIONS

LLB | PDGL

EXPERTISE

LITIGATION | CORPORATE

CONTACTS

+255 652 557 708
emmanuel@legisattorneys.co.tz



Golden Tulip Dar City Center,
4th Floor 11104 Jamhuri St.

As a matter of practice and for the purpose of having control of duties and obligations of the promoter, only the owners or owners of the intended company are entitled to enter into binding agreement with the promoter.

Company formation is categorized into two types: company limited by shares which are registered by the registrar of companies and company limited by guarantee depending on the objectives. Some are registered by the registrar of non-governmental organizations in the Ministry of Community Development, Gender, Women and Special Groups.

Company limited by guarantee is not aimed at making profit but nonprofit purposes within the community. Therefore, there are no shareholders but owners or members who jointly opted to contribute fixed amount guarantees upon either winding up or purchase of assets of the company.

Members are the guarantors of liability of the company. Most of the nonprofit organizations, clubs, and charitable organizations use this type of structure.

Company limited by shares is pure profit oriented company in whose liability is limited by share of each shareholder allocated in the company. Each shareholder's liability cannot exceed their shareholding capacity.

When a company enters into some transactions with another entity, some shareholders can stop the company from entering into transaction which exceeds the authorized share capital of the company due to the risks associated with that deal. In such a situation, the shareholders have to either to increase their shareholdings capacity or be limited within the capacity.

In company limited by share, there are two categories: private company and public company. Private company shareholders are private individuals who agreed to trade together privately

whereby transferability of shares is by agreement or arrangement between shareholders.

In the public company, members should be more than seven with no limit to while in private company shareholders should be not less than two and not more than fifteen.

One of the major features of public company is that it is required to operate in a transparency manner. That is why public companies are required to publish their financial position to the public through newspapers unlike private companies.

Public companies operate through stock exchange in the sense that they are free to trade in open market. Whoever is interested in investing in a public company can do so provided terms and conditions provided are met.

One important thing to note is that once a company is incorporated and issued with certificate of incorporation, its advantage is that it becomes a legal entity with its own capacity either to sue or be sued or enter into contract like a human being, including paying rent or taxes and others.

Further, its liability is limited to what is found in the shareholding capacity. The only difference with human beings is that its operation or management is placed at the hands of board of director which is mandated to take care of the day to day duties of the company.

Board of directors is responsible to report to the shareholders of the company through meetings which are required to be conducted either as general meetings of the company or through extraordinary meetings.

Members of board of directors can appoint one of them or employ another person to head the company either as managing director or chief executive officer. Directors do meet on various occasions either to monitor or to oversee affairs of the company and board of directors

is chaired by the board chairperson either appointed by the shareholders or from among the directors themselves.

Once the objectives of the company are known, then you are required to prepare memorandum and articles of association for the company intended to be incorporated.

Memorandum of association is a legal document which contains fundamental details of the company. One can also refer to it as the constitution of the company containing main objectives of the company, authorized share capital and shareholding structure indicating capacity or liability of each shareholder or member. It is the guiding document which manages relationship of the company with outsiders.

Articles of association are legal documents which mainly contain rules and regulations of the company. Basically, articles of association of the company contain procedures on how the company will be managed internally, the names of the first directors and what will amount to their disqualification, the meetings of the company, the quorum for such meetings in order for the resolutions to be valid to mention a few.

Once the company is incorporated, it does not automatically become operational. It has to comply with other mandatory sectorial requirements like registration of company or business name with the Tanzania Revenue

Authority (TRA) for Taxpayer Identification Number (TIN) for the company and the directors or partners in the case of a business name.

After getting TIN, the next step is to acquire a business licence which depends on the type of business. Generally, companies with activities of national and international link such as real estate, tour operation, cargo handling and so on are required to process their business licences from BRELA while those intending to carry businesses of local nature such as law firms and court brokers can obtain their licences from the nearest municipal council.

Sometimes, depending on the nature of the intended business, for example tour operators are also required to obtain tour operators licence from the Ministry of Natural Resources and Tourism before obtaining the main business licence from BRELA.

There are also other mandatory requirements like registration with the Occupational Safety and Health Agency (OSHA), National Social Security Fund (NSSF) and Workers Compensation Fund (WCF).

Currently, registration of companies is being done online and one can do it at the comfort of their home or office. However, one still needs guidance of a lawyer in matters such as drafting of memorandum and articles of association or a partnership deed in case of a business name.

Note: *The material and information contained in this article are for general information purposes only. They only provide either elementary or basic legal knowledge on the above subject. Anyone considering legal action should consult an experienced lawyer to understand current laws and how they may affect a case in question.*