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Law on Non-Governmental Organizations

Contents

Chapter One	General Provisions
Chapter Two	Establishment Criteria & Registration Procedures of NGOs
Chapter Three	Economic Activities, Sources of Funding and Taxation
Chapter Four	Reporting of the Organizations
Chapter Five	Transformation, Merger, Dissolution and Liquidation of Organizations
Chapter Six	Dispute Resolution Commission (DRC)
Chapter Seven	Final Provisions

Law on Non-Governmental Organizations (NGOs)

Chapter One General Provisions

Purpose

Article 1:

(1) This law is enacted for the purpose of regulating the activities of domestic and foreign non-governmental organizations (NGOs) in Afghanistan.

(2) The terms of establishment, registration, administration, activity, internal supervision, dissolution, and liquidation of properties of domestic and foreign non-governmental organizations are regulated according to the provisions of this law.

The Acronym

Article 2:

Domestic and foreign non-governmental organizations (NGOs) are hereinafter referred to as “organization” in this law.

Observance of Law

Article 3:

An organization shall observe the provisions of the Constitution and other applicable legislation in the implementation of its activities.

Registration Body

Article 4:

The Ministry of Economy is the registration, supervision, and coordination body for the activities of organizations in Afghanistan.

Definitions

Article 5:

The following terms used throughout this law shall have the following meanings:

- 1) An “organization” is a domestic or foreign non-governmental, non-political and not-for-profit organization.
- 2) A “domestic organization” is a domestic non-governmental organization which is established to pursue specific objectives.
- 3) A “foreign organization” is a non-governmental organization which is established outside of Afghanistan according to the law of a foreign government and which accepts the terms of this law.
- 4) An “international foreign organization” is a non-governmental organization which is established outside of Afghanistan according to the law of a foreign government and which is operating in more than one country. United Nations organizations and their related organs shall not be included in this definition.
- 5) Not-for-Profit:

- An organization cannot distribute its assets, income or profits to any person, except for the working objectives of the organization.
- An organization cannot use its assets, income or profits to provide private benefits, directly or indirectly, to any founder, member, director, officer, employee, or donor of the organization, or their family members or relatives.

Expenditure of Assets

Article 6:

(1) The assets, income and profits shall be used only to carry out the not-for-profit objectives of the organization.

(2) An organization shall be transparent and accountable in its activities, and shall be reasonable in paying employee salaries, the rent of office and housing space, and other administrative and logistical expenses, in order to gain the public trust.

Legal Restrictions

Article 7:

Restrictions on the objectives and activities of an organization can only be determined by law.

Illegal Activities

Article 8:

An organization shall not perform the following activities:

- 1) Participation in political activities and campaigns;
- 2) Payment to and fundraising for political parties and candidates;
- 3) The promotion of violence and participation in military activities;
- 4) The production, import, or trading of weapons and ammunition and military training of individuals;
- 5) Engagement in terrorist activities or support, encouragement or financing of terrorism;
- 6) Assistance in the cultivation, production, processing, trading, import, export, supply, storage, use, transport and ownership of narcotics or providing facilities in that regard;
- 7) The use of financial resources against the national interest, religious rights and religious proselytizing;
- 8) Participation in construction projects and contracts. In exceptional cases, the Minister of Economy may issue special permission at the request of the Chief of the Diplomatic Agency of the donor country.
- 9) Import and export for commercial purposes;
- 10) The performance of other illegal activities.

Umbrella Organizations

Article 9:

- (1) For the purpose of expansion, improvement and implementation of activities and the completion of projects, organizations may create a working structure (as an umbrella organization). To acquire legal entity status, the umbrella organization must be confirmed by the High Evaluation Commission.

- (2) Three or more organizations, for the purpose of cooperation and better coordination of their work with relevant governmental agencies, shall form a coordinating organization as a non-governmental organization, according to the provisions of this law.
- (3) Organizations specified in paragraph 2 of this Article shall organize their activities in cooperation with the High Evaluation Commission.

Membership in International Organizations

Article 10:

- (1) An organization, for the purpose of carrying out its relevant activities, may voluntarily obtain membership in international organizations.
- (2) An organization may establish branch offices in other provinces of the country if necessary and in accordance with its statute. In such a case the branch offices shall not have independent legal status, but shall be considered as a branch of the central office.

Chapter Two Establishment Criteria & Registration Procedures for Organizations

Establishment Criteria

Article 11:

- (1) An organization may be established by at least two domestic or foreign, natural or legal persons, at least one of whom has a residence and exact address in Afghanistan, and the natural person is of legal age; the organization may be established by the founders with an establishment document and statute. An organization shall only act in accordance with its approved establishment document and statute.
- (2) The President, vice presidents, chair-persons and the members of the National Council, the Chief Justice and members of the Supreme Court, ministers, deputy ministers, members of the leading body of the Attorney General, heads of independent commissions, heads of independent governmental departments, and heads of political parties do not have the right to establish or join an organization.

Not Using a Similar Name

Article 12:

- (1) An organization shall be entered into the registry book in one or more of the official languages.
- (2) A newly established organization may not use the name or logo of a previously dissolved organization.
- (3) An organization may not use a name similar to other organizations, governmental companies and private companies.

Contents of Application

Article 13:

- (1) An organization may be established for a limited or unlimited time period.
- (2) An organization shall have its own name, symbol, logo and exact address, and shall use them in its activities.

- (3) The application for establishment of an organization shall contain the following information:
- Official name and acronym of the organization;
 - Address of the organization and identification of the founders;
 - Organizational structure;
 - Period of organizational activity;
 - Goals and types of activity;
 - E-mail address for keeping communication, if applicable.

Contents of Statute

Article 14:

- (1) The statute of an organization shall contain the following information:
- 1) Official name and address;
 - 2) Goals and scope of activities;
 - 3) Procedures for election and dismissal of board of directors;
 - 4) Procedure for holding meetings;
 - 5) Power and responsibilities of general assembly and board of directors;
 - 6) Procedures for reporting to general assembly and board of directors;
 - 7) Power and responsibilities of officers and members;
 - 8) Procedures for using assets of the organization;
 - 9) [Rules and procedures] for amending the statute, merger, separation, transformation and dissolution of the organization;
 - 10) Procedures for use and distribution of the assets of the organization in the event of suspension or dissolution, and termination;
 - 11) Procedures for internal supervision of organizational activities;
 - 12) The beginning and end of the organization's working year.
- (2) Where the statute is amended, the organization shall within 30 days of the date of the amendment notify the Ministry of Economy in writing of the amendment with the decision of the general assembly or other authorized body attached as an appendix.
- (3) The NGO Department of the Ministry of Economy shall record the amendment specified in paragraph 2 of this Article in the registry book.

Filing an Application

Article 15:

- (1) An organization shall submit a registration application to the Ministry of Economy in the capital and to its provincial departments in the provinces, and shall collect standardized forms for filling out the required information. The provincial departments shall immediately send the registration applications to the Ministry of Economy.
- (2) An organization shall fill out the registration forms and submit its name, acronym, statute, organizational structure, economic objectives, initial capital, exact address in Afghanistan, and a list of its relevant equipment and material; after approval by the High Evaluation Commission, a domestic organization shall pay the amount of 10,000 Afghanis and a foreign or international organization shall pay 1000 USD as a registration fee to the government revenue account. The receipt shall be attached to the documentation.

- (3) A foreign organization, in addition to providing documents set forth in paragraph 2 of this Article, shall also provide valid proof of its registration and operation in another country, shall attach this proof to the application, and shall submit this to the Ministry of Foreign Affairs.
- (4) A foreign organization shall submit a written statement through an authorized representative of the organization's headquarters, stating the goals and activities of the organization, and, after receiving confirmation from the Ministry of Foreign Affairs, shall submit it to the Ministry of Economy.

Assessment of the Application

Article 16:

- (1) The submitted application and attached documents shall be assessed by the Technical Commission within the NGO Department of the Ministry of Economy and shall be presented to the High Evaluation Commission for final review. In order to facilitate the filing of a registration application in the provinces, the Minister of Economy may delegate the duties of the Technical Commission to the provincial departments.
- (2) Upon receipt of the registration application of a foreign organization, the NGO Department of the Ministry of Economy shall, if the documents have defects, send a copy of the filed documents to the Ministry of Foreign Affairs within a week. The Ministry of Foreign Affairs shall assess the documents and notify the Ministry of Economy of its conclusion in writing within a month. Otherwise, the High Evaluation Commission shall proceed with the review of the application for registration.
- (3) In the event that the Ministry of Foreign Affairs has an objection to the registration of an organization, it shall present its objection with the evidence and documents to the Ministry of Economy. The NGO Department of the Ministry of Economy shall file and forward the documents and evidence to the High Evaluation Commission for decision.

Composition of High Evaluation Commission

Article 17:

- (1) The High Evaluation Commission shall be comprised of the following:
 - An authorized representative from the Ministry of Economics as Head;
 - An authorized representative from the Ministry of Foreign Affairs as a member;
 - An authorized representative from the Ministry of Finance as a member;
 - An authorized representative from the Ministry of Justice as a member;
 - An authorized representative of the Ministry of Labor and Social Affairs as a member.
- (2) The High Evaluation Commission shall review the registration application and shall within 15 days of the date of submission of the registration application decide on the approval or denial of the application.

Issuance of Registration Certificate

Article 18:

- (1) If the High Evaluation Commission approves the registration, the Ministry of Economy shall issue a registration certificate signed by the Minister or his authorized representative.

- (2) After approval by the High Evaluation Commission, the Ministry of Economy shall send a copy of all documents of a foreign organization to the Ministry of Foreign Affairs and the relevant line ministry.
- (3) If the registration is denied, the Ministry of Economy shall issue a written explanation of the reasons for denial to the applicant.
- (4) The Ministry of Economy shall provide the Ministry of Interior with identification information of the registered organization in order to ensure security.
- (5) The Ministry of Economy shall, if necessary, provide the line ministries with a copy of necessary documents of the registered organization.

Denial of the Application

Article 19:

- (1) The High Evaluation Commission shall deny a registration application for the following reasons:
 - 1) In case the statute, registration documents and evidence are contrary to the terms set forth in this law;
 - 2) In case the documents are not complete;
 - 3) In case the name of the applicant is so similar to a previously registered governmental or non-governmental organization or to the name of a private company or private enterprise that confusion is likely to result;
 - 4) If two or more organizations submit registration applications under the same name, the application first submitted shall be approved and the later applicant shall be given the opportunity to choose a different name.
- (2) In case of defects in the documents submitted to the High Evaluation Commission, the Commission shall, within 30 days from the date of receipt of the application, remand the documents to the applicant through the Technical Commission to rectify the application. In this case, the applicant shall rectify the application and re-submit it within 20 days.

Legal Personality

Article 20:

An organization shall acquire status as a legal entity in Afghanistan upon issuance of a certificate of registration from the Ministry of Economy.

Need for Previous Documentation

Article 21:

The related department shall make available previously registered documents to an organization where needed by the organization.

Chapter Three Economic Activities, Sources of Funding and Taxation

Prohibition against Economic Activities

Article 22:

- (1) An organization can perform economic activities to reach the statutory not-for-profit goals of the organization.

- (2) Income derived from the economic activities of the organization may only be used to carry out the specified goals and purposes of the organization.
- (3) Income derived from the economic activities of the organization may not be used or distributed, directly or indirectly, for the personal benefit of any founder, officer, member, director, employee, or donor of the organization.
- (4) Directors, officers, and employees may not carry out any economic transaction with the organization.

Commencement of Work

Article 23:

- (1) Prior to the commencement of work, and after the examination and assessment of the line department, an organization shall submit committed project documents to the Ministry of Economy for verification and registration.
- (2) The provision of paragraph (1) of this Article does not apply to emergency humanitarian projects. After the completion of the project, an organization shall submit a report to the relevant department.

Employment Criteria for Organizations

Article 24:

- (1) An organization shall provide employees with a safe working environment in the performance of economic activities and projects and appropriate incentives in hardship environments.
- (2) In recruitment, an organization shall consider the qualifications of the applicant. The director and the board of directors of the organization may not employ family members or close relatives of the director or board of directors.
- (3) In recruitment, priority shall be given to qualified Afghan nationals.
- (4) In recruiting foreign workers, an organization shall obtain prior permission from the relevant authorities and shall inform the Ministry of Foreign Affairs in writing of their arrival, commencement and termination of work. In emergency humanitarian circumstances, the requirement of prior permission for the recruitment of foreign workers does not apply.

Sources of Funding:

Article 25:

An organization may be funded by the following sources:

- 1) Donations and gifts;
- 2) Bequests, legacies and grants;
- 3) Membership fees;
- 4) Movable and immovable property;
- 5) Income generated from lawful economic activities.

Criteria for Using Property

Article 26:

- (1) An organization may own movable or immovable properties according to the law and may use these properties for accomplishing its not-for-profit purposes and goals.

- (2) Movable and immovable properties shall be registered in the name of the organization and copies shall be sent to the Ministries of Economy and Finance.
- (3) Movable and immovable properties may not be purchased or registered in the name of the founders, board members, employees or their close relatives.
- (4) The income from movable and immovable properties of the organization shall be spent for not-for-profit goals under the supervision of a governing body and/or the representative designated by the statute, and according to the provisions of this law and the relevant statute.

Financial Auditing

Article 27:

- (1) An organization shall keep annual financial records and shall prepare a report of this record according to the provisions of this law, and make it available to the Ministry of Economy during monitoring.
- (2) An organization shall prepare an audit of its annual financial statements according to international standards and shall submit a copy of its report to the Ministry of Economy, Ministry of Finance and to donor agencies. The Ministries of Economy and Finance, in consultation with Coordination Bodies of the Organizations, shall seek alternative methods for organizations that lack the financial capacity to prepare an audit by international auditors.
- (3) The board of directors and other officers shall be responsible for illegal financial activity.

Supply of Equipment and Vehicles

Article 28:

- (1) An organization shall obtain its material, machinery, vehicles and other necessary equipment for approved projects from inside the country. Importation is permissible where such equipment is unavailable within the country or in case of a substantial price difference.
- (2) An organization shall have authorization from the relevant governmental departments through the Ministry of Economy for importing any material and equipment.
- (3) An organization may not sell its vehicles and equipment or remove them from the country. An organization may sell its vehicles and equipment for not-for-profit purposes to individuals and the private sector on the basis of public auction under the supervision of authorized representatives of the Ministries of Finance and Economy. In this case, tax shall be paid according to the law. In the event vehicles or equipment are sold to other organizations, then the seller is exempt from taxation.
- (4) An organization shall through the Ministry of Economy obtain advance approval from the Ministry of Communication for importing and activating communication equipment.

Bank Account

Article 29:

- (1) An organization shall locate its Afghani and foreign currency accounts in a designated bank account within the country.

- (2) Banks shall provide the necessary facilities to organizations to open a bank account and foreign currency account.

Tax Exemption

Article 30:

- (1) An organization is exempt from any kind of tax and customs duty on the importation of material and equipment which are related to and necessary for not-for-profit and charitable purposes, according to the Income Tax Law and the Customs Law.
- (2) A foreign citizen of an organization shall pay the visa tax, according to the provisions of law.
- (3) Employees of an organization shall pay income tax, according to the provisions of the Income Tax Law.

Chapter 4 Reporting of the Organizations

Submitting a Report

Article 31:

- (1) An organization shall submit its annual activity report to the Ministry of Economy within three months of the end of the fiscal year.
- (2) An organization shall submit its semi-annual activity report to the Ministry of Economy, using the standard forms of the Ministry of Economy, which will be updated as necessary.
- (3) The semi-annual report shall be prepared in one original and three copies for submission to the Central and Regional Offices of the Ministry of Economy, in return for a receipt. The Regional Offices shall immediately send the report to the Central Office of the Ministry of Economy.
- (4) The semi-annual report shall be written in one of the official languages of the country.
- (5) An organization shall send a copy of its semi-annual report to the relevant line ministry.

Analysis and Assessment of the Report

Article 32:

- (1) The Ministry of Economy shall analyze and assess the semi-annual report within 90 days of the receipt of the semi-annual report and shall inform the respective organization about the result.
- (2) The Ministry of Economy shall, after analysis and assessment, send a summary copy of the annual report of foreign organizations to the Ministry of Foreign Affairs.

Supervision, Monitoring, and Submission of the Project

Article 33:

- (1) Supervision and monitoring shall focus on the quality and quantity of work and the project activity according to the contract.
- (2) An organization shall provide working facilities to the inspection team of the Ministry of Economy and relevant line ministries for the on-site inspection and supervision of approved projects.

- (3) The relevant line ministries shall monitor and supervise on an ongoing basis the technical implementation and activities of the project according to its specifications and shall submit a report to the Ministry of Economy.
- (4) An organization shall inform the Ministry of Economy and relevant line ministries in writing of the completion of the project according to the signed contract.

Chapter Five

Transformation, Merger, Dissolution and Liquidation of Organizations

Change in Legal Personality

Article 34:

- (1) After communicating with the Ministry of Economy, an organization may transform, separate, or merge with another or other organizations that have similar goals.
- (2) Upon merger or transformation, the newly registered organization shall be responsible for all liabilities of the previous organization.
- (3) Upon separation of organizations from each other, each organization shall be responsible for its liabilities, unless otherwise agreed upon by contract.
- (4) An organization may not transform its legal personality into or merge with a for-profit organization.

Dissolution

Article 35:

- (1) An organization shall be dissolved:
 - 1) Where the fixed period of establishment has expired, unless the time period, upon request, is renewed;
 - 2) Based on a voluntary decision of its highest governing body according to the relevant statute;
 - 3) Where the organization does not provide the Ministry of Economy with its annual report within one year of the end of the fiscal year;
 - 4) Where the organization does not re-register within 6 months, according to the Article 47.1 of this Law;
 - 5) Where the High Evaluation Commission establishes that activities of the organization are contrary to the public interest, provisions of this law and other valid laws.
- (2) The Ministry of Economy shall notify the organization in writing of the deficiencies relating to paragraph 1.1, 1.3, and 1.4 of Article 35. If the organization fails to rectify the deficiencies within 30 days of the date of notification, the organization shall be dissolved after the verification of the High Evaluation Commission.
- (3) In case of announcement of dissolution or expiration of the time period established for appeal, the Ministry of Economy shall delete the organization from the registry.
- (4) The organization may file its complaint to the Dispute Resolution Commission.

Consequences of Dissolution

Article 36:

(1) In case of dissolution, or transformation of the organization (from not-for-profit to profit), the movable and immovable properties remaining after the payment of liabilities and debts shall be distributed to an organization with similar activities, with the approval of the High Evaluation Commission. If there are no such organizations, the movable and immovable properties belong to the government.

(2) The movable and immovable properties of the dissolved organization shall not be distributed to any of its founders, members, directors, officers, employees, donors and/or their relatives.

Chapter Six

Dispute Resolution Commission (DRC)

Composition of the Commission

Article 37:

- (1) A Dispute Resolution Commission (DRC) shall be established to resolve disputes between the organizations and governmental departments resulting from implementation of this law.
- (2) The Commission shall be comprised of five members, of whom three members are appointed on the recommendation of the Ministry of Economy and approval of the President, and two members are introduced by Coordinating Bodies of non-governmental organizations. They shall perform their duties with independence and impartiality.
- (3) The members of the Commission shall be introduced by the relevant parties to serve a term of two years, which can only be extended by one additional term.
- (4) The Chair of the Commission shall be elected from among the members on a rotating basis for a term of one year.
- (5) The members of the Commission shall meet the following criteria:
 - University degree and a minimum of 5 years of work experience.
 - No criminal background.
- (6) The Commission may promulgate additional procedures to fulfill their responsibilities.

Examining the Complaint

Article 38:

- (1) The complainant shall file its objection in writing to the Dispute Resolution Commission.
- (2) The Commission, immediately after receiving the objection, shall specify a time for the disputing parties to appear and shall decide the case within one month.
- (3) The Commission shall collect necessary evidence from both parties and shall allow each party to argue orally or in writing before the Commission.

Decision of the Commission

Article 39:

- (1) The decision of the Commission shall have binding effect. In case either party is not satisfied with the decision of the Commission, it may file an appeal with the relevant court.
- (2) The disputing parties shall have the right to use an attorney during the hearing.

Chapter Seven Final Provisions

Non-Interference in Organization Affairs

Article 40:

- (1) Governmental and non-governmental organizations may not interfere in the performing affairs of organizations, but according to the provisions of this Law.
- (2) The line ministries are an exception to paragraph (1) of this Article.

Vehicle License Plate

Article 41:

An organization, after receiving a certificate of registration, shall prepare a temporary license plate for its vehicles, according to the law.

Voluntary Contributions

Article 42:

Excluded from the provisions of this law are the contribution and cooperation of natural and legal persons as volunteers, political parties, trade associations, social organizations, military bases and religious worship centers.

Employee Recruitment

Article 43:

In the recruitment of related employees, an organization shall observe the labor law and other valid legislation of the country.

Enactment of Implementing Regulations

Article 44:

- (1) The Ministry of Economy shall supervise the implementation of the provisions of this Law.
- (2) The Ministry of Economy, for better implementation of the provisions of this Law, shall issue rules and regulations.

Confidentiality

Article 45:

Officers and members of an organization may not release confidential information concerning projects, documents, historic or cultural archives, or military bases for their personal and for-profit purposes inside or outside the country.

Acquiring Information

Article 46:

Security bodies can acquire information concerning the activities of organizations only through the Ministry of Economy.

Obligations of the Organization

Article 47:

- (1) An organization that received a certificate of registration prior to the enforcement of this Law shall, within six months from the enforcement date, submit its registration application along with relevant documentation to the NGO Department of the Ministry of Economy.
- (2) In case the organizations specified in paragraph 1 of this Article paid the registration deposit prior to the enforcement of this law, the paid amount shall be counted as the registration fee.
- (3) The NGO Department of the Ministry of Economy shall submit the application and relevant documentation within one week to the High Evaluation Commission. The High Evaluation Commission shall, within 90 days of the completion of the application, decide on the approval or denial of the application.
- (4) The Ministry of Economy shall issue a certificate of registration upon approval of the application and related documentation, according to the provisions of this Law.
- (5) The Ministry of Economy shall submit the grounds for denial in writing to the organization, according to Article 19 of this Law.
- (6) Upon the confirmation of the High Evaluation Commission, an organization shall be fined from 1000-500,000 Afghanis, in case of violating the following:
 - 1) Submission of incorrect annual report;
 - 2) Failure to submit the annual report within the period specified in Article 31.1 of this law;
 - 3) Failure to facilitate the supervision according to Article 33.2 of this law.

Entry into Force

Article 48:

This law shall be enforced from the date of endorsement and shall be published in the official gazette. With the enforcement of this law, the Regulation on the Activities of Domestic and Foreign Non-Governmental Organizations (NGOs) in Afghanistan, published in the official gazette Number 792, in the Year 1421, shall be repealed.