

PROVISIONAL REGULATIONS FOR REGISTRATION AND MANAGEMENT OF PUBLIC (NON-COMMERCIAL) INSTITUTIONS

国务院关于修改〈事业单位登记管理暂行条例〉的决定

Issued: 1998

根据 2004 年 6 月 27 日《国务院关于修改〈事业单位登记管理暂行条例〉的决定》修订

第一章 总 则

第一条 为了规范事业单位登记管理,保障事业单位的合法权益,发挥事业单位在社会主义物质文明和精神文明建设中的作用,制定本条例。

第二条 本条例所称事业单位,是指国家为了社会公益目的,由国家机关举办或者其他组织利用国有资产举办的,从事教育、科技、文化、卫生等活动的社会服务组织。

事业单位依法举办的营利性经营组织,必须实行独立核算,依照国家有关公司、企业等经营组织的法律、法规登记管理。

第三条 事业单位经县级以上各级人民政府及其有关主管部门(以下统称审批机关)批准成立后,应当依照本条例的规定登记或者备案。
事业单位应当具备法人条件。

第四条 事业单位应当遵守宪法、法律、法规和国家政策。

第五条 县级以上各级人民政府机构编制管理机关所属的事业单位登记管理机构(以下简称登记管理机构)负责实施事业单位的登记管理工作。县级以上各级人民政府机构编制管理机关应当加强对登记管理机构事业单位登记管理工作的监督检查。

事业单位实行分级登记管理。分级登记管理的具体办法由国务院机构编制管理机关规定。

法律、行政法规对事业单位的监督管理另有规定的,依照有关法律、行政法规的规定执行。

第二章 登 记

The 'Provisional regulations for the registration and management of public (non-commercial) institutions' was passed by the eighth plenum of the standing committee of the State Council on the 25th of September 1998. It is hereby promulgated. It takes effect from the day of promulgation.

Premier Zhu Rongji, 25th October 1998

No. 1 GENERAL PRINCIPLES

Article 1: These regulations have been drawn up in order to standardise the registration and management of non-commercial institutions, to guarantee non-commercial institutions' legitimate rights and interests, and to give full play to their role in the construction of socialist material civilisation and spiritual civilisation.

Article 2: What these regulations refer to as non-commercial institutions indicates social service organisations engaged in such activities as education, science and technology, culture or public health, that the state, with an objective of social benefit, runs through state organs or other organisations using public assets.

Such profit-making commercial organisations that non-commercial institutions may run in accordance with the law must practice separate accounting, and should be registered and managed in accordance with national laws and regulations concerning such commercial organisations as companies and enterprises.

Article 3: Non-commercial institutions, having been established through the permission of Peoples' Governments at county level or above or other responsible departments [zhuguan bumen] (hereinafter referred to as examination and approval bodies), should be registered or placed on record in accordance with these regulations.

Non-commercial institutions should meet the conditions to be a legal entity [faren].

Article 4: Non-commercial institutions should respect the constitution, laws, regulations and national policies.

Article 5: The State Council's body for the management of the establishment of organisations and also the bodies for the management of the establishment of organisations under local Peoples' Governments at all levels above county are the bodies for the management of the registration of non-commercial institutions at that level of Government (hereinafter referred to as in short as registration management authorities).

第六条 申请事业单位法人登记，应当具备下列条件：

- (一) 经审批机关批准设立；
- (二) 有自己的名称、组织机构和场所；
- (三) 有与其业务活动相适应的从业人员；
- (四) 有与其业务活动相适应的经费来源；
- (五) 能够独立承担民事责任。

第七条 申请事业单位法人登记，应当向登记管理机关提交下列文件：

- (一) 登记申请书；
- (二) 审批机关的批准文件；
- (三) 场所使用权证明；
- (四) 经费来源证明；
- (五) 其他有关证明文件。

第八条 登记管理机关应当自收到登记申请书之日起 30 日内依照本条例的规定进行审查，作出准予登记或者不予登记的决定。准予登记的，发给《事业单位法人证书》；不予登记的，应当说明理由。

事业单位法人登记事项包括：名称、住所、宗旨和业务范围、法定代表人、经费来源（开办资金）等情况。

第九条 经登记的事业单位，凭《事业单位法人证书》刻制印章，申请开立银行帐户。事业单位应当将印章式样报登记管理机关备案。

第十条 事业单位的登记事项需要变更的，应当向登记管理机关办理变更登记。

第十一条 法律规定具备法人条件、自批准设立之日起即取得法人资格的事业单位，或者法律、其他行政法规规定具备法人条件、经有关主管部门依法审核或者登记，已经取得相应的执业许可证书的事业单位，不再办理事业单位法人登记，由有关主管部门按照分级登记管理的规定向登记管理机关备案。

县级以上各级人民政府设立的直属事业单位直接向登记管理机关备案。

第十二条 事业单位备案的事项，除本条例第八条第二款所列事项外，还应当包括执业许可证明文件或者设立批准文件。

对备案的事业单位，登记管理机关应当自收到备案文件之日起 30 日内发给《事业单位法人证书》。

The registration and management of non-commercial institutions separated by level will be practiced. The specific method for registration and management of non-commercial institutions separated by level will be laid down by the State Council's body for the management of the establishment of organisations.

Where laws and administrative regulations have other stipulations regarding the supervision and management of non-commercial institutions, these shall be carried out in accordance with the provisions of the relevant laws and administrative regulations.

No. 2 REGISTRATION

Article 6: To apply for registration as a non-commercial institution legal entity, the following conditions should be met:

- I. Be set up with the permission of the examination and approval bodies;
- II. Have their own appellation, organisational structure and place of operation;
- III. Have the appropriate staff for the activities of their vocation;
- IV. Have an appropriate source of funding for the activities of their vocation;
- V. Be able to independently undertake civil responsibility.

Article 7: To apply for registration as a non-commercial institution legal entity, the following documentation should handed over to the registration management authority:

- I. Letter of application to register;
- II. Document of permission from the examination and approval body;
- III. Proof of use rights for place of operation;
- IV. Proof of source of funding;
- V. Other relevant documentation.

Article 8: Registration management authorities should carry out an examination in accordance with the stipulations of these regulations within thirty days of receiving the letter of application to register. Those permitted to register to be issued with a "Certificate of status as a legal entity for non-commercial institutions"; those not permitted to register to have the reason explained to them.

The matters pertaining to the registration of a non-commercial institution as a legal entity include: appellation, place of business, aims and scope of activities, legal representative, source of funding.

Article 9: Non-commercial institutions having registered should have seals carved on the basis of their "Certificate of status as a legal entity for non-commercial institutions", and apply to open a bank account. The non-commercial institution should report the style of their seal to the registration management authority so that it may be placed on record.

Article 10: Should any of the matters pertaining to the registration of a non-commercial institution require alteration, registration of the alteration should be conducted with the registration management authority.

Article 11: Those non-commercial institutions that meet the conditions for a legal entity stipulated in law and that thus adopt the status of a legal entity beginning from the day they are permitted to be established, or those non-commercial institutions that have already received the relevant operating license because they met the conditions for a legal entity stipulated in the law or other administrative regulations and were examined and verified or registered by the competent department, need

第十三条 事业单位被撤销、解散的，应当向登记管理机关办理注销登记或者注销备案。

事业单位办理注销登记前，应当在审批机关指导下成立清算组织，完成清算工作。

事业单位应当自清算结束之日起 15 日内，向登记管理机关办理注销登记。事业单位办理注销登记，应当提交撤销或者解散该事业单位的文件和清算报告；登记管理机关收缴《事业单位法人证书》和印章。

第十四条 事业单位的登记、备案或者变更名称、住所以及注销登记或者注销备案，由登记管理机关予以公告。

第三章 监督管理

第十五条 事业单位开展活动，按照国家有关规定取得的合法收入，必须用于符合其宗旨和业务范围的活动。

事业单位接受捐赠、资助，必须符合事业单位的宗旨和业务范围，必须根据与捐赠人、资助人约定的期限、方式和合法用途使用。

第十六条 事业单位必须执行国家有关财务、价格等管理制度，接受财税、审计部门的监督。

第十七条 事业单位应当于每年 3 月 31 日前分别向登记管理机关和审批机关报送上一年度执行本条例情况的报告。

第十八条 事业单位未按照本条例规定办理登记的，由登记管理机关责令限期补办登记手续；逾期不补办的，由登记管理机关建议对该事业单位的负责人和其他直接责任人员依法给予纪律处分。

第十九条 事业单位有下列情形之一的，由登记管理机关给予警告，责令限期改正；情节严重的，经审批机关同意，予以撤销登记，收缴《事业单位法人证书》和印章：

（一）不按照本条例的规定办理变更登记、注销登记的；

（二）涂改、出租、出借《事业单位法人证书》或者出租、出借印章的；

（三）违反规定接受、使用捐赠、资助的。

事业单位违反法律、其他法规的，由有关机关依法处理。

not conduct registration as a non-commercial institution again, but should be placed on record with the registration management authority by the competent department in accordance with the provisions for management of registration separated by level.

Directly controlled non-commercial institutions set up by Peoples' Governments at all levels above county should be directly placed on record with the registration management authority.

Article 12: The matters pertaining to the placing on record of a non-commercial institution, as well as those listed in Article 8, Section 2 of these regulations should also include the operating license or documentation of permission to be set up.

The registration management authority should issue a "Certificate of status as a legal entity for non-commercial institutions" within thirty days of receiving the relevant documentation to those non-commercial institutions to be placed on record.

Article 13: Non-commercial institutions that are wound up or disbanded should cancel their registration or record with the registration management authority.

Prior to cancelling their registration, the institution should set up an auditing team under the guidance of the examination and approval body to complete final auditing work.

The non-commercial institution should cancel their registration with the registration management authority within 15 days of the completion of final auditing work. When cancelling registration, a non-commercial institution should provide the documentation concerning the winding up or disbanding of their institution and also the final audit report; the registration management authority should take back the institution's "Certificate of status as a legal entity for non-commercial institutions" and seals.

Article 14: The registration or placing on record of a non-commercial institution or their change of name or place of business or the cancellation of their registration or record, should be made public by the registration management authority.

No. 3 SUPERVISION AND MANAGEMENT

Article 15: Non-commercial institutions that carry out activities and obtain legal income in accordance with the relevant State regulations must use this in activities that meet with their aims and scope of activities.

Non-commercial institutions receiving donations or financial aid must do so in accordance with their aims and scope of activities, and must put them to legitimate use according to time limits and method agreed with the donor.

Article 16: Non-commercial institutions must implement the State's relevant financial and pricing management systems, and accept the supervision of taxation and auditing departments.

Article 17: Non-commercial institutions should send separate reports on their adherence to these regulations before the 31st of March every year to both the registration management authority and the examination and approval body.

Article 18: Those non-commercial institutions that have not yet

第二十条 登记管理机关的工作人员在事业单位登记管理工作中滥用职权、玩忽职守、徇私舞弊构成犯罪的，依法追究刑事责任；尚不构成犯罪的，依法给予行政处分。

第四章 附 则

第二十一条 《事业单位法人证书》的式样由国务院机构编制管理机关制定。

第二十二条 本条例实行前已经成立的事业单位，应当自本条例实行之日起1年内依照本条例有关规定办理登记或者备案手续。

第二十三条 本条例自发布之日起施行。

Source: Ministry of Civil Affairs of the People's Republic of China, "事业单位登记管理暂行条例," (accessed June 8, 2011)

registered as stipulated in these regulations should be instructed to conduct remedial registration procedures within a set period of time; those who exceed the time limit without completing remedial registration should be recommended by the registration management authority to have disciplinary punishments given out to their legal representative or other directly responsible persons, in accordance with the law.

Article 19: Should a non-commercial institution display any of the circumstances listed below, they should be given a warning by the registration management authority and instructed to rectify the situation within a set period of time; where the situation is serious, with the agreement of the examination and approval body, they should have their registration revoked, and their "Certificate of status as a legal entity for non-commercial institutions" and seals confiscated:

I. Those who alter or cancel their registrations failing to accord with the stipulations of these regulations;
II. Those who alter, hire or loan out their "Certificate of status as a legal entity for non-commercial institutions" or who hire or loan out their seals;

III. Those who accept or make use of donations or financial aid in contravention of regulations.

Non-commercial institutions that violate the law or other regulations should be dealt with by the relevant organs in accordance with the law.

Article 20: Those members of staff of registration management authorities who in the course of their work overseeing the registration of a non-commercial institution abuse their power, neglect their duty, practice favouritism or embezzle, shall, where this constitutes a criminal offence, have their criminal responsibility investigated in accordance with the law; where it does not constitute a criminal offence, they shall be given administrative punishment in accordance with the law.

No. 3 SUPPLEMENTARY

Article 21: The style of the "Certificate of status as a legal entity for non-commercial institutions" shall be laid down by the State Council's body for the management of the establishment of organisations.

Article 22: Non-commercial institutions already established prior to the implementation of these regulations should carry out the procedures for registration or putting on record in accordance with the relevant provisions of these regulations, within one year of their being implemented.

Article 23: These regulations take effect from the day of their promulgation.

Source: China Development Brief, "Provisional Regulations for Registration and Management of Non-commercial Institutions," (accessed June 8, 2011)