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LAW OF MONGOLIA ON NON-GOVERNMENTAL ORGANIZATIONS

1997.02.06

Ulaanbaatar, Mongolia

CHAPTER ONE

GENERAL PROVISIONS

Article 1. Purpose of this law

The purpose of this law is to regulate relations concerning the association of citizens and the establishment and activities of non-governmental organizations for the aim to implement the human rights as specified in the Constitution of Mongolia and in international treaties to which Mongolia is a party.

Article 2. Legislation on non-governmental organizations

1. Legislation on non-governmental organizations is comprised of the Constitution, this law and other legislative acts issued in conformity with them.
2. If an international treaty to which Mongolia is a party is inconsistent with this law, then the provisions of the international treaty shall prevail.

Article 3. Framework of this law

1. This law is applicable to all non-governmental organizations except political parties, trade unions, and churches and monasteries.
2. This law is applicable to international and foreign non-governmental organizations, their branches and representative offices established and operating in the territory of Mongolia.

Article 4. Definitions

In this law the following terms shall have the following meaning:

- 1) "non-governmental organization" means an organization which is independent from the state, self-governing, not-for-profit and established voluntarily by citizens or by legal persons other than State bodies (that exercise legislative, executive and judicial powers) on the basis of their individual or social interests and opinions;
- 2) "public benefit non-governmental organization" means a non-governmental organization that operates for the public benefit in the fields of culture, art, education, science, health, sport, nature and environment, community development, human rights, protection of the interests of specific subsets of the population, charity and other such fields;
- 3) "mutual benefit non-governmental organization" means a non-governmental organization other than a public benefit non-governmental organization that operates primarily to serve the legitimate interests of its members.

Article 5. The rights of individuals to establish and participate in non-governmental organizations

1. Citizens of Mongolia and legal persons except State bodies may freely establish, individually or collectively, non-governmental organizations on the basis of their interests and opinions without the permission of any State body.
2. Illegal restriction of the rights of citizens to establish non-governmental organizations is prohibited.
3. No person shall be forced to join a non-governmental organization.
4. Discrimination against and/or restriction of the rights and freedom of any person on the grounds on his/her association with a non-governmental organization is prohibited.
5. A non-governmental organization's activities and reports shall be public information and open to its members and to citizens.

6. Foreign citizens and stateless persons legitimately residing in Mongolia may establish and join non-governmental organizations in accordance with the procedure specified in this law if other laws and international treaties of Mongolia do not provide otherwise.

Article 6. Establishment of non-governmental organizations

A non-governmental organization shall be considered established after the founders have issued a decision to establish the non-governmental organization and have approved the non-governmental organization's by-laws. The non-governmental organization shall exercise its rights as a legal person after it is registered in the State registry.

Article 7. Dissolution of non-governmental organizations

1. A non-governmental organization can be dissolved if it has fully achieved the mission stated in its by-laws or on the grounds of other provisions specified in its by-laws. The decision to dissolve the non-governmental organization shall be issued by its governing body.

2. Upon dissolution of a non-governmental organization, any remaining assets after the settlement of debts shall be transferred to another non-governmental organization with the same or similar purpose or, if no such non-governmental organization exists, to public benefit activities consistent with the stated purpose of the non-governmental organization.

3. The governing body of the non-governmental organization shall publicly announce its decision to dissolve the non-governmental organization and notify the Ministry of Justice in writing within 21 days and, on the basis of that decision, the non-governmental organization shall be removed from the State registry.

Article 8. Compulsory dissolution of non-governmental organizations

1. The Court shall compulsory dissolve a non-governmental organization on the following grounds:

- 1) the non-governmental organization has conducted activities inconsistent with its mission;
- 2) the non-governmental organization has repeatedly violated laws and/or conducted activities of a severe nature.

2. Assets of a non-governmental organization compulsory dissolved by the Court's decision shall be liquidated in accordance with the procedures specified in paragraph 2 of article 7 and in paragraph 3 of article 25 of this law.

Article 9. Relations between State bodies and non-governmental organizations

1. The State shall protect the legitimate rights of non-governmental organizations.
2. Non-governmental organizations shall be independent of State bodies.
3. The State may support, financially and otherwise, activities of non-governmental organizations.
4. Information relating to activities of State bodies, unless it is classified as State secret, shall be open to non-governmental organizations.
5. Non-governmental organizations may be involved in drafting and implementing the decisions to be taken by legislative and executive authorities.
6. Non-governmental organizations may make public statements about their positions on decisions taken by the State.

CHAPTER TWO

GENERAL REQUIREMENTS FOR NON-GOVERNMENTAL ORGANIZATIONS

Article 10. By-laws of non-governmental organizations

The by-laws of a non-governmental organization shall include the following:

- 1) name and address of the non-governmental organization;
- 2) date of creation of the non-governmental organization;
- 3) statement of purpose of the non-governmental organization;
- 4) organizational structure and monitoring procedures of the non-governmental organization;
- 5) powers of the Governing Board;
- 6) maximum and minimum numbers of members of the Governing Board;
- 7) terms of office and procedures for selection and removal of members of the Governing Board;
- 8) minimum number of meetings of the Governing Board per annum;
- 9) quorum necessary to hold a meeting of the Governing Board;
- 10) procedure for decision-making at meetings of the Governing Board;
- 11) grounds and procedures for restructuring and dissolution of the non-governmental organization and liquidation of its assets;
- 12) grounds and procedures regarding the amendment to the non-governmental organization by-laws.

Article 11. Governing body of a non-governmental organization

1. The governing body of a non-membership non-governmental organization shall be the Governing Board. The Governing Board shall have the following powers:

- 1) making amendments to by-laws;
- 2) restructuring and dissolving the non-governmental organization;
- 3) approving the non-governmental organization's annual budget;
- 4) hiring and discharging the Executive Director and discussing the report;
- 5) defining the authority of the Executive Director over the non-governmental organization's finances and assets;
- 6) approving the staffing structure and the budget of the non-governmental organization;
- 7) other duties specified in the by-laws.

2. The governing body of a membership non-governmental organization shall be a Governing Board as specified in paragraph 1 of this article if the non-governmental organization's by-laws do not provide otherwise.

3. The Governing Board shall consist of an odd number of members not less than five.

4. Members of the Governing Board shall not receive any salary or other remuneration except compensation for expenses incurred in carrying out their duties as members of the Board.

Article 12. Rights and responsibilities of the Chairperson of the Governing Board and the Executive Director

1. If the by-laws do not provide otherwise, the Chairperson of the Governing Board shall have the right to represent the non-governmental organization inside and outside the country, preside over meetings of the Governing Board and conclude a contract with the Executive Director based on the decision of the Governing Board.

2. The Executive Director shall have the following authorities:

- 1) to represent the non-governmental organization and manage its finances and assets within the limits of his/her powers defined by the Governing Board;

2) other duties specified in the law and the contract.

3. The Executive Director's powers, duties and responsibilities, grounds for dismissal, salary rate and remuneration shall be regulated by the contract.

4. The Executive Director shall carry out his/her duties after expiry of the term of appointment until a new Executive Director is hired.

5. A non-governmental organization shall not be responsible for losses of or damages to individuals and business entities caused by illegal activities of the non-governmental organization's members, members of the Governing Board and staff.

Article 13. Decision-making procedures of the Governing Board

1. All members of the Governing Board (hereinafter referred to as "members") shall have an equal vote.

2. Votes shall be secret on personnel matters and open in all other cases.

3. If an issue examined by the Governing Board results in a conflict of interest for any member present at the meeting, such member shall state the conflict and refrain from voting on that issue. If the conflict of interest involves the Chairperson of the Governing Board, another member shall guide the meeting.

Article 14. Minutes of Meetings of the Governing Board

Minutes of meetings of the Governing Board shall include the agenda, the decisions taken by the Board, the results of secret votes in figures, the results of open votes by name, announcement of any conflicts of interest and statements of members protesting decisions of the Board. Such protests shall be explained in writing by the protesting member.

CHAPTER THREE

REGISTRATION OF NON-GOVERNMENTAL ORGANIZATIONS

Article 15. Registration of non-governmental organizations

Non-governmental organizations shall be registered with the Ministry of Justice in accordance with the procedure specified in this law.

Article 16. Registration process of non-governmental organizations

1. The Chairperson of the Governing Board shall submit an application to be registered to the Ministry of Justice along with documents specified in paragraph 2 of this Article.

2. The following documents shall be enclosed in the application:

1) name and address of the non-governmental organization;

2) names and addresses of the members of the Governing Board, the Chairperson and the Executive Director;

3) by-laws of the non-governmental organization certified and signed by the Chairperson of the Governing Board;

4) receipt of the payment for the state stamp duty fee.

3. The non-governmental organization's application to be registered and other related documents shall be submitted, directly or via local authority, to the Ministry of Justice.

4. The authority that first receives the non-governmental organization's application and related documents to be registered shall officially inform the non-governmental organization of the date on which the documents were received.

5. If the application to be registered and other documents are incomplete or do not meet the requirements specified in Article 10 of this law and in paragraph 2 of this Article, the authority that first receives the above documents shall return them to the non-governmental organization.

6. Within 30 days of receipt of adequate documents the Ministry of Justice shall make either one of the following decisions:

1) register the non-governmental organization in the State registry;

2) refuse registration on the following grounds:

a) the purpose of the non-governmental organization violates the laws of Mongolia;

b) another non-governmental organization is already registered with the same name.

7. The Ministry of Justice shall register the non-governmental organization and provide it with a registration certificate. The design of the certificate of registration and the issuance procedures shall be approved by the Minister of Justice.

8. If registration is refused, the Ministry of Justice shall officially notify the non-governmental organization of the grounds for refusal in the State registry. If the non-governmental organization does not agree with the decision it may file suit in court.

9. The non-governmental organization may again apply for registration after taking corrective action on the grounds for refusal.

10. If no official response from the Ministry of Justice is received by the non-governmental organization regarding its registration in the State registry within the time specified in paragraph 6 of this article, the non-governmental organization shall be considered to be legally registered and entitled to operate. The non-governmental organization shall be issued a certificate of registration according to the relevant procedures.

11. The Ministry of Justice shall publicly announce the registration in the State registry of the non-governmental organization.

Article 17. Registration of amendments to the By-laws

1. The non-governmental organization shall notify the Ministry of Justice of any amendments to the by-laws within 30 days of those amendments.

2. The Ministry of Justice shall officially notify the non-governmental organization of the registration of the amendments or, if registration is refused, of the grounds for refusal within 30 days.

Article 18. Removal from State registry

1. The Ministry of Justice shall remove from State registry a non-governmental organization on the following grounds and inform the public about the decision:

1) court decision on compulsory dissolution of the non-governmental organization enters into force;

2) the non-governmental organization fails to file its activities report after receiving a written notice.

2. Once the non-governmental organization has corrected a violation specified in sub-paragraph 2 in paragraph 1 of this Article, it may register in the State registry again following this law.

CHAPTER FOUR

NON-GOVERNMENTAL ORGANIZATION FINANCES

Article 19. Income of non-governmental organizations

Sources of non-governmental organization income may include the following:

1) membership fees and contributions;

- 2) contributions by individuals, business entities and organizations;
- 3) income generated by mission-related economic activities;
- 4) borrowed or inherited funds, and funds allocated from the State budget for project implementation.

Article 20. Non-governmental organization expenses

1. Non-governmental organization shall use all income for the attainment of their stated purposes.
2. Non-governmental organization shall not distribute income in the form of dividends. Non-governmental organization shall not act as financial guarantors or participate in amelioration of any business of any business losses on behalf of any person, business entity or other organization.
3. No member of the Governing Board or staff of a non-governmental organization shall conduct any financial or economic activities using the organization's assets and finances for his/her personal gain.
4. Non-governmental organization shall not make any contributions to political parties and/or to coalition or to candidates in the State Ih Hural, Presidential and Citizen Representatives' Hural elections.

Article 21. Benefits for non-governmental organization

1. Income from membership fees, contributions, inheritance and mission-related economic activities of public benefit, registered non-governmental organization shall be tax exempt.
2. Income from membership fees and members' contributions to mutual benefit, registered non-governmental organization shall be tax exempt.
3. Other benefits for registered non-governmental organization shall be regulated by relevant laws and regulations.

Article 22. Tax deductions for contributors

A Contributor to a public benefit registered non-governmental organization may deduct the amount of the contribution from annual income subject to taxation at the current market price rate. A Contributor of an inheritance to a public benefit, registered non-governmental organization shall be exempt from inheritance tax.

CHAPTER FIVE

NON-GOVERNMENTAL ORGANIZATION REPORTS

Article 23. Non-governmental organization reports

1. The non-governmental organization shall file an annual financial report for the previous calendar year with the Tax Office by no later than February 15 of the following year, following relevant regulations.
2. The non-governmental organization shall file an activities report with the Ministry of Justice before the deadline specified in paragraph 1 of this Article and the report should include the following:
 - 1) the non-governmental organization's address;
 - 2) a summary of its activities;
 - 3) a balance sheet showing income and expenses for the year by the following categories:
 - a) contributions;
 - b) income from mission-related economic activities;
 - c) inheritance.
 - 4) a list of donors with cumulative donations, cash or in-kind, greater than 700,000 togrogs, and the specific amount or value of in-kind contributions.

5) names and addresses of the Chairperson and members of the Governing Board and the Executive Director.

3. Whether or not a non-governmental organization shall report to a donor on the use of the donor's contribution will be regulated by the contract signed between the non-governmental organization and the donor.

4. The Ministry of Justice and the non-governmental organization shall keep the non-governmental organization's activities report for at least 10 years.

CHAPTER SIX

LIABILITIES FOR VIOLATION OF THIS LAW

Article 24. Administrative sanctions

If a breach of the legislation on non-governmental organizations is held not to constitute a criminal offense, the court depending from the nature of a breach shall impose the following penalties on an offending person:

1) in cases of illegal distribution of income in the form of dividends or payment on behalf of any person, business entity or organization acting as financial guarantor, a fine of 40,000-60,000 togrogs shall be imposed on the guilty executive, and a fine of 100,000-150,000 togrogs shall be imposed on the organization;

2) if a member of the Governing Board or staff of a non-governmental organization conducts any financial or economic activities using the organization's assets and finances for his/her personal gain, a fine of 40,000-60,000 togrogs shall be imposed on the guilty executive and the earned income shall be confiscated;

3) if non-governmental organization make contributions to political parties, party coalitions or candidates in the State Ih Hural, Presidential and Citizen Representatives' Hurals elections, a fine of 50,000-60,000 togrogs shall be imposed on the guilty executive, and a fine of 200,000-250,000 togrogs shall be imposed on the organization;

4) if a non-governmental organization fails to file its annual report with the relevant authorities within the time specified in this law a fine of 10,000-20,000 togrogs shall be imposed on the guilty executive.

CHAPTER SEVEN

MISCELLANEOUS PROVISIONS

Article 25. Special provisions related to Foundations

1. This law shall refer to Foundations operating in the fields specified in paragraph 3 of Article 36 of the Civil Law. Such Foundations may only donate funds to:

1) support public benefit activities of a non-governmental organization;

2) support government activities consistent with the Foundation's stated objective;

3) finance tuition fees, research and related costs for the education of an individual consistent with the Foundation's stated objectives;

4) encourage individuals to act in the public benefit.

2. Each year a Foundation must disburse at least 50 percent of the interest earnings of its funds for its stated objectives.

3. The Foundation may be dissolved only by majority vote of all members of the Governing Board. Upon dissolution the funds of the foundation shall be disbursed to another foundation with the same or similar purpose or, if no such foundation exists, to public benefit activities consistent with the stated purpose of the foundation.

Ih Hural of Mongolia R. Gonchigdorj