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THE GOVERNMENT

Chapter I

GENERAL PROVISIONS

DECREE No.177/1999/ND-CP OF DECEMBER 22, 1999 PROMULGATING THE REGULATION ON ORGANIZATION AND OPERATION OF THE SOCIAL FUNDS AND CHARITY FUNDS

THE GOVERNMENT

Pursuant to the Law on Organization of the Government of September 30, 1992;

Pursuant to the Civil Code of October 28, 1995;

At the proposal of the Minister of Finance.

DECREES:

Article 1.- To promulgate together with this Decree the Regulation on Organization and Operation of the Social Funds and Charity Funds.

Article 2.- This Decree takes effect 15 days after its signing.

Article 3.- The Minister of Finance, the Minister-Head of the Government Commission for Organization and Personnel shall have to guide the implementation of this Decree.

Article 4.- The ministers, the heads of the ministerial-level agencies, the heads of the agencies attached to the Government and the presidents of the People's Committees of the provinces and centrally-run cities shall have to implement this Decree.

On behalf of the Government
For the Prime Minister
Deputy Prime Minister
NGUYEN TAN DUNG

REGULATION ON ORGANIZATION AND OPERATION OF THE SOCIAL FUNDS AND CHARITY FUNDS

(Issued together with the Government's Decree No.177/1999/ND-CP of December 22, 1999)

Article 1.- Scope of application

This Regulation stipulates the establishment and operation of the social funds and charity funds under the provisions of the Civil-Code.

Article 2.- Establishment and operation purposes

The social funds and charity funds (hereafter called the funds for short) shall be set up and operate for humanitarian and charity purposes to promote the cultural, sport, scientific and social development.

Article 3.- A fund is a non-governmental organization that has the legal person status, its own name, head office and seal, and opens its bank account(s) at bank(s) or State Treasury(ies).

The fund shall operate according to its Charter ratified by the State agency competent to permit its establishment.

Article 4.- Operation and financial management principles

1. The funds are set up and operate for non-profit purposes.

2. The funds operate according to the principle of self coverage of expenses for their social and charity activities and taking self-responsibility with their own properties.

3. The funds shall have to comply with the provisions of this Regulation and other law provisions on the establishment, operation, financial management, merger, consolidation, division, splitting and dissolution of funds. They shall also have to make public all their revenues and expenditures according to the law provisions on financial publicity.

4. Organizations and individuals are strictly prohibited to take advantage of the establishment and operation of the funds to gain profit and operate unlawfully.

Chapter II

ESTABLISHMENT OF THE SOCIAL FUNDS AND CHARITY FUNDS; THE FUND' POWERS AND RESPONSIBILITIES

Article 5.- Founding members and conditions for

the fund establishment

1. Founding members

All organizations established according to laws; all individuals aged full 18 or more and having full capacity for civil acts may participate in the establishment of the funds.

2. The establishment of a fund must fully satisfy the following conditions:

a/ There are at least 3 members in their capacity as the founding members, who apply for the fund establishment. Where an organization participates in the establishment, it must nominate its representative(s) to participate therein;

b/ There is a complete dossier of application for the fund establishment as stipulated in Article 6 of this Regulation;

c/ There's a working office for the to-be set up fund.

Article 6.- Establishment procedures

The founding members shall have to send the dossier of application for the fund establishment to the competent authority prescribed in Article 7 of this Regulation. Such a dossier includes:

1. The application for the fund establishment (attached with the fund establishment project);

2. The draft Charter of the fund;

3. The list of the founding members, the brief curricula vitae of members of the Fund Management Board, the director and the chief accountant;

4. The plan on the collection, management and use of the fund's capital and properties.

Article 7.- Competence to permit the establishment

1. The Prime Minister authorizes the presidents of the People's Committees of the provinces and centrally-run cities to permit the establishment and ratify Charters of the social funds and charity funds in their respective localities.

2. Depending on each specific case, the presidents of the People's Committees of the provinces and centrally-run cities may authorize the presidents of the People's Committees of districts, provincial towns and cities to permit the establishment and ratify Charters of the small-size funds.

3. The agencies and administrations at all levels shall assume the prime responsibility and coordinate

with the finance agencies of the same level to evaluate dossiers of application for the fund establishment and submit them to the authorities competent to permit the fund establishment as stipulated in Clauses 1 and 2 of this Article.

Article 8.- The funds' powers and responsibilities

A fund shall have the following powers and responsibilities:

1. To mobilize domestic and foreign organizations and individuals to provide financial support for activities according to the fund's principles and purposes;

2. To receive money and properties lawfully provided as financial support by organizations and individuals for the fund;

3. To elaborate and implement financial support projects according to the fund's principles and purposes;

4. To use the fund's money and properties in strict accordance with the fund's principles and purposes;

5. To effect the publicity on the fund's revenues and the use thereof, to supply necessary information to the State's functional agencies when so requested as prescribed by law;

6. To operate in strict compliance with the fund's Charter already ratified by the competent State agency;

7. To be subject to the inspection and examination by the State agencies as prescribed by law;

8. To exercise other rights and performs other obligations prescribed by law.

Chapter III

ORGANIZATION AND MANAGEMENT OF THE FUNDS' OPERATION

Article 9.- The Fund Management Board

1. Each social or charity fund must have a Fund Management Board, whose members shall be nominated from the founding members and approved by the authorities competent to permit the fund establishment.

2. The Fund Management Board shall have the following tasks and powers:

a/ To consider and approve the orientations and

plans for the fund's operation;

b/ To issue regulations on the management and use of the fund's revenue sources; to elaborate the norms of spending on the fund management within the total funding to be used under the provisions of Clause 4, Article 14 of this Regulation;

c/ To supervise and inspect the implementation of the fund's Charter;

d/ To ratify the fund's financial plans and examine its final account settlement reports;

e/ To decide the establishment of specialized sections of the fund.

3. The Fund Management Board shall work according to the collective regime to decide matters under its competence. The Fund Management Board's working regulations shall be stipulated in the Fund's Charter.

4. The Fund Management Board has standing members being its chairman and vice-chairmen. The Board's standing members have the responsibility to represent the Board to manage the fund's activities and settle matters proposed by the fund's executive director. The tasks and powers of the standing members of the Fund Management Board shall be specified in the fund's Charter.

Article 10.- The fund's director and functional sections.

1. The fund's director is the fund's representative at law, who shall be appointed by the chairman of the Fund Management Council.

2. The director is assisted in the administration of the fund by the deputy director(s), chief accountant, cashier and a number of the specialized sections. The fund's deputy director(s) shall be appointed by the chairman of the Fund Management Board at the proposal of the director.

3. The fund's chief accountant shall be appointed by the chairman of the Fund Management Board at the proposal of the fund's director and on the basis of the criteria set by the Finance Ministry.

4. The heads and deputy heads of the specialized sections shall be appointed by the fund's director.

Article 11.- Tasks and powers of the fund's director

1. To be answerable before the Fund Management Board and before law for the entire operations of the fund.

2. To administer and manage the fund's activities; to observe the fund's spending norms in strict compliance with the resolution of the Fund Management Board, the fund's Charter and law.

3. To sign legal documents within his/her administrative responsibility and be accountable for his/her decisions.

4. To regularly report on the fund's operation to the Management Board and the agency competent to decide the fund establishment.

5. To manage the fund's capital and property according to its Charter and law provisions on financial and property management.

Article 12.- The Fund Control Board

1. Each fund must have the Fund Control Board. For a fund set up by decision of the president of the People's Committee of the district, provincial town or city, the Fund Management Board shall perform the control function.

2. The Fund Control Board must be composed of at least 3 members, including the head, the deputy head(s) and member(s). The chairman of the Fund Management Board shall decide the establishment of the Control Board and appoint its members.

3. The Fund Control Board shall operate independently and have the following tasks:

a/ To inspect and supervise the fund's operation in strict compliance with the Charter and law provisions;

b/ To report and propose to the Fund Management Board on the results of the control of the fund's activities and its financial situation.

Article 13.- The funds' revenue sources

A fund shall have the following revenue sources:

1. The revenue from the voluntary contributions and financial supports of domestic and foreign agencies, organizations and individuals;

2. Financial supports with concrete purposes and addresses for implementation under the authorization of the organizations and/or individuals that provide the financial support;

3. The deposit interests and other lawful revenues (if any).

Article 14.- Use of funds

The contents of fund using include:

1. To provide the financial support for programs and projects for humanitarian and charity purposes, promoting the cultural, sport, scientific and social development according to the fund's principles, purposes and Charter.

2. To provide the financial support for organizations and individuals' activities which conform to the fund's principles and purposes;

3. To provide the financial support under the authorization of organizations and/or individuals and implement the financial-support projects with clear addresses according to law provisions;

4. To spend on the fund's management activities, which must not exceed 5% of the total fund's revenue.

Article 15.- Organization and implementation of the accounting and statistical work

1. A fund shall have to organize and implement the accounting and statistical work according to law provisions on accounting and statistics.

2. It shall have to open books to record the full list of contributing and donating organizations and individuals as well as the list of the subjects receiving financial support.

3. It shall have to elaborate and send fully and on time the periodical financial statements and annual final account settlement reports as prescribed for the finance agency by the authority competent to permit its establishment.

Article 16.- Fund's responsibility toward State agencies

1. Social funds and charity funds shall be subject to the State financial management by the finance agencies of the levels competent to permit their establishment.

2. The fund shall also be subject to the State professional management of their operations by the specialized management agencies.

Article 17.- The funds' relations with organizations and individuals related to their activities

1. Funds may set up relations with domestic and foreign organizations and individuals in order to mobilize financial supports for the funds or their specific projects according to the provisions of law.

2. Funds may set up relations with localities,

organizations and/or individuals that need financial supports in order to elaborate financial support projects according to the funds' operation principles and purposes.

3. Funds shall have to provide financial support in strict compliance with the authorization of the organizations and individuals that provide financial supports with concrete purposes, objects and addresses.

4. Funds shall be subject to supervision by the financially supporting organizations and individuals as well as people.

Article 18.- Establishment and operation of the funds' branches and representative offices

1. A fund may set up its branches and/or representative offices in places other than the location of its head office and must notify this to the People's Committees of the provinces or districts where it establishes branches and/or representative offices as well as the agency competent to permit the establishment of the fund. The Fund Management Board shall decide the establishment and determine the powers and responsibilities of branches and representative offices at the proposal of the fund's director.

2. The fund's branches and representative offices are its dependent units which shall operate according to the fund's purposes and principles. The fund shall take responsibility for all activities of its branches and representative offices.

3. The fund's branches and representative offices shall take responsibilities towards the State agencies in localities as prescribed in Article 17 of this Regulation.

Chapter IV

MERGER, CONSOLIDATION, DIVISION, SPLITTING, DISSOLUTION OF FUND AND SUSPENSION OF FUNDS' OPERATIONS

Article 19.- Merger, consolidation, division, splitting and dissolution of a fund

1. Depending on the requirements and operation capacity of the fund, the Fund Management Board may propose to the competent agency for the merger, consolidation, division, splitting or dissolution of the fund.

2. The fund is forced to dissolve in the following cases:

a/ Within 6 months after the issuance of its establishment decision, the fund fails to start its operation;

b/ The fund is not allowed by the competent authority to resume its operation after it was suspended for more than 6 months from the suspension date.

Article 20.- Stopping or suspending operations of a fund

1. A fund shall be stopped from operation when it has seriously violated laws or infringed upon the State's and/or people's interests.

2. A fund shall be suspended from operation when:

a/ Operating for the wrong purposes and not in accordance with its principles and Charter already ratified by the competent State agency;

b/ Violating the financial management regulations of the fund and the State;

c/ Organizing the fund management and administration in contravention of the current law provisions;

d/ Using the purposed financial supports of organizations and individuals wrongly in a systematic or serious manner;

e/ Mobilization of financial support in contravention of law.

3. For the violations mentioned in Clauses 1 and 2 of this Article, in addition to the operation stoppage or suspension, a fund can, depending on the nature and seriousness of its violations, also be sanctioned administratively and, if causing damages, has to pay compensation therefor as prescribed by law. Depending on the seriousness of its violations, persons who manage the fund management shall also be handled according to law provisions.

4. The authority competent to permit the fund establishment shall also be competent to decide the operation stoppage, suspension and resumption.

Within 6 months after being suspended from operation, if the fund corrects and redresses its violations stipulated in Clause 2 of this Article, the competent authority may consider and allow it to resume operation.

Article 21.- Handling of a fund's properties upon its dissolution

Upon the fund's dissolution, after paying all debts and dissolution expenses, all the remaining properties and money of the fund shall be remitted to the State budget of the level that has permitted the fund establishment. To strictly prohibit the illegal disbursement of the fund's money and properties.

Article 22.- Application to the funds established before this Regulation takes effect

The social funds and charity funds which were established before this Regulation takes effect shall not have to apply for re-establishment but must supplement and complete their dossiers according to the stipulations of Article 6 within 60 (sixty) days from the effective date of this Regulation and must fully abide by the provisions of this Regulation.

On behalf of the Government
For the Prime Minister
Deputy Prime Minister
NGUYEN TAN DUNG