

法務省民商第 298 号

平成 24 年 2 月 3 日

Ministry of Justice, the Civil Affairs Bureau,

the Commercial Affairs

Division No. 298 February 3, 2012

法務局民事行政部長 殿

地方法務局長 殿

To: Director of Civil Administration ,Legal Affairs Bureau

To: The Directors of the District Legal Affairs Bureaus

法務省民事局商事課長

Ministry of Justice, Director, Civil Affairs Bureau, Commercial Affairs Division

特定非営利活動促進法の一部を改正する法律の施行に伴う法人登記事務  
の取扱いについて（依命通知）

Handling of Corporate Registration Affairs Accompanying the Enforcement of the Act  
Partially Amending the Act on Promotion of Specified Non-profit Activities (Order  
Notice)

特定非営利活動促進法の一部を改正する法律（平成 23 年法律第 70 号。以下「改正法」という。）、特定非営利活動促進法施行令（平成 23 年政令第 319 号。以下「施行令」という。）及び特定非営利活動促進法施行規則（平成 23 年内閣府令第 55 号。以下「施行規則」という。）が本年 4 月 1 日から施行されますが、これに伴う法人登記事務の取扱いについては、下記の点に留意し、事務処理に遺憾のないよう、貴管下登記官に周知方取り計らい願います。なお、本通知中、「法」とあるのは改正法による改正後の特定非営利活動促進法（平成 10 年法律第 7 号）を、「商登法」とあるのは商業登記法（昭和 38 年法律第 125 号）を、「組登令」とあるのは施行令による改正後の組合等登記令（昭和 39 年政令第 29 号）を、「法登規則」とあるのは各種法人等登記規則（昭和 39 年法務省令第 46 号）を、「商登規則」とあるのは商業登記規則（昭和 39 年法務省令第 23 号）をいいます。

The Act Partially Amending the Act on Promotion of Specified Non-profit Activities (Act No. 20 of

2011; hereinafter referred to as the “Amended Act”), the Order for Enforcement of the Act on Promotion of Specified Non-profit Activities (Cabinet Order No. 319 of 2011; hereinafter referred to as the “Enforcement Order”), and the Regulation for Enforcement of the Act on Promotion of Specified Non-profit Activities (Cabinet Office Order No. 55 of 2011; hereinafter referred to as the “Enforcement Regulation”) will go into effect on April 1 of this year. Therefore, please inform the registrar in your jurisdiction of the following points regarding the handling of corporate registrations in connection with the above. In this notice, “Act” shall refer to the Act on Promotion of Specified Non-profit Activities (Act No. 7 of 1998) as amended by the Amended Act, “CR Act” shall refer to the Commercial Registration Act (Act No. 125 of 1963), “Association Registration Order” shall refer to provisions of the Association Registration Order (Cabinet Order No. 29 of 1964) after the revision by the Enforcement Order, “Corporation Registration Regulation” shall refer to Regulations on Registration of Various Corporations, Etc. (Ministry of Justice Order No. 46 of 1964), and “Commercial Registration Regulation” shall refer to the Regulation on Commercial Registrations (Ministry of Justice Order No. 23 of 1964).

## 記

### Note

#### 1 特定非営利活動の追加

##### 1. Addition of Specified Non-Profit Activities

特定非営利活動の種類（法第2条第1項，別表）として，観光の振興を図る活動（別表第4号），農山漁村又は中山間地域の振興を図る活動（別表第5号）及び別表第1号から第19号までに掲げる活動に準ずる活動として都道府県又は指定都市（地方自治法（昭和22年法律第67号）第252条の19第1項の指定都市をいう。以下同じ。）の条例で定める活動（別表第20号）が追加された。

Regarding the types of specified non-profit activities (Article 2, paragraph (1) of the Act, Appended Table), activities for promoting tourism (Appended Table (4)) and activities for revitalizing rural areas or hilly and mountainous areas (Appended Table (5)), and activities specified by Ordinance of the prefecture or designated city (referred to as designated cities in Article 252, paragraph (19), item (i) of the Local Autonomy Act (Act No. 67 of 1947); the same applies hereinafter) as activities equivalent to activities listed in (1) to (19) of the Appended Table ((20) of the appended table) were added.

#### 2 所轄庁の変更

##### 2. Changes to Competent Authority

改正法による改正前の特定非営利活動促進法（以下「旧法」という。）においては，特定非営利活動法人の所轄庁は，その事務所が所在する都道府県

の知事とするとされ（旧法第9条第1項）、2以上の都道府県の区域内に事務所を設置する特定非営利活動法人にあっては、内閣総理大臣とするとされていた（同条第2項。以下旧法による所轄庁を「旧所轄庁」という。）。

改正法の施行後は、特定非営利活動法人の所轄庁は、その主たる事務所が所在する都道府県の知事（その事務所が一の指定都市の区域内のみに所在する特定非営利活動法人にあっては、当該指定都市の長）とするとされた（法第9条。以下法による所轄庁を「新所轄庁」という。）。したがって、改正法の施行後は、特定非営利活動法人の設立の認証（法第10条第1項）、定款の変更の認証（法第25条第3項）等は、新所轄庁である都道府県の知事又は指定都市の長によってされることとなる。

The Act on Promotion of Specified Non-profit Activities prior to the amendment by the Amended Act (hereinafter referred to as the “former act”) specifies that the competent authority for corporations engaging in specified non-profit activities shall be the governor of the prefecture where the office is located (Article 9, paragraph (1) of the Former Act), and for corporations engaging in specified non-profit activities having offices in the area of two or more prefectures, it shall be the prime minister (Article 9, paragraph (2) of the said act; competent authority according to the former act is hereinafter referred to as the “former competent authority”).

After enforcement of the Amended Act, the competent authority for the corporation engaging in specified non-profit activities shall be the governor of the prefecture where the principal office is located (mayor of the designated city for corporations engaging in specified non-profit activities whose office is located in only one designated city)(Article 9 of the Act; competent authority according to the act shall hereinafter refer to the “new competent authority”). Therefore, after the enforcement of the Amended Act, certification of incorporation for corporations engaging in specified non-profit activities (Article 10, paragraph (1) of the Act) and certification for changing the articles of incorporation (Article 25, paragraph (3) of the Act), etc. shall be handled by the prefectural governor or mayor of the designated city that is the new competent authority.

### 3 社員総会の決議の省略

### 3. Omission of Resolution of General Meeting of Members

特定非営利活動法人の理事又は社員が社員総会の目的である事項について提案をした場合において、当該提案につき社員の全員が書面又は電磁的記録（電子的方式、磁気的方式その他人の知覚によっては認識することができない方式で作られる記録であって、電子計算機による情報処理の用に供されるものとして内閣府令で定めるもの（施行規則第2条参照）をいう。）により同意の意思表示をしたときは、当該提案を可決する旨の社員総会の決議があ

ったものとみなすとされ（法第14条の9第1項）、また、社員総会の目的である事項の全てについての提案を可決する旨の社員総会の決議があったものとみなされた場合には、その時に当該社員総会が終結したものとみなすとされた（同条第2項）。

なお、所轄庁から定款の変更の認証を受けようとする場合、所轄庁に定款の変更をしたことを届け出る場合等においては、社員総会の議事録の謄本を提出し、又は添えなければならないとされている（法第25条第4項、第6項等参照）から、これらの場合には、社員総会の議事録の作成が前提とされている。したがって、法第14条の9第1項の規定により特定非営利活動法人の登記すべき事項について社員総会の決議があったものとみなされる場合であっても、当該登記すべき事項に係る登記の申請書には、上記場合に該当することを証する書面（条例の規定により「社員総会の議事録」などと題する書面となることが考えられる。）を添付しなければならないこととなる。

If any director or member makes a proposal regarding the subject of the general meeting of members and all members manifest their consent to the proposal in writing or by an electronic or magnetic record (meaning a record used in computerized information processing which is created in electronic form, magnetic form, or any other form that cannot be perceived by the human senses as specified by Cabinet Office Order (see Article 2 of the Enforcement Regulation)), it is deemed that a resolution to affirm the proposal has been made at the general meeting of members (Article 14-9, paragraph (1) of the Act), and if it is deemed that a resolution approving all the subjects of the meeting has been made at the general meeting of members, the general meeting of members is deemed to have concluded at that time (Article 14-9, paragraph (2) of the Act).

Moreover, if they intend to obtain certification for amending the articles of incorporation from a competent authority, and if a notification that amendments were made to the articles of incorporation is provided to the competent authority, a transcript of the minutes of the general meeting of members must be submitted or attached (see Article 25, paragraph (4) and 25, paragraph (6) of the Act), and in such cases, it is assumed that the minutes of the general meeting of members are prepared. Therefore, even if it is deemed that the resolution at the general meeting of members was made regarding the matters that must be registered by a corporation engaging in specified non-profit activities according to the provision in Article 14-9, paragraph (1) of the Act, documents attesting that the above case applies (documents assumed to be titled “Minuted of the General Meeting of Members” based on the provision by an Ordinance) must be attached to the application form for registration related to the matters that must be registered.

#### 4 理事の代表権

#### 4. Representative Authority of Directors

##### (1) 理事の代表権の範囲又は制限に関する定めと登記

## (1) Provisions and Registration regarding the Scope or Limitation of the Representative Authority of Directors

旧法においては、特定非営利活動法人の理事は、特定非営利活動法人の全ての業務について特定非営利活動法人を代表するとされ、定款をもってその代表権を制限することができるが、理事の代表権に加えた制限は、善意の第三者に対抗することができないとされていた（旧法第16条）。このため、旧法下においては、「代表権の範囲又は制限に関する定めがあるときは、その定め」が登記事項とはされておらず（組登令第2条第2項第6号、施行令による改正前の組合等登記令別表特定非営利活動法人の項の登記事項の欄）、法人の内部において代表権を制限された理事が存在する場合であっても、当該理事を含めた理事全員を「代表権を有する者」（組登令第2条第2項第4号）として「理事」の資格で登記しなければならないとされていた（平成10年8月31日付け法務省民四第1605号民事局長通達参照）。

改正法により、旧法第16条第2項の規定が削られるとともに、施行令附則第2条により組合等登記令の一部が改正され、特定非営利活動法人の登記事項として、「代表権の範囲又は制限に関する定めがあるときは、その定め」が追加された（組登令第2条第2項第6号、別表特定非営利活動法人の項の登記事項の欄）。

したがって、改正法の施行後は、定款をもって、その代表権の一部が制限された特定非営利活動法人の理事が存在する場合には、当該理事を登記するほか、当該理事に係る代表権の範囲又は制限に関する定めも登記しなければならない。

また、定款をもって、その代表権の全部が制限された特定非営利活動法人の理事が存在する場合には、当該理事は、「代表権を有する者」に該当しないため、登記することを要しないこととなる（組登令第2条第2項第4号）。例えば、定款をもって、理事の互選等により特定の理事を理事長に選定し、当該理事長のみが法人を代表することとしている場合には、当該特定の理事のみを「理事」の資格で登記し、その他の理事は、登記することを要しないこととなる（社会福祉法（昭和26年法律第45号）における社会福祉法人の理事に関する取扱い（昭和39年7月7日付け民事甲第2436号民事局長回答参照）と同様の取扱いとなる。）。

In the former act, directors of corporations engaging in specified non-profit activities represent the corporation engaging in specified non-profit activities for all business of the specified nonprofit corporation, and their representative authority may be limited by the articles of incorporation, but the limitation on the representative authority of directors may not be duly asserted against a third party in good faith (Article 16 of the Former Act). Therefore, in the former act, “If there are provisions related to the scope or limitations on representative authority, those provisions” shall not be a matter that must be registered (Article 2, paragraph (2), item (vi) of the Association Registration Order, box for matters that must be registered in the section for corporations engaging in specified non-profit activities in the Appended Table of the Association Registration Order prior to the revision by the Enforcement Order), even if directors with limited representative authority exist in the corporation, all directors including the relevant directors must be registered as “Persons with representative authority” (Article 2, paragraph (2), item (iv) of the Association Registration Order) with qualification as a “Director” (see the Ministry of Justice, the Civil Affairs Fourth Division, Circular Notice No. 1605 of August 31, 1998).

The provision in Article 16, paragraph (2) of the Former Act was repealed by the Amended Act, and the Association Registration Order was partially revised by Article 2 of the Supplementary Provision of the Enforcement Order, and “If there are provisions related to the scope or limitations on the right of representation, those provisions” was added to the matters that must be registered for corporations engaging in specified non-profit activities (Article 2, paragraph (2), item (vi) of the Association Registration Order, box for matters that must be registered for the section for corporations engaging in specified non-profit activities in the Appended Table).

Therefore, after the enforcement of the Amended Act, if there is a director with a partial limitation on their representative authority for a corporation engaging in specified non-profit activities according to the articles of incorporation, in addition to the registration of the relevant director, the scope of the representative authority related to that director or provision related to their limitation must also be registered.

In addition, if there is a director whose overall representative authority is limited for a corporation engaging in specified non-profit activities according to the articles of incorporation, since the relevant director is not a “Person with representative authority,” the relevant director does not need to be registered (Article 2, paragraph (2), item (iv) of the Association Registration Order). For example, if a particular director is appointed as president via a mutual election, etc. of the directors according to the articles of incorporation and only the relevant president represents the corporation, only that specified director needs to be registered with the qualification of “Director,” and other directors shall not need to be registered (handled the same as for directors of social welfare corporations (see the answer

by the Director of Civil Affairs, Civil Affairs Division No. 2436 of July 7, 1964) regarding the Social Welfare Act (Act No. 45 of 1951)).

(2) 登記手続

(2) Procedure for Registration

ア 理事の登記

A. A.Registration of directors

(7) 選定された特定の理事のみが法人を代表する旨の定款の定めがあり、現に代表権を有する理事を選定している場合

(a) If a provision in the articles of incorporation specifies that only specified appointed directors represent the corporation, and directors with representative authority are currently appointed

a 設立の登記の添付書面

設立の登記の申請書に添付すべき「代表すべき者の資格を証する書面」（組登令第16条第2項）には、次の書面が該当する。

a. Attached documents for registration of incorporation

The documents below apply to “Documents attesting to the qualification of representatives” that must be attached to the registration application form for incorporation (Article 16, paragraph (2) of the Association Registration Order).

(a) 定款（法第11条第2項の規定により、定款には、設立当初の理事の定めがある。）

(b) 定款所定の方法によって特定の理事が代表権を有する理事に選定されたことを証する書面（定款に設立当初の代表権を有する理事に関する定めがある場合を除く。）

(c) 当該特定の理事が理事に就任することについての就任承諾書

(d) 当該特定の理事が代表権を有する理事に就任することについての就任承諾書（定款に理事の互選又は理事会の決議により代表権を有する理事を選定する旨の定めがある場合に限る。）

a. Articles of incorporation (According to Article 11, paragraph (2) of the Act, directors at the time of incorporation must be specified in the articles of incorporation)

b. Documents attesting that specified directors were appointed as directors with representative authority by the method designated in the articles of incorporation (excluding cases where there is a provision in the articles of incorporation related to directors with representative authority at the time of incorporation)

c. Documents attesting that specified directors consented to assume their roles as director

d. Documents attesting that specified directors consented to assume their roles as director (Limited to cases where there is a provision in the articles of incorporation related to the appointment of directors with representative authority by mutual election of directors or by a resolution by the board of directors)

b. 理事の変更の登記の添付書面

理事の変更の登記の申請書に添付すべき「(登記)事項の変更を証する書面」(組登令第17条第1項)には、次の書面が該当する

b. Attached documents for registration of change of director

The documents below apply to “Documents attesting to changes to (Registration) items” that must be attached to the registration application form for a change of director (Article 17, paragraph (1) of the Association Registration Order).

(a) 理事の退任を証する書面

(b) 理事に就任したことを証する書面

i 定款

ii 定款所定の方法によって理事に選任されたことを証する書面

iii 理事に就任することについての就任承諾書

(c) 理事が代表権を有する理事に就任したことを証する書面

i 定款

ii 定款所定の方法によって代表権を有する理事に選定されたことを証する書面

a. Documents attesting to resignation of directors

b. Documents attesting to assumption of directors

i. Articles of incorporation

ii. Documents attesting that a director was appointed according to the articles of incorporation

iii. Documents attesting to the consent of a director to assume their role

c. Documents attesting to assumption of directors with representative authority

i. Articles of incorporation

ii. Documents attesting that a director with representative authority was appointed according to the articles of incorporation

iii 代表権を有する理事に就任することについての就任承諾書 (定款に理事の互選又は理事会の決議により代表権を有する理事を選定する旨の定めがある場合に限る。)



なお、iiの書面が理事の互選を証する書面、理事会の議事録等である場合には、当該書面に押印した印鑑と変更前の理事が登記所に提出している印鑑とが同一であるときを除き、理事の変更の登記の申請書に当該書面の印鑑につき市区町村長の作成した証明書を添付しなければならない（法登規則第5条において準用する商登規則第61条第4項）。

iii. Documents attesting to the consent of a director with representative authority to assume their role (Limited to cases where there is a provision in the articles of incorporation related to the appointment of directors with representative authority by mutual election of directors or by a resolution by the board of directors)

Moreover, if the documents in ii are documents attesting to the mutual election of directors, and the minutes of board of director meetings, etc., excluding cases where the seal affixed to the relevant documents is the same seal submitted to the registry office by the director prior to the change, a certificate prepared by a municipal official for the seal on the relevant documents must be attached to the registration application form for the change of director (Article 61, paragraph (4) of the Commercial Registration Regulation applying mutatis mutandis to Article 5 of the Commercial Registration Regulation).

c 登記記録例

c. Sample registration record

登記記録例は、別紙記録例1によるものとする。

Sample registration records shall be according to Appendix Sample Record 1.

(i) 理事の代表権の範囲又は制限に関する定款の定めがある場合（(ア)の場合を除く。）

(b) If there is a provision in the articles of incorporation regarding the scope or limitations on the representative authority of directors (excluding cases in (a))

a 設立の登記の添付書面

設立の登記の申請書に添付すべき「(登記)事項を証する書面」(組登令第16条第3項)には、定款が該当する。

a. Attached documents for registration of incorporation

Articles of incorporation apply to “Documents attesting to (Registration) items” that must be attached to the registration application form for incorporation (Article 16, paragraph (3) of the Association Registration Order).

b 代表権の範囲又は制限に関する定めの設定の登記の添付書面定款を変更して新たに理事の代表権の範囲又は制限に関する定めをした場合における当該定めの設定の登記の申請書に添付すべき「(登記)事項の変更を証する書面」(組登令第17条第1項)には、定款の変更

に係る社員総会（法第25条第1項）の議事録が該当する。

また、当該申請書には、次の書面を添付しなければならない。

b. Attached documents for registration of provisions related to scope or limitations on representative authority “Documents attesting to changes to (Registration) items” (Article 17, paragraph (1) of the Association Registration Order) that must be attached to the registration application form for the relevant provision established for cases where the provision on the scope or limitation of representative authority of directors was newly established by changing the articles of incorporation applies to the minutes of the general meeting of members where the articles of incorporation were amended (Article 25, paragraph (1) of the Act).

The documents below must also be attached to the relevant application form.

(a) 定款（法登規則第5条において準用する商登規則第61条第1項）

(b) 定款の変更に係る所轄庁の認証書（法第25条第3項，組登令第25条において準用する商登法第19条）

(a) Articles of incorporation (Article 61, paragraph (1) of the Commercial Registration Regulation applying mutatis mutandis to Article 5 of the Commercial Registration Regulation)

(b) Certificate issued by the competent authority regarding amendment of the articles of incorporation (Article 19 of the CR Act applying mutatis mutandis to Article 25, paragraph (3) of the Act and Article 25 of the Association Registration Order)

c 登記記録例 c Sample registration record

登記記録例は、別紙記録例2によるものとする。

Sample registration records shall be according to Appendix

Sample Record 2.

イ 清算人の登記

#### B.Registration of liquidators

改正法において、清算人に関する規定は改正されていないため、特定非営利活動法人が解散し、理事が清算人となった場合（法第31条の5本文）には、清算人各自が特定非営利活動法人を代表することとなる。この場合の清算人の登記の申請書には、登記された理事であった清算人については、「（登記）事項の変更を証する書面」（組登令第17条第1項）として、清算人の就任を証する書面を添付する必要はないが、代表権の全部が制限されていた理事については、「（登記）事項の変更を証する書面」（組登令第17条第1項）として、その者が解散当時の理事

であったことを証する書面を添付しなければならない。

Since provisions on liquidators were not amended by the Amended Act, if a corporation engaging in specified non-profit activities is dissolved and the directors become liquidators (main clause of Article 31, paragraph (5) of the Act), each liquidator represents the specified nonprofit corporation. In this case, it shall be necessary to attach documents attesting to the assumption of liquidators as “Documents attesting to changes to (Registration) items” (Article 17, paragraph (1) of the Association Registration Order) to the registration application form for liquidators regarding liquidators who were registered directors, but for directors whose overall representative authority was limited, documents attesting that that person was a director at the time of dissolution must be attached as “Documents attesting to changes to (Registration) items” (Article 17, paragraph (1) of the Association Registration Order).

#### 5 定款変更の際の届出事項の拡大

#### 5. Expansion of Notification Items when Amending the Articles of Incorporation

旧法においては、特定非営利活動法人の定款の変更のうち、所轄庁の変更を伴わない主たる事務所及びその他の事務所の所在地の変更、資産に関する事項の変更及び公告の方法の変更については、所轄庁の認証を要しないとされていた（旧法第25条第3項）。

改正法により、次に掲げる事項を変更する定款の変更についても、所轄庁の認証を要しないとされた（法第25条第3項）。

According to the former act, among the amendments to the articles of incorporation for corporations engaging in specified non-profit activities, changes to the location of the principal office and other offices without changes to the competent authority, and changes to items related to assets and changes to the method of public notice shall not require certification by the competent authority (Article 25, paragraph (3) of the Former Act).

According to the Amended Act, amendments to the articles of incorporation for changing the items below shall also not require certification by the competent authority (Article 25, paragraph (3) of the Act).

- (1) 役員の数に係る役員に関する事項（法第11条第1項第6号）
- (2) 会計に関する事項（同項第9号）
- (3) 事業年度（同項第10号）
- (4) 残余財産の帰属すべき者に係るものを除く、解散に関する事項（同項第12号）

なお、特定非営利活動法人が所轄庁の認証を要しない定款の変更をしたときは、都道府県又は指定都市の条例で定めるところにより、遅滞なく、当該定款の変更の決議をした社員総会の議事録の謄本及び変更後の定款を添え

て、その旨を所轄庁に届け出なければならず（法第25条第6項）、また、特定非営利活動法人が定款の変更に係る登記をしたときは、遅滞なく、当該登記をしたことを証する登記事項証明書を所轄庁に提出しなければならないとされた（同条第7項）。

- (1) Particulars concerning the fixed number of officers (Article 11, paragraph (1), item (vi) of the Act)
- (2) Particulars concerning its accounting (Article 11, paragraph (1), item (ix) of the Act)
- (3) Its business year (Article 11, paragraph (1), item (x) of the Act)
- (4) Particulars concerning its dissolution, excluding items related to parties to which residual assets belong (Article 11, paragraph (1), item (xii) of the Act)

Moreover, if a corporation engaging in specified non-profit activities makes an amendment to the articles of incorporation not requiring certification by the competent authority, it must report that fact to the competent authority by submitting a transcript of the minutes of the general meeting of members at which the amendment to the articles of incorporation was resolved and the articles of incorporation after the amendment without delay, as provided for by Ordinance of the prefecture or designated city (Article 25, paragraph (6) of the Act), and if a corporation engaging in specified non-profit activities registers an amendment to the articles of incorporation, it must submit a certificate of registered information proving the registration to the competent authority without delay (Article 25, paragraph (7) of the Act).

## 6 認証後未登記の団体に係る認証の取消し

### 6. Revocation of Certification related to Unregistered Organizations after Certification

#### (1) 設立の認証の取消し

設立の認証を受けた者が設立の認証があった日から6月を経過しても設立の登記をしないときは、所轄庁は、設立の認証を取り消すことができるとされた（法第13条第3項）。

#### (1) Revocation of Certification of Incorporation

If a party who receives certification of incorporation does not perform the registration within six months after the day on which the certification of incorporation is granted, the competent authority may rescind the certification of incorporation (Article 13, paragraph (3) of the Act).

#### (2) 合併の認証の取消し

#### (2) Revocation of Certification of Mergers

合併の認証を受けた特定非営利活動法人が合併の認証があった日から6月を経過しても合併の登記をしないときは、所轄庁は、合併の認証を取り消すことができるとされた（法第39条第2項において準用する法第13条第3項）。

If a corporation engaging in specified non-profit activities that receives the certification of merger does not perform the registration within six months after the day on which the certification of a merger is granted, the competent authority may rescind the certification for the merger (Article 13, paragraph (3) of the Act applying mutatis mutandis to Article 39, paragraph (2) of the Act).

## 7 認定制度及び仮認定制度の導入

### 7. Implementation of a Approval System and Provisional Approval System

#### (1) 認定制度

##### (1) Approval System

特定非営利活動法人のうち、その運営組織及び事業活動が適正であって公益の増進に資するものは、所轄庁の認定を受けることができることとされた（法第44条第1項）。この認定を受けた特定非営利活動法人は、認定特定非営利活動法人と称され（法第2条第3項）、認定特定非営利活動法人でない者は、その名称又は商号中に、認定特定非営利活動法人であると誤認されるおそれのある文字を用いてはならないとされた（法第50条第1項）。

なお、認定特定非営利活動法人がその名称中に「認定特定非営利活動法人」という文字を用いることは、可能である。

おって、名称中に「認定特定非営利活動法人」という文字を用いることとする特定非営利活動法人の名称の変更の登記の申請書には、法第44条第1項の認定を受けたことを証する書面（認定の通知（法第49条第1項参照）等）を添付することを要せず、「（登記）事項の変更を証する書面」（組登令第17条第1項）である名称の変更に係る定款の変更を決議した社員総会の議事録、定款（法登規則第5条において準用する商登規則第61条第1項）及び定款の変更に係る所轄庁の認証書（法第25条第3項、組登令第25条において準用する商登法第19条）を添付すれば足りる。

Corporations engaging in specified non-profit activities whose operational structure and business activities are appropriate and which contributes to enhancing public interest may obtain approval from the competent authority (Article 44, paragraph (1) of the Act).

Corporations engaging in specified non-profit activities that receive this approval shall be referred to as “Approved Corporations Engaging in Specified Non-profit Activities” (Article 2, (3) of the Act), and parties not approved as corporations engaging in specified non-profit activities may not use in their name or trade name words that are likely to cause the misperception that the corporation is an approved corporation engaging in specified non-profit activities (Article 51, paragraph (1) of the Act).

Moreover, approved corporations engaging in specified non-profit activities may use the Japanese characters “認定特定非営利活動法人” (pronounced Nintei tokutei-hieirikatsudo-hojin, meaning approved corporations engaging in specified non-profit activities) in their name.

Afterward, registration application forms for change of name for an approved corporation engaging in specified non-profit activities for changing to use “Approved Corporations Engaging in Specified Non-profit Activities” in their name shall not be required to attach the documents attesting to the granting of the approval set forth in Article 44, paragraph (1) of the Act (notice of approval (see Article 49, paragraph (1) of the Act), etc.), and it shall be sufficient to attach minutes from the general meeting of members where the resolution for the amendment of the articles of incorporation was made for changing the name that are “Documents attesting to changes to (Registration) items” (Article 17, paragraph (1) of the Association Registration Order), articles of incorporation (Article 61, paragraph (1) of the Commercial Registration Regulation applying mutatis mutandis to Article 5 of the Corporation Registration Regulation), and a certificate by the competent authority related to the amendment to the articles of incorporation (Article 25, paragraph (3) of the Act; Article 19 of the CR Act applying mutatis mutandis to Article 25 of the Association Registration Order).

## (2) 仮認定制度

### (2) Provisional Approval System

特定非営利活動法人であって新たに設立されたもののうち、その運営組織及び事業活動が適正であって特定非営利活動の健全な発展の基盤を有し公益の増進に資すると見込まれるものは、所轄庁の仮認定を受けることができることとされた（法第58条第1項）。この仮認定を受けた特定非営利活動法人は、仮認定特定非営利活動法人と称され（法第2条第4項）、仮認定特定非営利活動法人でない者は、その名称又は商号中に、仮認定特定非営利活動法人であると誤認されるおそれのある文字を用いてはならないとされた（法第62条において準用する法第50条第1項）。

なお、仮認定特定非営利活動法人がその名称中に「仮認定特定非営利活動法人」という文字を用いることは、可能である。

おって、名称中に「仮認定特定非営利活動法人」という文字を用いることとする特定非営利活動法人の名称の変更の登記の添付書面については、(1)と同様であり、法第58条第1項の仮認定を受けたことを証する書面（仮認定の通知（法第62条において準用する法第49条第1項参照）等）を添付することを要しない。

A newly incorporated corporation engaging in specified non-profit activities whose

operational structure and business activities are appropriate, which has a basis of sound development of specified non-profit activities, and is expected to contribute to enhancing public interest may obtain provisional approval from the competent authority (Article 58, paragraph (1) of the Act). Corporations engaging in specified non-profit activities that receive this provisional approval shall be referred to as “Provisionally Approved Corporations Engaging in Specified Non-profit Activities” (Article 2, paragraph (4) of the Act), and parties not provisionally approved as corporations engaging in specified non-profit activities may not use in their name or trade name words that are likely to cause the misperception that the corporation is a provisionally approved corporation engaging in specified non-profit activities (Article 50, paragraph (1) of the Act applied mutatis mutandis to Article 62 of the Act).

Moreover, provisionally approved corporations engaging in specified non-profit activities may use the Japanese characters “仮認定特定非営利活動法人” (pronounced Kari-nintei tokutei-hieirikatsudo-hojin, meaning provisionally approved corporations engaging in specified non-profit activities) in their name.

Afterwards, attached documents of the registration for a change of name for corporations engaging in specified non-profit activities that use the characters “仮認定特定非営利活動法人” (pronounced Kari-nintei tokutei-hieirikatsudo-hojin, meaning provisionally approved corporations engaging in specified non-profit activities) in their name shall be the same as for (1), and it shall not be necessary to attach documents attesting to the obtaining of provisional approval in Article 58, paragraph (1) of the Act (notice of provisional approval (see Article 49, paragraph (1) of the Act applying mutatis mutandis to Article 62 of the Act), etc.).

## 8 施行令の施行の際現に存する特定非営利活動法人に関する経過措置 8. Transitional Measures for Corporations Engaging in Specified Non-profit Activities Exiting at the Time of Enforcement of the Enforcement Order

### (1) 代表権の範囲又は制限に関する定めに関する事項の登記

施行令の施行の際現に代表権の範囲又は制限に関する定めがある特定非営利活動法人は、(3)の場合を除き、施行令の施行の日（平成24年4月1日）から6月以内に、当該定めに関する事項の登記をしなければならないとされた（施行令附則第3条第1項）。したがって、定款に代表権の範囲又は制限に関する定めがある特定非営利活動法人は、次のア又はイに掲げる区分に応じ、当該ア又はイに定める登記をしなければならない。

なお、代表権を有する理事に選定された理事及び代表権を制限されていない理事については、何らの変更の登記をすることを要しない。

ア 選定された特定の理事のみが法人を代表する旨の定款の定めがあり、現

に代表権を有する理事を選定している場合 代表権を有する理事に選定された理事以外の理事についての代表権喪失による変更の登記  
イ 理事の代表権の範囲又は制限に関する定款の定めがある場合 定款の定めにより代表権の一部が制限された理事についての代表権の範囲又は制限に関する定め  
の登記

#### 1. Registration of the Scope of the Representative Authority or Items related to Limitations

Excluding the case in (3), corporations engaging in specified non-profit activities that have provisions on the scope or limitations of representative authority, and that exist at the time the Enforcement Order is enforced must register items related to the relevant provision within six months of the date on which the Enforcement Order comes into effect (April 1, 2012) (Supplementary Provisions of Article 3, paragraph (1) of the Enforcement Order). Therefore, corporations engaging in specified non-profit activities that have provisions on the scope or limitation of representative authority in their articles of incorporation must register the relevant A. or B. according to the classifications listed in A. or B. below.

Moreover, it shall not be required to register any changes of directors who are appointed as a director with representative authority and directors whose representative authority is not limited.

- A. If there is a provision in the articles of incorporation that only selected and specified directors represent the corporation, and if a director with representative authority is actually appointed, registration of changes due to the loss of the representative authority for directors who are not directors appointed as directors with representative authority
- B. If there is a provision in the articles of incorporation related to the scope or limitation of the representative authority of directors, registration of the provisions related to the scope or limitation of the representative authority of directors whose representative authority is partially limited according to the provisions of the articles of incorporation

#### (2) 添付書面

#### (2) Attached documents

##### ア (1) アに定める登記

(1) アに定める登記の申請書に添付すべき「(登記) 事項の変更を証する書面」(組登令第17条第1項)には、次の書面が該当する。

##### (ア) 定款

(イ) 定款所定の方法によって代表権を有する理事が選定されたことを証する書面(定款に設立当初の代表権を有する理事(任期中であるものに限る。)に関する定めがある場合を除く。)

(ウ) 代表権を有する理事に就任することについての就任承諾書(定款に理事の互選又は理事会の決議により代表権を有する理事を選定する旨の



定めがある場合に限る。)

なお、(イ)の書面については、法登規則第5条において準用する商登規則第61条第4項の規定の適用はなく、当該書面の印鑑につき市区町村長の作成した証明書を添付することを要しない。

#### A. Registration determined in (1)A

1. The documents below apply to “Documents attesting to changes to (Registration) items” that must be attached to the registration application form specified in A. (Article 17, paragraph (1) of the Association Registration Order).

(a) Articles of incorporation

(b) Documents attesting that directors were appointed as directors with representative authority by the method designated in the articles of incorporation (excluding cases where there is a provision in the articles of incorporation related to directors with representative authority at the time of incorporation (limited to those currently in office))

(c) Documents attesting to the consent of a director with representative authority to assume their role (Limited to cases where there is a provision in the articles of incorporation related to the appointment of directors with representative authority by mutual election of directors or by a resolution by the board of directors)

Moreover, for the documents in (b), the provision in Article 61, paragraph (4) of the Commercial Registration Regulation shall not apply mutatis mutandis to Article 5 of the Corporation Registration Regulation, and it shall not be required to attach a certificate prepared by a municipal official for the seal on the relevant documents.

イ (1) イに定める登記

#### B. Registration determined in (1)B

(1) イに定める登記の申請書に添付すべき「(登記)事項の変更を証する書面」(組登令第17条第1項)には、定款が該当する。

#### B. Registration determined in (1)B

(1) The articles of incorporation shall apply to “Documents attesting to changes to (Registration) items” that must be attached to the registration application form specified in B. (Article 17, paragraph (1) of the Association Registration Order).

(3) 他の登記との同時申請

#### (3) Simultaneous Application with Other Registrations

(1) の特定非営利活動法人は、(1)ア又はイに定める登記をするまでに他の登記をするときは、当該他の登記と同時に、(1)ア又はイに定める登記をしなければならないとされた(施行令附則第3条第2項)。したがって、(1)ア又はイに定める登記以外の登記の申請があった場合において、当該登記の申請書の添付書面の内容から(1)ア又はイに定める登記を同時にしなければ

ばならないことが明らかであるときは、当該登記の申請を却下しなければならない（組登令第25条において準用する商登法第24条第12号）が、当該登記の申請書の添付書面の内容から(1)ア又はイに定める登記を同時にしなければならないことが明らかでないとき（例えば、定款を添付することが求められていない資産の総額の変更の登記の申請があったとき等）は、当該登記の申請をそのまま受理して差し支えない。

If a corporation engaging in specified non-profit activities in (1) makes another registration prior to the registration in A. or B. of (1), it shall be necessary to perform the registration in A. or B. of (1) at same time as the other relevant registration (Supplementary Provision in Article 3, paragraph (2) of the Enforcement Order). Therefore, if registrations other than the registrations specified in A. or B. of (1) are applied for, and if it is clear that the registration specified in A. or B. of (1) must be performed at the same time based on the contents of the attached documents for the relevant registration application form, the application for the relevant registration must be rejected (Article 24, item (xii) of the CR Act applying mutatis mutandis to Article 25 of the Association Registration Order), but if it is not clear whether the registration specified in A. or B. of (1) needs to be performed at the same time based on the contents of the attached documents for the relevant registration application form (for example, application of registration for changing the total assets for which the articles of incorporation do not need to be attached), it shall be permissible to receive the application of the relevant registration as is.

#### (4) 変更前の事項の登記

#### (4) Registration of Items Prior to Change

(1) ア又はイに定める登記をするまでにこれらの事項に変更を生じたときは、遅滞なく、当該変更に係る登記と同時に、変更前の事項の登記をしなければならないとされた（施行令附則第3条第3項）。したがって、施行令の施行の日以降に代表権を有する理事に選定された理事の変更又は理事の代表権の範囲若しくは制限に関する定めの変更があった場合には、これらの変更の登記と同時に、変更前の事項である(1)ア又はイに定める登記もしなければならない。

If changes need to be made for these items prior to the registration in A. or B. of (1), it shall be necessary to perform the registration for items prior to the change at same time as the registration of the relevant change (Supplementary Provision in Article 3, paragraph (3) of the Enforcement Order). Therefore, if a change is made to directors

who were appointed as directors with representative authority after the date on which the Enforcement Order comes into effect, or a change is made to the provision on the scope or limitation of the representative authority of directors, the registration of such changes must be performed at the same time as the registration specified in A. or B. of (1), which are items prior to the change.

(5) 登記記録例

(5) Sample registration record

登記記録例は、別紙記録例 3 によるものとする。

登記原因年月日は、改正法及び施行令の施行日である「平成 24 年 4 月 1 日」と記録し、代表権の全部が制限されている理事の代表権喪失による変更の登記の登記原因は「代表権喪失」と、理事の代表権の範囲又は制限に関する定めめの登記の登記原因は「設定」と記録する。

Sample registration records shall be according to the Appendix Sample Record 3.

The registration date shall be recorded as the “April 1, 2012,” which was the date that the Amended Act and Enforcement Order when into effect, and the cause of registration for the registration of changes due to the loss of representative authority of directors whose overall representative authority is limited shall be recorded as “Loss of representative authority,” and the cause of registration for registration of the provision on the scope or limitation of the representative authority of directors shall be recorded as “Establishment.”

9 その他の経過措置

9. Other Transitional Measures

(1) 所轄庁の変更に関する経過措置

(1) Transitional Measures related to a Change of Competent Authority

改正法の施行の日（平成 24 年 4 月 1 日。以下「施行日」という。）前に旧法の規定に基づいて旧所轄庁に対してされた申請等は、新所轄庁に対してされたものとする。とされ、旧所轄庁は、改正法の施行の際、新所轄庁となる都道府県の知事又は指定都市の長に対し、その事務の遂行に支障が生ずることのないよう、旧法の規定に基づいてされた申請等に係る書類その他の資料を適時かつ適切な方法で引き継ぐものとする。とされた（改正法附則第 2 条）。したがって、施行日前に旧所轄庁に対して申請された特定非営利活動法人の認証については、施行日後は、法の規定に基づき、新所轄庁がすることとなる。

Applications, etc. made to the former competent authority based on the provision of the former act prior to the date when the Amended Act becomes effective (April 1, 2012;

hereinafter referred to as the “effective date”) shall be deemed as being made to the new competent authority, and the former competent authority shall hand over documents and other materials related to the applications etc. that were made according to the provisions of the former act in the method and at the proper time when handing these over to the prefectural governor or mayor of the designated city that becomes the new competent authority at the time of the enforcement of the Amended Act to promote the smooth handling of such office affairs (Supplementary Provision Article 2 of the Amended Act). Therefore, after the effective date, the new competent authority shall handle the certification for corporations engaging in specified non-profit activities for which application was made to the competent authority prior to the effective date according to the provisions of the Act.

(2) 定款の変更に関する経過措置

(2) Transitional Measures related to Changing the Articles of Incorporation

法第25条第3項及び第4項の規定は施行日以後に定款の変更の認証の申請をする特定非営利活動法人について、同条第6項の規定は施行日以後に定款の変更の届出をする特定非営利活動法人について適用し、施行日前に定款の変更の認証の申請又は届出をした特定非営利活動法人については、なお従前の例によるとされた（改正法附則第5条第1項）。

The provisions in Article 25, paragraphs (3) and (4) of the Act shall apply to corporations engaging in specified non-profit activities for which application for certification was made for amending the articles of incorporation after the effective date, and the provision in 25-6 of the Act shall apply to corporations engaging in specified non-profit activities for which notification is made for amending the articles of incorporation after the effective date, and for corporations engaging in specified non-profit activities for which application or notification for certification of amendments to the articles of incorporation prior to the effective date, it shall be according to the provisions then in force (Supplementary Provision Article 5, paragraph (1) of the Amended Act).