

公益社団法人及び公益財団法人の認定等に関する法律 施行令

Order for Enforcement of the Act on Authorization of Public Interest Incorporated Associations and Public Interest Incorporated Foundations

(平成十九年九月七日政令第二百七十六号)

(Cabinet Order No. 276 of September 7, 2007)

内閣は、公益社団法人及び公益財団法人の認定等に関する法律（平成十八年法律第四十九号）第五条第三号から第五号まで、第十号、第十一号、第十二号ただし書、第十五号ただし書及び第十七号トの規定に基づき、この政令を制定する。

The Cabinet hereby enacts this Cabinet Order pursuant to the provisions of Article 5, item (iii) to (v) inclusive, item(x), (xi), (xii), item(xv) and item (xvii), sub-item (g) of the Act on Authorization of Public Interest Incorporated Associations and Public Interest Incorporated Foundations (Act No. 49 of 2006).

(特別の利益を与えてはならない法人の関係者)

(Juridical Person's Concerned Persons to Whom Special Interest Shall Not be Provided)

第一条 公益社団法人及び公益財団法人の認定等に関する法律（以下「法」という。）
第五条第三号の政令で定める法人の関係者は、次に掲げる者とする。

Article 1 The juridical person's concerned persons specified by Cabinet Order as prescribed in Article 5, item (iii) of the Act on Authorization of Public Interest Incorporated Associations and Public Interest Incorporated Foundations (hereinafter referred to as the "Act") shall be as follows:

一 当該法人の理事、監事又は使用人

(i) Directors, auditors or employees of said juridical person;

二 当該法人が一般社団法人である場合にあつては、その社員又は基金（一般社団法人及び一般財団法人に関する法律（平成十八年法律第四十八号。第六条において「一般社団・財団法人法」という。）第百三十一条に規定する基金をいう。）の拠出者

(ii) If said juridical person is a general incorporated association, the members or the contributors of the funds (meaning funds prescribed in Article 131 of the Act on General Incorporated Associations and General Incorporated Foundations (Act No. 48 of 2006; hereinafter referred to as the "General Incorporated Associations/Foundations Act" in Article 6)) thereof;

三 当該法人が一般財団法人である場合にあつては、その設立者又は評議員

(iii) If said juridical person is a general incorporated foundation, the founders

or councillors;

四 前三号に掲げる者の配偶者又は三親等内の親族

(iv) The spouse or relatives within the third degree of kinship of any of the persons listed in the preceding three items;

五 前各号に掲げる者と婚姻の届出をしていないが事実上婚姻関係と同様の事情にある者

(v) A person who has not made a notification of marriage but is in a de facto marital relationship with any of the persons listed in the preceding items;

六 前二号に掲げる者のほか、第一号から第三号までに掲げる者から受ける金銭その他の財産によって生計を維持する者

(vi) A person other than those listed in the preceding two items whose livelihood is supported by money or other property received from any of the persons listed in items (i) to (iii) inclusive; and

七 第二号又は第三号に掲げる者が法人である場合にあつては、その法人が事業活動を支配する法人又はその法人の事業活動を支配する者として内閣府令で定めるもの

(vii) If the person listed in item (ii) or (iii) is a juridical person, juridical persons whose business activities are controlled by that juridical person, or persons specified by Cabinet Office Ordinance as those who control the business activities of that juridical person.

(特定の個人又は団体の利益を図る活動を行う者)

(Persons that Engage in Any Activity to Seek Interest for Any Specific Individual or Entity)

第二条 法第五条第四号の政令で定める特定の個人又は団体の利益を図る活動を行う者は、次に掲げる者とする。

Article 2 Persons that engage in any activity to seek interest for any specific individual or entity specified by Cabinet Order as prescribed in Article 5, item (iv) of the Act shall be as follows:

一 株式会社その他の営利事業を営む者に対して寄附その他の特別の利益を与える活動（公益法人に対して当該公益法人が行う公益目的事業のために寄附その他の特別の利益を与えるものを除く。）を行う個人又は団体

(i) An individual or entity that engages in any activity (excluding those providing a public interest corporation with any donation or other special interest for the business for public interest purposes operated by said public interest corporation) providing any donation or other special interest to any persons who run a stock company or other business for profit purposes; and

二 社員その他の構成員又は会員若しくはこれに類するものとして内閣府令で定める者（以下この号において「社員等」という。）の相互の支援、交流、連絡その他の社員等に共通する利益を図る活動を行うことを主たる目的とする団体

(ii) An entity whose main purpose is to engage in activities to seek mutual support, exchange, liaison, and other common interests of its members or any

other constituent members or any persons specified by Cabinet Office Ordinance as being members or persons equivalent thereto (hereinafter referred to as the "Members, etc." in this item).

(公益法人の社会的信用を維持する上でふさわしくない事業)

(Businesses Not Suitable for Maintaining the Social Trust of a Public Interest Corporation)

第三条 法第五条第五号の政令で定める公益法人の社会的信用を維持する上でふさわしくない事業は、次に掲げる事業とする。

Article 3 Businesses not suitable for maintaining the social trust of a public interest corporation specified by Cabinet Order as prescribed in Article 5, item (v) of the Act shall be as follows:

一 投機的な取引を行う事業

(i) Businesses that operate speculative transactions;

二 利息制限法（昭和二十九年法律第百号）第一条の規定により計算した金額を超える利息の契約又は同法第四条第一項に規定する割合を超える賠償額の予定をその内容に含む金銭を目的とする消費貸借による貸付けを行う事業

(ii) Businesses that conclude a contract for interest wherein the amount of interest exceeds the amount calculated pursuant to Article 1 of the Interest Rate Restriction Act (Act No. 100 of 1954) or that extend loans for consumption which contain an agreement for liquidated damages in excess of the rate prescribed in Article 4, paragraph (1) of the Interest Rate Restriction Act; and

三 風俗営業等の規制及び業務の適正化等に関する法律（昭和二十三年法律第百二十二号）第二条第五項に規定する性風俗関連特殊営業

(iii) Business specializing in entertainment of a sexual nature prescribed in Article 2, paragraph (5) of the Act on Control and Improvement of Amusement Business, etc. (Act No. 122 of 1948).

(理事と特別の関係がある者)

(Persons Having a Special Relationship with a Director)

第四条 法第五条第十号の政令で定める理事と特別の関係がある者は、次に掲げる者とする。

Article 4 Persons having a special relationship with a director specified by Cabinet Order as prescribed in Article 5, item (x) of the Act shall be as follows:

一 当該理事と婚姻の届出をしていないが事実上婚姻関係と同様の事情にある者

(i) A person who has not made a notification of marriage but is in a de facto marital relationship with said director;

二 当該理事の使用人

(ii) An employee of said director;

三 前二号に掲げる者以外の者であって、当該理事から受ける金銭その他の財産によ

って生計を維持しているもの

(iii) A person other than those listed in the preceding two items whose livelihood is supported by money or other property received from said director;

四 前二号に掲げる者の配偶者

(iv) A spouse of any of the persons listed in the preceding two items; and

五 第一号から第三号までに掲げる者の三親等内の親族であつて、これらの者と生計を一にするもの

(v) A relative within the third degree of kinship of any of the persons listed in items (i) to (iii) inclusive, who depends on such person for his/her livelihood.

(他の同一の団体において相互に密接な関係にある者)

(Persons Having a Mutually Close Relationship with Other Identical Organizations)

第五条 法第五条第十一号の政令で定める相互に密接な関係にある者は、次に掲げる者とする。

Article 5 Persons having a mutually close relationship specified by Cabinet Order as prescribed in Article 5, item (xi) of the Act shall be as follows:

一 当該他の同一の団体の理事以外の役員（法人でない団体で代表者又は管理人の定めのあるものにあつては、その代表者又は管理人）又は業務を執行する社員である者

(i) A person who is an officer other than a director of the other identical organizations (in cases of organizations which are not juridical persons and have a representative person or a manager, such representative person or manager) or who is a member who executes business;

二 次に掲げる団体においてその職員（国会議員及び地方公共団体の議会の議員を除く。）である者

(ii) A person who is an official of any of the following entities (excluding a member of the Diet or a member of the assembly of a local government);

イ 国の機関

(a) National government organ;

ロ 地方公共団体

(b) Local government;

ハ 独立行政法人通則法（平成十一年法律第百三号）第二条第一項に規定する独立行政法人

(c) Incorporated administrative agency set forth in Article 2, paragraph (1) of the Act on General Rules for Incorporated Administrative Agency (Act No. 103 of 1999);

ニ 国立大学法人法（平成十五年法律第百十二号）第二条第一項に規定する国立大学法人又は同条第三項に規定する大学共同利用機関法人

(d) National university corporation set forth in Article 2, paragraph (1) of the

Act on National University Corporation (Act No. 112 of 2003) or Inter-University Research Institute Corporation set forth in paragraph (3) of said Article;

ホ 地方独立行政法人法（平成十五年法律第百十八号）第二条第一項に規定する地方独立行政法人

(e) Local incorporated administrative agency set forth in Article 2, paragraph (1) of the Act on Local Incorporated Administrative Agency (Act No. 118 of 2003); and

へ 特殊法人（特別の法律により特別の設立行為をもって設立された法人であつて、総務省設置法（平成十一年法律第九十一号）第四条第一項第九号の規定の適用を受けるものをいう。第八条第一号において同じ。）又は認可法人（特別の法律により設立され、かつ、その設立に関し行政官庁の認可を要する法人をいう。）

(f) Special corporation (meaning a juridical person established by the special act of establishment pursuant to a special act, to which the provision of Article 4, paragraph (1), item (ix) of the Act for Establishment of the Ministry of Internal Affairs and Communications (Act No. 91 of 1999) is applicable; the same shall apply in Article 8, item (i)) or an authorized corporation (meaning a juridical person which is incorporated by a special act and which requires the approval of a governmental agency for its incorporation).

(会計監査人を置くことを要しない公益法人の基準)

(Standards of a Public Interest Corporation Which is Not Required to Have Accounting Auditors)

第六条 法第五条第十二号ただし書の政令で定める勘定の額は次の各号に掲げるものとし、同条第十二号ただし書の政令で定める基準は当該各号に掲げる勘定の額に応じ当該各号に定める額とする。

Article 6 Amounts of accounts specified by Cabinet Order as prescribed in the proviso of Article 5, item (xii) of the Act shall be as follows, and the standards specified by Cabinet Order as prescribed in the proviso of Article 5, item (xii) of the Act shall be the amounts specified in the following items for the categories of amounts set forth in each of those items:

一 一般社団法人にあつては一般社団・財団法人法第二条第二号に規定する最終事業年度、一般財団法人にあつては同条第三号に規定する最終事業年度に係る損益計算書の収益の部に計上した額の合計額 千億円

(i) The sum of the amounts recorded in the revenue section of the profit and loss statement pertaining to the most recent business year, which is prescribed in Article 2, item (ii) of the General Incorporated Associations/Foundations Act in cases of a general incorporated association, or which is prescribed in Article 2, item (iii) of the General Incorporated Associations/Foundations Act in cases of a general incorporated foundation:

100 billion yen;

二 前号の損益計算書の費用及び損失の部に計上した額の合計額 千億円

(ii) The sum of the amounts recorded in the cost and loss section of the profit and loss statement prescribed in the preceding item: 100 billion yen; and

三 一般社団法人にあっては一般社団・財団法人法第二条第二号の貸借対照表、一般財団法人にあっては同条第三号の貸借対照表の負債の部に計上した額の合計額 五十億円

(iii) The sum of the amounts recorded in the liabilities section of the balance sheet, which is prescribed in Article 2, item (ii) of the General Incorporated Associations/Foundations Act in cases of a general incorporated association, or which is prescribed in Article 2, item (iii) of the General Incorporated Associations/Foundations Act in cases of a general incorporated foundation: 5 billion yen

(他の団体の意思決定に関与することができる株式その他の財産を保有することができる場合)

(Cases in Which it is Possible to Possess Stock or Other Properties that Enable a Juridical Person to be Involved in the Decision Making of Other Organizations)

第七条 法第五条第十五号ただし書の政令で定める場合は、株主総会その他の団体の財務及び営業又は事業の方針を決定する機関における議決権の過半数を有していない場合とする。

Article 7 Cases specified by Cabinet Order as prescribed in the proviso of Article 5, item (xv) of the Act shall be those in which said juridical person does not hold a majority of the voting rights of a shareholders' meeting or any other body which makes decisions on financial and operational or business policies of the other organizations.

(公益目的取得財産残額に相当する額の財産の贈与を受けることができる法人)

(Juridical Person that May Receive the Donation of Property for Which the Amount is Equivalent to the Remaining Amount of the Public Interest Purposes Acquired Property)

第八条 法第五条第十七号トの政令で定める法人は、次に掲げる法人とする。

Article 8 Juridical persons specified by Cabinet Order as prescribed in Article 5, item (xvii), sub-item (g) of the Act shall be as follows:

一 特殊法人（株式会社であるものを除く。）

(i) Special corporation (excluding those which are stock companies); and

二 前号に掲げる法人以外の法人のうち、次のいずれにも該当するもの

(ii) Juridical person other than those listed in the preceding paragraph, which falls under all of the following items:

イ 法令の規定により、当該法人の主たる目的が、学術、技芸、慈善、祭祀、宗教

その他の公益に関する事業を行うものであることが定められていること。

(a) Pursuant to the provisions of laws and regulations, it provides that its main purpose is to operate any scholarship, art, charity, worship, religion, or other business for public interest;

ロ 法令又は定款その他の基本約款（ホにおいて「法令等」という。）の規定により、各役員について、当該役員及びその配偶者又は三親等内の親族である役員の方合計数が役員の方総数の三分の一を超えないことが定められていること。

(b) Pursuant to the provisions of laws and regulations or articles of incorporation or any other basic contracts (referred to as the "laws and regulations, etc." in sub-item (e)), it provides with respect to each officer that the total number of said officer and his or her spouse or relatives within the third degree of kinship who are officers does not exceed one third of the total number of officers;

ハ 社員その他の構成員に剰余金の分配を受ける権利を与えることができないものであること。

(c) It is unable to grant the rights to receive distributions of surplus to members and other constituent members;

ニ 社員その他の構成員又は役員及びこれらの者の配偶者又は三親等内の親族に対して特別の利益を与えないものであること。

(d) It is unable to give special interest to members or other constituent members or officers and their spouses or relatives within the third degree of kinship; and

ホ 法令等の規定により、残余財産を当該法人の目的に類似する目的のために処分し、又は国若しくは地方公共団体に帰属させることが定められていること。

(e) Pursuant to the provisions of laws and regulations, etc., it provides that the remaining property will be disposed for any purpose which is similar to that of said juridical person, or attributed to the national government or a local government.