

Chinese-English

中国法律法规中英对照系列

Chinese-English Series with Laws and Regulations of China (English Translation/Chinese Note)

Chinese-English

Series with
Laws and Regulations
of China

中国公司企业 法律法规

Company & Enterprise
Laws and Regulations of China

中英对照法规
英文译本 中文边注

公司企业

Companies and Enterprises

登记管理

Administration of Registration

外资企业

Foreign-Capital Enterprises

监管

Supervising

税收征管

Tax Collection

其他相关法律

Other Related Laws



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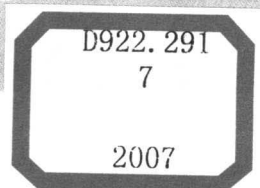
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中国公司企业法律法规

Company & Enterprise Laws and Regulations of China

中英对照法规
英文译本 中文边注



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编者前言

近些年来,我国的立法进程可以用日新月异来形容,而相应的法律法规的英文译本翻译出版工作却一直没有做到紧随其后。法律法规的英文翻译出版工作是我国加入世界贸易组织后必须承担的法律义务;而法律的英文译本是世界各国了解中国法律的重要路径之一,是增强中国法律透明度、让想在中国进行投资的外资企业更好地了解中国法律环境的最佳保证,也是法学专业学生学习法律英语的最好范本和涉外律师办理涉外业务的必备工具。

目前,市场上可用的法律英文译本图书不是比较分散,就是比较昂贵的精装本。为了让更多对法律英文有需要的人士有一套使用方便的工具书,我们编辑整理了本套“中国法律法规中英对照系列”丛书。本丛书共分七册出版,分别为《中国刑法与刑事诉讼法》、《中国民事法律法规》、《中国行政与劳动法律法规》、《中国公司企业法律法规》、《中国金融财会法律法规》、《中国对外贸易与经济合作法律法规》和《中国建筑与房地产法律法规》,基本涵盖了刑事、民事、行政、劳动、经济、金融、商贸领域的大部分法律及行政法规。

本丛书采用方便读者使用阅读的中英文逐条当页对照的排版方式进行编辑,同时,以低定价为所有对法律英文有需求的读者提供了一套极佳的案头工具书。我们希望我们的工作能够切实满足各届人士的需要,以她的权威、实用带给读者无限的使用方便,也希望读者对我们工作中存在的问题提出宝贵的意见和建议。

法律出版社法规中心

2007年4月

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[Companies]

[公 司]

**Companies Law
of the People's Republic of China**

**中华人民共和国
公司法**

(Adopted at the 5th Meeting of the Standing Committee of the Eighth National People's Congress on December 29, 1993, amended for the first time in accordance with the Decision on Revision of the Company Law of the People's Republic of China made at the 13th Meeting of the Standing Committee of the Ninth National People's Congress on December 25, 1999, amended for the second time in accordance with the Decision on Revision of the Company Law of the People's Republic of China made at the 11th Meeting of the Standing Committee of the Tenth National People's Congress on August 28, 2004, and revised at the 18th Meeting of the Standing Committee of the Tenth National People's Congress on October 27, 2005)

(1993 年 12 月 29 日第八届全国人民代表大会常务委员会第五次会议通过 根据 1999 年 12 月 25 日第九届全国人民代表大会常务委员会第十三次会议《关于修改〈中华人民共和国公司法〉的决定》第一次修正 根据 2004 年 8 月 28 日第十届全国人民代表大会常务委员会第十一次会议《关于修改〈中华人民共和国公司法〉的决定》第二次修正 2005 年 10 月 27 日第十届全国人民代表大会常务委员会第十八次会议修订)

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Chapter I General Provisions

第一章 总 则

Article 1 This Law is enacted in order to standardize the organization and behavior of companies, to protect the legitimate rights and interests of companies, shareholders and creditors, to maintain the socio-economic order and to promote the development of the socialist market economy.

第一条 为了规范公司的组织和行为,保护公司、股东和债权人的合法权益,维护社会经济秩序,促进社会主义市场经济的发展,制定本法。

Article 2 For the purposes of this Law, the term company refers to a company with limited liability or a company limited by shares incorporated within the territory of the People's Republic of China in accordance with this Law.

第二条 本法所称公司是指依照本法在中国境内设立的有限责任公司和股份有限公司。

Article 3 A company is an enterprise legal person, which has independent property of a legal person and enjoys the property rights of a legal person. The company shall be liable for its debts to the extent of its entire property.

第三条 公司是企业法人,有独立的法人财产,享有法人财产权。公司以其全部财产对公司的债务承担责任。

Shareholders of a company with limited liability shall assume liability towards the company to the extent of the capital contributions subscribed respectively by them; and the shareholders of a company limited by shares shall assume liability towards the company to the extent of the shares subscribed respectively by them.

有限责任公司的股东以其认缴的出资额为限对公司承担责任;股份有限公司的股东以其认购的股份为限对公司承担责任。

Article 4 The shareholders of a company shall, in accordance with law, enjoy such rights as benefiting from the assets of the company, participation in making major decisions and selection of managerial personnel.

第四条 公司股东依法享有资产收益、参与重大决策和选择管理者等权利。

Article 5 In its operational activities, a company shall abide by laws and administrative regulations, observe

第五条 公司从事经营活动,必须遵守法律、行政法规,遵守社会

social morals and commercial ethics, persist in honesty and good faith, accept supervision by the government and the public, and assume social responsibility.

The legitimate rights and interests of companies shall be protected by law, and shall be inviolable.

Article 6 Where an entity intends to incorporate a company, it shall, in accordance with law, apply to a company registration authority for registration of such incorporation. Where the conditions for incorporation provided for by this Law are met, the company registration authority shall have the company registered as a company with limited liability or a company limited by shares; and where the said conditions are not met, the company shall not be registered as one with limited liability or as one limited by shares.

Where laws or administrative regulations provide that approval is required for incorporation of a company, the procedures of approval shall be completed according to law prior to registration of the company.

The public may apply to the company registration authority for inquiry about the items registered by a company, and the authority shall provide services for such inquiry.

Article 7 The company registration authority shall issue a business license to a company incorporated according to law. The date on which the business license is issued shall be the date on which a company is incorporated.

In the business license of a company shall clearly be stated such items as the name, domicile, registered capital, actually received capital, scope of business and name of the legal representative of the company.

公德、商业道德,诚实守信,接受政府和社会公众的监督,承担社会责任。

公司的合法权益受法律保护,不受侵犯。

第六条 设立公司,应当依法向公司登记机关申请设立登记。符合本法规定的设立条件的,由公司登记机关分别登记为有限责任公司或者股份有限公司;不符合本法规定的设立条件的,不得登记为有限责任公司或者股份有限公司。

法律、行政法规规定设立公司必须报经批准的,应当在公司登记前依法办理批准手续。

公众可以向公司登记机关申请查询公司登记事项,公司登记机关应当提供查询服务。

第七条 依法设立的公司,由公司登记机关发给公司营业执照。公司营业执照签发日期为公司成立日期。

公司营业执照应当载明公司的名称、住所、注册资本、实收资本、经营范围、法定代表人姓名等事项。

Where the items stated in the business license of a company are altered, the company shall have the alterations registered according to law, and the company registration authority shall renew its business license.

Article 8 A company with limited liability incorporated according to this Law shall have the words "company with limited liability" or "limited company" indicated in its name.

A company limited by shares incorporated according to this Law shall have the words "company limited by shares" or "company by shares" indicated in its name.

Article 9 Where a company with limited liability is to be changed into a company limited by shares, it shall meet the conditions of a company limited by shares provided for by this Law. Where a company limited by shares is to be changed into a company with limited liability, it shall meet the conditions of a company with limited liability provided for by this Law.

Where a company with limited liability is changed into a company limited by shares, or a company limited by shares is changed into a company with limited liability, the rights of credit and the debts of the company prior to the change shall be inherited by the company after the change.

Article 10 The domicile of a company shall be the place where its main administrative organization is located.

Article 11 Articles of association shall be formulated according to law when a company is incorporated. The articles of association of a company shall have binding force on the company, its shareholders, directors, supervisors and senior managers.

公司营业执照记载的事项发生变更的,公司应当依法办理变更登记,由公司登记机关换发营业执照。

第八条 依照本法设立的有限责任公司,必须在公司名称中标明有限责任公司或者有限公司字样。

依照本法设立的股份有限公司,必须在公司名称中标明股份有限公司或者股份公司字样。

第九条 有限责任公司变更为股份有限公司,应当符合本法规定的股份有限公司的条件。股份有限公司变更为有限责任公司,应当符合本法规定的有限责任公司的条件。

有限责任公司变更为股份有限公司的,或者股份有限公司变更为有限责任公司的,公司变更前的债权、债务由变更后的公司承继。

第十条 公司以其主要办事机构所在地为住所。

第十一条 设立公司必须依法制定公司章程。公司章程对公司、股东、董事、监事、高级管理人员具有约束力。

Article 12 The business scope of a company shall be defined in the company's articles of association, and shall be registered according to law. A company may revise its articles of association and alter its scope of business, but shall have such revision and alteration registered.

The items within the scope of business of a company that are subject to approval as provided for by laws and administrative regulations shall be submitted for approval according to law.

Article 13 The chairman of the board of directors, the executive director or the manager shall, in accordance with the provisions of a company's articles of association, serve as the legal representative of the company, which shall be registered according to law. Where the legal representative of a company is replaced, the company shall have such replacement registered.

Article 14 A company may establish branches. Where a company intends to establish a branch, it shall apply for registration to the company registration authority, in order to obtain a business license for the branch. However, such a branch shall not possess the status of a legal person, and its civil liabilities shall be borne by the company.

A company may establish subsidiaries, which shall possess the status of legal persons, and shall independently bear civil liabilities according to law.

Article 15 A company may invest in other enterprises; however, it shall not become the investor that assumes joint and several liability for the debts of the enterprises in which it invests, except where otherwise provided for by law.

第十二条 公司的经营范围由公司章程规定,并依法登记。公司可以修改公司章程,改变经营范围,但是应当办理变更登记。

公司的经营范围中属于法律、行政法规规定须经批准的项目,应当依法经过批准。

第十三条 公司法定代表人依照公司章程的规定,由董事长、执行董事或者经理担任,并依法登记。公司法定代表人变更,应当办理变更登记。

第十四条 公司可以设立分公司。设立分公司,应当向公司登记机关申请登记,领取营业执照。分公司不具有法人资格,其民事责任由公司承担。

公司可以设立子公司,子公司具有法人资格,依法独立承担民事责任。

第十五条 公司可以向其他企业投资;但是,除法律另有规定外,不得成为对所投资企业的债务承担连带责任的出资人。

Article 16 Where a company intends to invest in another enterprise or provide guarantee for another entity, the matter shall, in accordance with the provisions of the company's articles of association, be subject to a resolution adopted by the board of directors or the shareholders assembly or the shareholders general assembly; and where norms for the gross amount of investments or guarantees and for the amount of a single investment or guarantee are specified in the company's articles of association, such norms shall not be exceeded.

Where a company intends to provide a guarantee for its shareholder or its actual controller, the matter shall be subject to a resolution adopted by its shareholders assembly or shareholders general assembly.

The shareholder specified in the preceding paragraph or the shareholder dominated by the actual controller specified in the preceding paragraph shall not participate in the vote on the matter specified in the preceding paragraph. The resolution on such matter shall be adopted if it is voted for by other shareholders present at the meeting who hold more than half of the voting rights.

Article 17 Companies shall protect the lawful rights and interests of their staff and workers, sign labor contracts with them according to law, participate in social insurance, and improve occupational protection so as to achieve safety in production.

Companies shall, in various forms, improve vocational education and on-the-job training among their staff and workers so as to enhance their quality.

Article 18 The staff and workers of a company shall, in accordance with the Trade Union Law of the People's Republic of China, organize a trade union to

第十六条 公司向其他企业投资或者为他人提供担保,依照公司章程的规定,由董事会或者股东会、股东大会决议;公司章程对投资或者担保的总额及单项投资或者担保的数额有限额规定的,不得超过规定的限额。

公司为公司股东或者实际控制人提供担保的,必须经股东会或者股东大会决议。

前款规定的股东或者受前款规定的实际控制人支配的股东,不得参加前款规定事项的表决。该项表决由出席会议的其他股东所持表决权的过半数通过。

第十七条 公司必须保护职工的合法权益,依法与职工签订劳动合同,参加社会保险,加强劳动保护,实现安全生产。

公司应当采用多种形式,加强公司职工的职业教育和岗位培训,提高职工素质。

第十八条 公司职工依照《中华人民共和国工会法》组织工会,开展工会活动,维护职工

carry out trade union activities and protect the lawful rights and interests of the staff and workers. The company shall provide the trade union of the company with the conditions necessary for carrying out its activities. The trade union of a company shall represent the staff and workers to sign with the company collective contracts on such items as the payment for work done, working hours, welfare and insurance benefits as well as occupational safety and health of the staff and workers according to law.

Companies shall, through the conference of the representatives of the staff and workers or other forms, carry out democratic management in accordance with the provisions of the Constitution and relevant laws.

When a company discusses to make decisions on structural reform or on major issues in business operation, or formulate important rules and regulations, it shall listen to the opinions of the trade union, and shall listen to the opinions and proposals of the staff and workers through the conference of the representatives of staff and workers or other forms.

Article 19 In companies, Communist Party organizations shall, in accordance with the provisions of the Constitution of the Communist Party of China, be set up to carry out activities of the Party. Companies shall provide the necessary conditions for the Party organizations to carry out their activities.

Article 20 The shareholder of a company shall observe laws, administrative regulations and the company's articles of association, exercise the rights of a shareholder according to law, and shall not abuse his rights to damage the interests of the company or other shareholders; and he shall not abuse the independent status

合法权益。公司应当为本公司工会提供必要的活动条件。公司工会代表职工就职工的劳动报酬、工作时间、福利、保险和劳动安全卫生等事项依法与公司签订集体合同。

公司依照宪法和有关法律的规定,通过职工代表大会或者其他形式,实行民主管理。

公司研究决定改制以及经营方面的重大问题、制定重要的规章制度时,应当听取公司工会的意见,并通过职工代表大会或者其他形式听取职工的意见和建议。

第十九条 在公司中,根据中国共产党章程的规定,设立中国共产党的组织,开展党的活动。公司应当为党组织的活动提供必要条件。

第二十条 公司股东应当遵守法律、行政法规和公司章程,依法行使股东权利,不得滥用股东权利损害公司或者其他股东的利益;不得滥用公司法人独立地位和股东有限责任损害

of the company as a legal person or the limited liability of shareholders to damage the interests of the creditors of the company.

公司债权人的利益。

Where the shareholder of a company abuses the rights of shareholders and thus causes losses to the company or other shareholders, he shall be liable for compensation according to law.

公司股东滥用股东权利给公司或者其他股东造成损失的,应当依法承担赔偿责任。

Where the shareholder of a company abuses the independent status of the company as a legal person or the limited liability of shareholders, evades debts and thus seriously damages the interests of the creditors of the company, he shall assume joint and several liability for the debts of the company.

公司股东滥用公司法人独立地位和股东有限责任,逃避债务,严重损害公司债权人利益的,应当对公司债务承担连带责任。

Article 21 Proprietary shareholders, the actual controllers, directors, supervisors and senior managers of a company shall not take advantage of their affiliated relations to damage the interests of the company.

第二十一条 公司的控股股东、实际控制人、董事、监事、高级管理人员不得利用其关联关系损害公司利益。

A person who, in violation of the provisions of the preceding paragraph, causes losses to a company shall be liable for compensation.

违反前款规定,给公司造成损失的,应当承担赔偿责任。

Article 22 The resolution adopted by the shareholders assembly or the shareholders general assembly or the board of directors of a company, which in content violates laws or administrative regulations, shall be invalid.

第二十二条 公司股东会或者股东大会、董事会的决议内容违反法律、行政法规的无效。

Where the procedures for convening the meeting of the shareholders assembly or the shareholders general assembly, or the board of directors, or the voting formulas are against laws, administrative regulations or the articles of association of a company, or the content of the resolution adopted is against the company's articles of association, the shareholders may, within 60 days from

股东会或者股东大会、董事会的会议召集程序、表决方式违反法律、行政法规或者公司章程,或者决议内容违反公司章程的,股东可以自决议作出之日起六十日内,请求人民法院撤销。

the date the resolution is adopted, request the people's court to rescind the resolution.

Where shareholders take legal proceedings in accordance with the provisions of the preceding paragraph, the people's court may, upon request of the company, demand the shareholders to provide appropriate guarantee.

Where a company has registered for alteration in accordance with the resolution adopted by the shareholders assembly, the shareholders general assembly or the board of directors, and the people's court declares the resolution invalid or rescinds it, the company shall apply for cancellation of the registration for such alteration.

股东依照前款规定提起诉讼的, 人民法院可以应公司的请求, 要求股东提供相应担保。

公司根据股东会或者股东大会、董事会决议已办理变更登记的, 人民法院宣告该决议无效或者撤销该决议后, 公司应当向公司登记机关申请撤销变更登记。

Chapter II

Incorporation and

Organizational Structure

of a Company with

Limited Liability

第二章

有限责任

公司的设

立和组织

机构

Section 1

Incorporation

第一节

设 立

Article 23 The following conditions shall be met for the incorporation of a company with limited liability:

第二十三条 设立有限责任公司, 应当具备下列条件:

(1) The number of shareholders conforms to the statutory number;

(一) 股东符合法定人数;

(2) The capital contributions of the shareholders reach the statutory minimum amount of capital;

(二) 股东出资达到法定资本最低限额;

(3) The shareholders have jointly formulated the articles of association;

(三) 股东共同制定公司章程;