

Administrative Law of State-Owned Enterprise

Amended Date :

2011-12-28

Chapter 1 General Provisions

Article 1

The administration of state-owned enterprise shall comply with the provisions of the Administrative Law of State-Owned Enterprise (hereinafter the “Law”).

Article 2

The purpose of establishing state-owned enterprise is to develop national capital, promote economic development, and improve the livelihood of the people.

Article 3

State-owned enterprise as referred to in this Law are of the following types:

- 1) Enterprises which are solely owned by the State;
- 2) Enterprises, which, in accordance with special regulations, are jointly owned by the State and private individuals;
- 3) Enterprises, which, in accordance with the Company Law, are jointly owned by the State and private individuals, and in which the State holds more than 50% of the capital. Those enterprises, which, in accordance with separate contracts, are jointly owned by the State and foreigners shall be governed by such contracts.

The chairperson or general manager and president of the enterprises, which the state holds less than 50% of the shares, are appointed by the government. Those chairpersons and presidents on behalf of the state shares may be requested to report to and to be interrogated by the Legislative Yuan, concerning budget and operation examined by the shareholders congress

Article 4

State-owned enterprise shall be operated in a manner befitting a business so that they may be able to support themselves, achieve continued development, and increase the national income without incurring losses. However, enterprises established for demonstration purposes or for other reasons specified by government are not subject to the provisions of this law.

Article 5

The National Treasury is responsible for appropriating the funding necessary for government’s investment in national enterprises. If stocks are to be issued in accordance

with applicable regulations, the stocks issued shall be placed under the custody of the National Treasury.

Article 6

Unless otherwise specified in applicable regulations, the rights and responsibilities of state-owned enterprise shall be the same as those of private enterprises of similar categories.

Article 7

The competent authorities overseeing state-owned enterprise are prescribed in the various laws governing organization of the ministries, committees, or agencies of the Executive Yuan.

Article 8

The competent authorities shall have the following functions:

- 1) To establish, consolidate, reorganize, and dissolve the subordinate state-owned enterprise
- 2) To approve the operating plans and guidelines of the subordinate state-owned enterprise
- 3) To appoint and remove important persons of the subordinate state-owned enterprise
- 4) To set up the administrative framework of the subordinate state-owned enterprise
- 5) To inspect and evaluate the operations of the subordinate state-owned enterprise
- 6) To make the financial plans for the subordinate state-owned enterprise.

Where special regulations exist, the aforementioned appointment and removal of important persons referred to in paragraph 3 shall be governed by such regulations.

Article 9

Chief managerial agencies may be set up as appropriate for the purpose of administering the following state-owned enterprise:

- 1) State-owned enterprise of the same nature
- 2) State-owned enterprise sharing a close operating relationship

Article 10

The competent authorities shall submit the regulations regarding the organizations of state-owned enterprise to the Executive Yuan, which, in turn, shall refer to the Legislative Yuan for review and approval.

Chapter 2 Finance

Article 11

State-owned enterprise shall prepare budgets based on the business/expansion plans approved by the competent authorities and shall determine the amount of capital required. The budgets, once approved, shall be appropriated either in one lump sum or in installments by the National Treasury.

Article 12

State-owned enterprise shall begin preparing the budget proposals before the start of each fiscal year. The budget proposals shall be submitted to the competent authorities for approval.

Article 13

State-owned enterprise shall turn over its profits to the National Treasury after the year-end audit. Enterprises, which, in accordance with Article 4, are established for demonstration purposes or other reasons as specified by the government may request subsidies from the competent authorities in the event losses are incurred.

Article 14

State-owned enterprise shall control their expenditures, and the Executive Yuan shall set standards for determining the pay scale and non-salary benefits of state-run enterprise employees. Any expenditures surpassing these limits shall not be allowed.

Article 15

State-owned enterprise with the approval of the government may issue specific usage corporate bonds without being subjected to the restrictions of Article 247, Paragraph 2 of Article 249, and Paragraph 2 of Article 250 of the Company Act. The specific usage and annual total issued amount of the bonds shall be submitted to Legislative Yuan for approval through the budget process.

If the proceeds realized from the issue of corporate bonds are applied for usage other than that stipulated, the responsible person of the state-owned enterprise shall be sentenced to an imprisonment under two years.

Article 16

The Directorate-General of Budget, Accounting and Statistics shall, in a manner befitting a business enterprise, establish accounting systems for state-owned enterprise in coordination with the competent authorities.

Article 17

The revenue and the expenditure of state-owned enterprise shall be post-audited by the auditing agencies. In the case of large-scale enterprises, the auditing agencies may assign auditors to conduct on-site audits.

Chapter 3 Operations

Article 18

State-owned enterprise or chief managerial agencies shall submit their annual operating plans to the competent authorities for approval before the state of each fiscal year.

Article 19

State-owned enterprise are responsible for the sale of their own products. Where a joint sale is considered appropriate, the competent authorities shall prescribe the procedures thereof.

Article 20

The rates charged by public utilities shall be calculated in accordance with the formulas prepared either by state-owned enterprise or by chief managerial agencies. Such formulas, together with any changes thereof, shall be referred to the Legislative Yuan for approval.

Article 21

Unless otherwise authorized by the competent authorities, state-owned enterprise shall not purchase equipment or facilities deemed irrelevant to their operations.

Article 22

State-owned enterprise shall obtain authorization from the competent authorities before signing contracts involving large transactions or long-term trading.

The criteria for determining the size of a transaction or the length of trading shall be prescribed by the competent authorities.

Article 23

(deleted)

Article 24

The competent authorities or chief managerial agencies shall take in charge when collectively procuring the raw materials and/or equipment required by state-owned enterprise are more adequate.

Article 25

During the trading or constructing processes, state-owned enterprise shall follow all bidding and contracting procedures in accordance with the regulations prescribed by the competent authorities.

Related auditing procedures are prescribed in Article 17.

Article 26

State-owned enterprise shall adopt the most efficient measures and systems to manage their security facilities, employee training and technical administration.

Article 27

The employees of state-owned enterprise may elect representatives to represent them in meetings to discuss matters relating to production plans.

Article 28

Technical collaboration between state-owned enterprise and foreign countries shall be authorized by the competent authorities.

Article 29

The competent authorities shall according to the nature of each individual corporation, establish a set of criteria for evaluating the performance of state-owned enterprise.

Article 30

State-owned enterprise which are considered as the compulsory responsibility of the State and which make no profit during the initial stage of operation shall not be evaluated by the criteria of profit/loss in a certain period.

Chapter 4 Personnel

Article 31

Except for special technical or important managerial employee, state-owned enterprise shall recruit their employees through open examinations.

The examination shall be held as a written examination in principle. The examination method, qualifications, subjects, grading, admission criteria and other matters shall be determined by the competent authority of the state-owned enterprise.

The projects, positions and qualifications required of the special technical or important managerial employee shall be established by the state-owned enterprises, reported to the competent authority, and published on the website.

Article 32

The personnel of state-owned enterprise who have been employed before the promulgation of this Law shall be evaluated in accordance with their work experience, seniority, and job performance in order for them to be considered for job promotions and transfers.

Article 33

The appointment, performance rating, retirement, indemnity, severance and other personnel management matters related to state-owned enterprise employees shall be

proposed by the competent authorities .and reported to the Executive Yuan for approval unless otherwise prescribed by law.

Article 34

The competent authorities may appoint trustees and supervisors for state-owned enterprise which do not have corporate status if this is deemed appropriate by the Executive Yuan.

Article 35

The director, auditor, trustee, and supervisor of one state-run enterprise shall not concurrently hold the same position in another state-run enterprise, except for the purpose of merger or establishment of holding companies. Under such exceptional circumstances, the director and trustee of one state-run enterprise may concurrently hold the same position in other state-run enterprise, as well as hold the positions of auditor and supervisor. The director, auditor, trustee, and supervisor who hold the same in another state-run enterprise may be elected as the chairperson, vice chairperson of the board, or other equal positions.

At least one fifth of the directors, trustees of one state-run enterprise who represent state capital shall be recommended by the relevant labor union.

The labor union may replace the recommended directors and trustees who are considered incompetent.

Article 36

Apart from the requirements of Article 13 of the Civil Servant Service Law, the employees of state-owned enterprise shall not be engaged by or invest in enterprises of a similar nature.

Article 37

In order to prevent favoritism, Article 26 of the Civil Servant Appointment Law shall apply mutatis mutandis to all personnel appointments of state-owned enterprise.

Chapter 5 Addendum

Article 38

The Law shall go into force upon the date of its promulgation.

The effective date of the amended Articles of the Law shall be set by Executive Yuan.