

Rules of Registration and Formation of Commercial Companies According to the Laws of Afghanistan

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Abstract

Aim: The primary goal of this research study is to clarify and identify the provisions related to the formation and registration of commercial companies in Afghanistan's statutory law for readers, particularly businessmen.

Methods: The doctrinal research methodology and descriptive, explanatory, and analytical research approaches are used in this work. It is worth mentioning that this research study is entirely based on library sources.

Results: The study found that the rules and regulations related to the formation and registration of commercial companies are simply and clearly mentioned in Afghan law. In many cases, international standards have been observed on the basis that businessmen can easily establish companies. In the Afghan commercial code, there is no explanation regarding the registration and formation of the cooperative companies. However, there is a special code related to cooperative companies, and all topics related to cooperative companies are discussed in that law. Furthermore, different special conditions and principles apply during formation of each type of commercial companies as stipulated by Afghan commercial codes.

Conclusion: The study concluded that commercial companies are divided into five types in the Afghan commercial code.

Recommendation: The study recommend Ministry of Commerce and relevant agencies to develop public awareness programs for investors regarding Afghan laws. Most businessmen do registration and formation of companies through third parties who are not very informed about relevant principles. This method may cause conflicts between the partners.

Keywords: *Commercial company, commercial law, Afghanistan, formation and registration regulations*

INTRODUCTION

Commercial companies generally have a dominant personality and are considered one of the most important pillars of national and international trade. In the current era, commercial companies form a vital means of citizen participation in national and international trade. Such businesses are trade facilitation tools with people (shareholders) who are protected from a variety of risks. Commercial companies in Afghanistan have special procedures for formation and registration that include special formalities and structures, warranty costs, and formation. According to the commercial law of Afghanistan, commercial companies are divided into five types; Sherkat-Tazamoni (general partnership company), Sherkat-Tazamoni-Mokhtalat (special partnership company), Sherkat-e-Mahdud-ul-Massoliat (limited liability company), Sherkat Sahami (corporation), Sherkat Toohwine (cooperative company). In terms of formation and registration, general rules and regulations for all companies and special rules and regulations for a limited number of companies are mentioned in the Afghan commercial law.¹

The development of commercial laws begins simultaneously with the establishment of trade and business. Because an individual cannot meet all of his needs on his own, other people are required to transfer the necessary goods from one location to another in order to satisfy the materialistic needs of society. Therefore, based on the above necessity, the presence of laws, rules, and principles in the field of trade is necessary for the purpose of managing the above tasks. These laws, rules, and regulations were in different forms and shapes during the history of mankind.²

It infers from the above discussion that in the laws of Afghanistan, special attention has been paid to commercial companies, which have included principles and conditions in terms of registration and formation in view of international standards. The purpose of this research is to identify and discuss what provisions and conditions are considered in Afghanistan's laws for the formation and registration of commercial companies.

Problem Statement

It can be observed that the founders of commercial companies in Afghanistan are mostly unaware of the provisions for the formation and registration of commercial companies, whose formation and registration stages are carried out by third parties. However, unfortunately, the original founders are not aware of the legal steps and obligations even after the creation of the company. With the establishment of a company, it is seen that each of the partners desires to lead the company, but the ignorance of the rules of formation causes disagreements between them. So, these differences in many cases lead to the delay of the company's affairs and eventually to its dissolution. In order to prevent possible challenges and disagreements among the parties, this research study clarifies all the principles related to the formation and registration of the company, to the management of the company, and to the management of the affairs of the company.

Research Questions

1. How do commercial companies benefit from Afghan laws?

¹ Commercial Law. (1367). Ministry of Justice. Official Gazette. Serial No. 676, Article 117.

<http://www.asianlii.org/af/legis/laws/clcoa1955uotcloa713/>.

² <https://www.imf.org/en/Publications/fandd/issues/Series/Back-to-Basics/Trade>.

2. What rules and regulations are required for the formation and registration of commercial companies in Afghanistan?
3. How standard and comprehensive is the legislation related to the formation and registration of commercial companies?

Research Objectives

1. To introduce the types of commercial companies in light of Afghan laws.
2. To clarify the rules for the formation and registration of commercial companies from the point of view of Afghan law.
3. To determine gaps and deficiencies in the rules related to the formation and registration of commercial companies.

LITERATURE REVIEW

Mohammad Ibrahim Nazari and Noorullah Imad Oriakhil, in 2013, wrote a book called "Company Law." In this book, there is a comprehensive discussion on the types of companies related to company law, with four types of companies being, general partnership company, special partnership company, limited liability company, and corporation, but cooperative companies are not discussed. In this research study, all five types of commercial companies are discussed based on Afghan commercial law, and the rules for the formation and registration of these companies are also described.

Dr. Mustafa Niazi, in 2018, wrote a book entitled "Trade Law." In this book, the concepts related to trade laws have been discussed in detail in one chapter. Furthermore, the topics related to commercial companies have been described, according to the Trade Law of Afghanistan. The author only defined commercial companies and did not discuss their types and other related areas from the point of view of Afghanistan's laws, which is clearly different from this study. In this study, all the rules of registration and formation after the identification of companies are described in detail. Afghanistan's Commercial Law, which categorizes commercial companies into five types, makes no mention of the registration and formation rules for the fifth type, a cooperative company, which has been analyzed and discussed in this research study.

Introduction to Commercial Companies

A company that is legally registered and is run in accordance with the commercial standards that are generally recognized by society is known as a commercial enterprise. This type of firm acts as an intermediary between the people who manufacture goods and the people who buy those goods.³ Based on the above definition, no specific sector or profession is specified for commercial companies; therefore, there are different types of commercial companies, each of which is formed for specific objectives and performs activities based on the law. Commercial enterprises are generally important tools for a country's economic development and job creation.

³ What is a commercial company? Main characteristics. <https://www.lifepersona.com/what-is-a-commercial-company-main-characteristics>.

Types of Commercial Companies

Based on Afghan commercial law, commercial companies are divided into five types: Sherkat-Tazamoni (general partnership company), Sherkat-Tazamoni-Mokhtalat (special partnership company), Sherkat-e-Mahdud-ul-Massoliat (limited liability company), Sherkat Sahami (corporation), Sherkat Toohwine (cooperative company).⁴

Introduction of General Partnership (Sherkat-Tazamoni)

Based on article 135 of the Afghan commercial law, “A general partnership is one which is established under a definite title for the purpose of carrying out business transactions of two or more persons with collective responsibility. If the ownership of the company should not suffice to its debts, each of the partners is responsible to pay all the debts of the company.”⁵ In other words, a general partnership is an organization that is managed by two or more individuals in such a way that each of them is responsible for the affairs of the business.⁶

Formation of general partnerships

All of the partners in the general partnership have the right to participate in the management team, and there is no prohibition against appointing one of the partners as a manager of the company.⁷ Furthermore, the partners of the company are allowed to have one or more appointed persons as managing directors of the company.

Appointment of a director of a general partnership

As stated in article 144 of the Afghan commercial law “according to the written agreement, if not explicit, the administration of the company, with the majority vote, could be delegated to one, a few, or all of the partners, or delegated to a person or persons outside the company. If the administration of the company has not been delegated to anyone in the manner mentioned above, each of the partners may be considered authorized to the affairs of the company”.⁸

Furthermore, article 145 states that “if the administration authority of the director is determined by the company's written agreement, the partners cannot limit or dismiss him.” If a strong reason exists—that is, if the director neglects his duties or is unable to administer them—the authority of the director could be limited or he could be dismissed upon the request of one of the partners to the Court”.⁹ It is inferred from above articles, some of the issues should be clarified and discussed by the legislator. For example, in the law, the reasons for removing the manager from his job and limiting his powers are mentioned, such as the manager's indifference or gross negligence, which should have been clarified.

Furthermore, article 146 states that “a director appointed after the written agreement and by the decision of the partners can be dismissed by majority vote. If a majority vote is not received for

⁴ Commercial Law. (1367). Ministry of Justice. Official Gazette. Serial No. 676, Article 117.
<http://www.asianlii.org/af/legis/laws/clcoa1955uotcloa713/>.

⁵ Commercial Law. (1367). Ministry of Justice. Official Gazette. Serial No. 676, Article 116.
<http://www.asianlii.org/af/legis/laws/clcoa1955uotcloa713/>.

⁶ <https://modiremali.com/dictionary>.

⁷ Commercial Law. (1367). Ministry of Justice. Official Gazette. Serial No. 676, Article 117.

⁸ Commercial Law. Article 144.

⁹ Ibid, 145.

his dismissal, any partners can refer the matter to court and, with strong and valid reasons, ask his dismissal”.¹⁰

It is inferred from the above articles; the legislature has given every shareholder the right to dismiss the company's manager by referring him to court. Moreover, the delegation of authority to all partners in a company is a correct action based on the principles of equality and partnership. But from the administrative and managerial perspective, which is related to the work process, it can cause disorder and confusion, which results in the interruption and delay of the work of the company's administration. So, it would be better if the specific powers were only dependent on the manager, and consequently the important administrative principles of hierarchy, unity of command, and unity of guidance could be achieved.

General partnership's manager qualifications

According to article 147 of the Afghan commercial law, “If the administration of the company should be delegated to all or some of the partners, each of them singly is authorized to administer. If some of the partners responsible for the administration of the company should not agree with the execution of a certain matter, the other authorized partners can settle this with a majority vote. Provided, that the agreement of votes for resolutions is not stipulated in the contract of the company.”¹¹

Additionally, “ordinary matters and transactions effecting the purpose and subject of the company relate to the administration of the company. Where the director finds it profitable for the company, he is authorized to take action and judge. Important matters such as contributions, price, transfer of immovable properties, securities, and other matters which are other than ordinary activities must be decided by vote of the partners.”¹² Based on article 151 and 152 of the Afghan commercial law “a partner authorized to administer the company cannot, without the approval of other partner, accept an outside as a partner in the company, or substitute him for himself in the administration.”

Registration of general partnerships

According to Afghan commercial law, general partnership companies should have written contracts. Within a month from the date a branch outside the region where it is registered is established, it must register its contract details in the locality where the company is established. Also, persons establishing a general partnership company must register and advertise a copy of the contract in the locality where the office of the company is situated.¹³

The contracts of the general partnership companies must contain the following items:

1. Date of contract
2. Name, identification, address, and such information as might distinguish the partners. If another company is a partner, the title of that company
3. Business location

¹⁰ Ibid, 146.

¹¹ Commercial Law. Article 147.

¹² Ibid, 148.

¹³ Commercial Law, Article 136, 138, 139.

4. The fact that the company is a general partnership company
5. The title of the company
6. The names of all the partners authorized to sign in the name of the company, with an explanation as to whether these people are singly or collectively authorized to sign
7. Subject of business
8. The capital share of each partner and the approximate value of non-cash capital, along with the manner in which this approximation has been reached
9. Each partner's share in loss and profit
10. The date of establishment and termination of the company, and such other items as the partners might think useful.¹⁴

Article 140 of the Afghan commercial law states that "after a company has been registered and advertised, if any changes are brought about in a general partnership company regarding its title, its business location, authorized signing partners, withdrawal or conclusion of partners, increase or decrease of capital, going out of business before or continuing beyond the specified period, or joining another company, all these details must be put in a statement signed by all partners. This statement, together with the proper supporting documents, should be submitted to the related court for certification, after which it should be registered and advertised."¹⁵ The above-mentioned terms and conditions are very essential because the final decision is up to the court, and the court will make an impartial and just decision to maintain public interests and expedite the business process.

If a transaction occurred in the name of the company prior to registration and advertisement, the company is liable to the third party. In the event that the company has not been registered or advertised, and if the partners refuse to admit its existence, third parties could prove its existence, by whatever means and with whatever evidence.¹⁶

Introduction to Special Partnership Companies (Sherkat-Tazamoni-Mokhtalat)

A special partnership is defined based on Article 243 of the Afghan Commercial Law as "business established under a definite title, for the purpose of trade, in which one or more partners have unlimited liability and the rest of the partners have limited liability with a definite capital, is called a special partnership company. The capital of the partner with limited liability can be in the form of shares."¹⁷ In other words, a special partnership company is an organization in which one or more partners have limited liability and other partners have non-limited liability.¹⁸

Formation of a special partnership company

In addition to the general partnership formation characteristics mentioned in Article 137, the names of the limited liability partners, as well as the amount of capital that each of them has paid or assumed- are recorded and announced in the contract of the special partnership company.

¹⁴ Commercial Law. Article 137.

¹⁵ Ibid, 140.

¹⁶ Commercial Law. Article 141.

¹⁷ Ibid, 243.

¹⁸ <https://modiremali.com>.

Registration of a special partnership company

The title of this company consists only of the names of the joint partners, not the limited liability partners. It is clear from this phrase that special partnership companies are composed of joint partners and those partners who have limited liability. In this type of company, the rules of general companies apply to the general partners, and the rules of joint-stock companies apply to the non-general partners. In the title of the company, the word "joint partnership" must be mentioned, and at least two of the partners who have unlimited liability must be listed. Moreover, the rules for the establishment of special partnership companies and corporation have been declared according to Article 450 of the trade regulations, which requires the presence of at least five founders in the establishment of this type of company. Also, according to this article, at least one of the founders must be one of the joint partners. According to Article 244 of the Afghan Commercial Code, unless otherwise stated in this subchapter, the rules governing general partnership companies apply to special partnership companies as well. Where it cannot be decided if a company is a general partnership company, it is considered to be a general partnership company.¹⁹ Based on Article 137 of the Afghan Commercial Code, the contracts of the general partnership companies must contain the following items:

1. Date of contract
2. Name, identification, address, and such information as might distinguish the partners. If another company is a partner, the title of that company
3. Business location.
4. The fact that the company is a general partnership company
5. The title of the company
6. The names of all the partners authorized to sign in the name of the company, with an explanation as to whether these people are individually or collectively authorized to sign.
7. Subject of business.
8. The capital share of each partner and the approximate value of non-cash capital, along with the manner in which this approximation has been reached,
9. Each partner's share in loss and profit

The date of establishment and termination of the company, and such other items as the partners might think useful.²⁰ Additionally, the partners can add those items that are essential for the formation of a contract.

The qualifications of the special partnership company's partners

The type of partnership of partners in a special partnership company is different; therefore, their qualifications are not the same, which are going to be discussed in this section.

1. Partners with limited liability are not allowed to run the business and can't stop those who are allowed to do so.

¹⁹ Commercial Law. Article 244.

²⁰ Commercial Law. Article 137.

2. Each partner with limited liability is allowed, at the end of the year, to investigate the balance sheet, asset book, and papers of the company, either personally or through an informed person. If there is a problem with informed people, the court may choose the informed person if the partner asks.

If the partners with limited liability join another person who has established such an institution or join an existing company doing the same business, the partners with limited liability will not be entitled to investigate the books and papers of the new company.²¹

1. The responsibility of a partner with limited liability is proportional to his promised or paid-in capital.
2. In a special partnership company, the partner with limited liability can, at the end of the fiscal year, receive his dividend or, if stated in the contract, his interest.
3. Partners with limited liability are not required to return interest and dividends paid in previous years to make up for losses incurred thereafter.
4. Partners with limited liability are not required to return interest and dividends paid in previous years to make up for losses incurred thereafter.
5. In the event of the death of a limited liability partner, his heir replaces him.
6. If a limited liability partner transfers, without the permission of other partners, his shares wholly or in part, to another person, this new person is not entitled to investigate or interfere in the affairs of the company. ²²
7. The responsibility to administer and represent a Special Partnership company rests with the partners, who have unlimited liability. The extent of this authority is subject to laws applying to general partnership companies. Unless prohibited by the company contract, a partner with limited liability may be delegated, by the director or directors of the company.²³
8. The giving of advice and consultations, the right to investigate and control the affairs of the company, and, when legally specified, participation in the appointment and dismissal of employees, or employment for minor work in the company, cannot cause unlimited liability for the partners with limited responsibilities.²⁴

Introduction to Corporations

A corporation is one establishment under a definite title for the purpose of commercial activities, whose capital is definite and divided into shares, with the responsibility of each shareholder limited to the proportion of his share.²⁵ In other words, a corporation is among those companies that are established under a specific title to complete commercial transactions. The capital of these companies is divided into certain shares, and each partner is given responsibility according to his share and capital. The capital of a corporation is generally equal to the shares owned by its partners.

²¹ Ibid, 250.

²² Commercial Law, 248-256.

²³ Ibid, 258.

²⁴ Ibid, 259.

²⁵ Commercial Law, 266.

From the above definition, it is known that the capital in this company is divided into shares and that the responsibility of the partners is limited to the amount of their shares.²⁶

Formation of a corporation

A corporation is created in two ways: 1. Immediately 2. Gradually

1. If the founders of a corporation buy all the shares of the company, the company may be established immediately.
2. If the founders do not buy all the shares, in this case, the corporation is created and formed gradually. In the gradual situation, the remaining shares are announced, and the public is informed that the shares are available for sale.²⁷

Organs of a corporation

There are three organs that operate in a corporation, they include:

1. General meeting: Shareholders get together at the general meeting to solve and decide on the company's most important problems.
2. The board of directors: It manages the affairs of the company.
3. The supervisory board: This board supervises the work related to the company and the performance of the board of directors.²⁸

Registration of a corporation

- A. A corporation must have at least five shareholding founders in order to be formed²⁹.
- B. The founders must prepare and sign the articles of incorporation, incorporation which must include the following:
 1. The title of the company and its home office.
 2. The nature, type, and purpose of the company's activities
 3. Determination of capitalization, kind of shares, and price of each share, as well as the terms under which the shares are bought.
 4. Special benefits made possible and paid for by profit for the founders, board members, or other individuals
 5. Procedure of election of the board of directors, board of supervision, their functions, signatures, and administrative authority.
 6. Procedures to call the general meeting for shareholders, time to assemble, terms for discussion, decision, and voting.

²⁶ Reza Rashidi Nasab, Trade Law (Traders and commercial companies). 123.

²⁷ Commercial Law. Article 267.

²⁸ Hezbollah Hamidi - (1395). Trade Law. Future Publishing Society - Kabul. 99-103

²⁹ Those who, in the process of establishing a corporation, sign the articles of incorporation, and pay as capital a sum in cash or otherwise, are considered the founders.

7. Duration of the company, if it is for a limited period.³⁰

A copy of the articles of incorporation, prepared according to Article 270, is submitted to the Ministry of National Economy, and a permit for the establishment of the company is obtained.³¹

After permission has been received, if the company is gradually established, the founders should make an advertisement containing the following:

1. Business and duration of the company.
2. The price of each share, the amount of capital, and the privileges provided in the articles of incorporation for the founder or other persons;
3. The kind of inventory assets given for capital;
4. If the buying of an institution has been under consideration, its price;
5. The place and method of conducting the general meeting.³²

Introduction to a Limited Liability Companies (Sherkat-e-Mahdud-ul-Massoliat)

Commercial companies whose capital is not divided into shares and in which the responsibility of each partner is limited to his promised capital, are called limited liability companies. With the exception of insurance, limited companies can be established for any kind of business.³³ In limited liability companies, the minimum number of partners is two and the maximum number is 50, and the title of the company should be followed by the word "limited."

Registration of a limited liability company

The charter of the limited liability company should include the following items:

1. The name of the company
2. The registration center for the company
3. The capital of the investors
4. The number of shares
5. The time period of the company (the time period of the limited liability company is not unlimited, and sometimes the time is explicitly mentioned in the charter).
6. The purpose of the company
7. The rights and obligations of investors
8. The duties of the board of directors
9. Other items that are not contradictory to the provisions of the code.³⁴

³⁰ Commercial Law. Article 270.

³¹ Ibid, 271.

³² Commercial Law. Article 272.

³³ Ibid, 456-457.

³⁴ Limited liability company Law of Afghanistan. (2017). Serial number 1292. Article 20.

The limited liability company is created when its charter is signed by the founders or an individual who is considered authorized based on the contract. The charter is registered at the headquarters, and a license is issued.³⁵

The name of the central registration agency for the registration of the limited liability company has been mentioned earlier. However, it is not clear that this agency belongs to any ministry or related agency. In this case, it is clearly mentioned in Article 458 of the Afghan Commercial Code that the registration should be done in the Ministry of Economy. It is clear now that the registration agency is the Ministry of Economics.³⁶ When determining the name of the limited company, the name must be followed by the terms "limited" and "private."³⁷ or its abbreviation, such as LT.

Formation of a limited liability company

The administration of a limited liability company is more similar to that of a corporation because the administration of the company is run by the director and the partners themselves. Besides, there should be a general assembly of partners, but if the number of partners exceeds twenty, it is necessary to have a monitoring board, so that the affairs of the company can be monitored on behalf of the partners. In order for the affairs of the company to be properly managed, the board of directors has been entrusted with the responsibilities, and a number of conditions have been set in the law to appoint the board of directors. For example, a person must have reached the age of 18 and not be denied civil rights. Moreover, the board of directors is composed of one or more people, except for large limited liability companies, whose board of directors must be three or more than three people.³⁸

The researcher argues that the standard of education is not recorded and mentioned in the conditions for the board of directors, which is a problem. Because if an uneducated person joins the company's board of directors, it may harm the company and society in various aspects.

Introduction to Cooperative Companies (Sherkat Toohwine)

A cooperative, or cooperative company, is a voluntary association of individuals who come together in a non-governmental and non-political manner to obtain economic, social, cultural, or other common interests.³⁹ In other words, a cooperative company is one of those that are formed by several neighbors, relatives, or friends for the purpose of mutual cooperation. The main goal of these companies is public profit, but the profit depends on each shareholder's share. If one shareholder invests more, he gets more benefit, and the opposite is true. The cooperative company differs from a corporation in terms of shares. It means that in corporation, the shares are already known, and specific individuals must receive those shares.⁴⁰

³⁵ Ibid, 21.

³⁶ Commercial Law. Article 458.

³⁷ Commercial Law. Article 460.

³⁸ Limited liability company Law of Afghanistan. Article 31.

³⁹ Afghan cooperative Act. (2008). Ministry of Justice Official Gazette. 949 issue. Article 2

⁴⁰ Nasrullah Stanikzai & Wali Mohammad Nasih. Trade Law. 1387. Kabul University. P 23

Registration of cooperative companies

Cooperatives are generally divided into four types. Primary Cooperative, Secondary Cooperative, Central Union, and Federation of Cooperatives. Each has specific registration rules under the law.⁴¹

- A. Conditions for creating a primary cooperative. The primary cooperative is formed at the village level. The terms and conditions of this agreement are as follows:
 1. At least 11 volunteers
 2. Having a charter
 3. Giving a fixed share to cooperative property
 4. Registration of the cooperative with the relevant agency
- B. Registration and formation of a secondary cooperative. Secondary cooperatives are formed at the Nahiyah, district, and province levels. The terms and conditions of this agreement are as follows.
 1. Voluntary merger of three primary cooperatives
 2. Having common goals
 3. Having a charter
 4. paying a fixed share of the assets of the cooperative
 5. registering the cooperative with the relevant agency
- C. Registration and formation of the Central Union of Cooperatives The following terms and conditions are required for the formation of the Central Union of Cooperatives:
 1. voluntary merger of at least three provincial secondary cooperatives
 2. Having common goals
 3. Having a charter
 4. paying a fixed share to the assets of the association
 5. Registration of the Central Union of Cooperatives in the Ministry of Justice
- D. Registration and formation of the Federation of Cooperatives. The following terms and conditions are required for the formation of the Federation of Cooperatives.
 1. voluntary merger of at least three central associations of cooperatives
 2. Having a charter
 3. paying a fixed share to the assets of the Federation
 4. Registration of the Federation of Cooperatives in the Ministry of Justice

As it was mentioned earlier that the conditions have been elaborated for cooperatives, the conditions are different depending on the cooperative. The relevant agency for the registration of primary and secondary cooperatives has been determined as the registration agency for cooperatives under the framework of the relevant sectoral agencies. For example, if farmers in a village intend to form a cooperative, it is clear that the relevant body for this sector is the Ministry of Agriculture and Livestock and the relevant departments in the provinces. One of the conditions of cooperatives registration is the contribution to the assets of the cooperative, which includes cash

⁴¹ Afghan cooperative Act. Article 2, clause 2.

or other movable and immovable assets. Cooperation forms base on which a person's membership in the cooperative or relevant organization is established and could be returned.⁴²

One of the conditions for the registration of cooperatives is to prepare an application by at least 11 members. The secondary cooperative application is prepared by at least three primary cooperatives' authorized representatives. The application for membership in the Central Union of Cooperatives is prepared by the governing representatives of three secondary cooperatives. The Cooperative Federation Application is prepared by at least three authorized representatives of the Cooperative Central Associations. The application for registration of primary and secondary cooperatives, along with their charter of association, is submitted to the relevant sectoral organization. The application for registration of the Central Union and Federation is submitted to the Ministry of Justice, along with the charter of association.

The Cooperative Registration Authority reviews and evaluates the application within 30 days from the date of receipt of the application and communicates its decision in writing regarding its acceptance or rejection. If the application is approved, it is registered with the relevant authority, and the activity license is issued.⁴³ If the application is rejected, the cooperative registration agency will notify the applicant of its decision. If the applicant considers the decision to be contrary to the provisions of the applicable law, he can refer the issue to the relevant court.⁴⁴

Formation of a cooperative company

In order for cooperative companies to organize and perform their activities regularly, they need strong management and organization to work in this area. On this basis, cooperatives have different departments through which administrative affairs are arranged and organized. A cooperative is led by the following authorities:

1. General assembly: It is the highest decision-making authority of cooperatives and is made up of members in the cooperative and their representatives in the union. The general assembly holds its first meeting within two months after registration.
2. Board of Directors: Each of the cooperative's and its associations' boards of directors must have at least five members who are chosen by the general assembly. These members run the cooperative's business in accordance with the law and the cooperative's charter.
3. Board of Supervisors: The supervisory board of cooperatives and unions each has three members who are from the general assembly.⁴⁵

CONCLUSION

During this research, it was found that, in general, very clear rules have been mentioned for the registration and formation of commercial companies. According to the types of companies, the registration and formation rules are also different from each other. Commercial companies are divided into five types in the Afghan commercial code, of which there is no explanation regarding the registration and formation of the cooperative company; however, there is a special code related

⁴² Afghan cooperative Act. Article 8, 9, 10, 12.

⁴³ Afghan cooperative Act. Article 15.

⁴⁴ Ibid, article 15.

⁴⁵ Ibid, articles 20-23.

to cooperative companies, and all topics related to cooperative companies are discussed in the mentioned law that has been used in this research.

In relation to the limited liability companies, there are rules related to their recognition, registration, and formation in the Afghan Commercial Code; however, another law related to limited liability companies has also been enacted, which has described the issues related to these companies in a more detailed manner. Fortunately, in this study, the materials of both laws related to limited liability companies were used and mentioned after the analysis. According to the Afghan laws, generally, for the registration of commercial companies, it is mandatory to write the name of the company, the headquarters of the company, the identification of the partners, the amount of capital, the type of company, the subject issue of the company, and the date of creation and termination of the company. That should be considered by investors at the time of creation. Based on Afghan commercial codes, in terms of the formation of commercial companies, special conditions and principles have been considered depending on the type of company, which are mostly different from each other depending on the types of companies.

RECOMMENDATIONS

1. Since the standard of education and training has not been recorded in the conditions set for the board of directors, it is therefore recommended to the Ministry of Justice to include at least a bachelor's degree in the terms for the board of directors in the mentioned law.
2. As it is observed, many traders do the registration and formation of companies through third parties, who themselves are not very aware of the relevant principles, and this method may cause conflicts between the partners. As a result, it is expected that the Ministry of Commerce and relevant agencies will develop public awareness programs for investors regarding Afghan laws.
3. As the scientific aspect of the board of directors is emphasized, and students receive theoretical education related to management and trade during the course of education, it is suggested that educational institutions, along with other areas, particularly in light of the rules related to company registration and formation, implement practical procedures on students so that they can play their role well in this field as professionals.
4. Because the laws of Afghanistan have specified specific rules and principles for the registration and formation of commercial companies, companies are practically created based on this; therefore, businessmen are advised to follow these rules properly. In addition to the implementation of the law, problems and interpersonal conflicts are prevented.
5. Since this research has been done on the rules of registration and formation of commercial companies under the Afghan commercial code and other related laws, it is suggested to the researchers that they examine this issue comparatively with the laws of neighboring countries.

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