

## CONSOLIDATED LEGISLATION

### Law 50/2002, of December 26, on Foundations.

head of state  
«BOE» no. 310 of December 27, 2002  
Reference: BOE-A-2002-25180

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CONSOLIDATED TEXT  
Last modified: October 2, 2015

JUAN CARLOS I

KING OF SPAIN

All those who were present saw and understood.

Know: That the Cortes Generales have approved and I come to sanction the following  
Law.

STATEMENT OF MOTIVES

I

Article 34 of the Constitution recognizes "the right of foundation for purposes of interest  
general, in accordance with the Law. "For its part, article 53.1 of the constitutional text reserves

the law the regulation of the exercise of the rights and freedoms recognized in the chapter second of Title I, among which is that of foundation, specifying that said Legal regulations must in any case respect the essential content of such rights and liberties.

Until now, this constitutional provision was fulfilled through the Law 30/1994, of November 24, Foundations and tax incentives for participation private in activities of general interest, which regulated in a single legal body the regime of the founding entities and the tax advantages that are granted to private, natural or legal persons (without being limited to those of a foundational nature), for your activities or financial contributions in support of certain purposes of interest public or social. This Law ended a regulatory regime for foundations that would fit qualify as old (some of its rules dated from the mid-19th century), fragmentary, incomplete and even contradictory, satisfying the legitimate demands and aspirations repeatedly raised by the sector, and adapting, in short, these regulations to the requirements of the new constitutional order, particularly with regard to the system of distribution of powers between the State and the Autonomous Communities.

However, various requirements advise that this legal framework be reviewed.

First, it is necessary to include in our legal system some innovative experiences that have been developed in recent years in law compared, and that can serve to strengthen the foundational phenomenon in our country.

On the other hand, the reform responds to the demands of the foundations themselves, in a general sense of overcoming certain rigidities of the previous regulation, which, without meaning clear advantages for the public interest, hindered the proper development of the founding activity: simplification of administrative procedures, reduction of acts of Control of the Protectorate, reform of the organization and operation regime of the Board of Trustees, etc.

## II

This Law deals with the substantive and procedural regulation of foundations, leaving for a different legal norm what constituted the content of Title II of the previous, that is, tax incentives for private participation in activities of interest general, as this is a subject that presents specific profiles that demand a separate treatment.

There are three objectives to be achieved with this new regulation of law of foundation. First, reduce the intervention of public powers in the operation of foundations. Thus, in most cases the requirement of prior authorization of legal acts and business by the Protectorate, for

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that of simple communication to the same of the act or business carried out, in order that it may challenge it before the competent judicial instance, if it considers it contrary to law, and, eventually, take legal action against the responsible employers.

Furthermore, procedures have been relaxed and simplified, especially those of an economic and financial nature, also exempting smaller foundations of the fulfillment of certain obligations to those of greater entity.

Finally, the Law intends, throughout its articles, to energize and enhance the foundational phenomenon, as a channel through which civil society contributes to public powers in the pursuit of purposes of general interest.

The European Parliament, in its Resolution on Foundations in Europe (RA 304/93), points out, in this regard, that "foundations that participate in the creation and development of responses and initiatives, adapted to the sociological needs of contemporary society. Particularly those who fight for the defense of democracy, the promotion of solidarity, the well-being of citizens,

deepening human rights, defending the environment, financing of culture, medical science and practice, and research. "

Also our Constitutional Court (STC 18/1984, of February 7, among others) has pointed out that one of the characteristic notes of the social rule of law is that general interests are defined through an interaction between the State and the agents social, and that this interpenetration between the public and the private also transcends the Organizational field, where, as it is easy to understand, foundations carry out a role of the first magnitude.

### III

In a brief review of the most significant news of the new legal text, highlights in chapter I the regulation of foreign foundations, which is limited to Those that intend to carry out activities in Spain in a stable manner. It is specified that The competent Registry for its inscription will depend on the scope, autonomous or supra-autonomous in which they mainly carry out their activities, and that the breach of legal requirements with the prohibition to use the name "Foundation" in our territory.

This chapter introduces a new regulation of the denomination of the foundations, which aims to avoid duplication and abusive enrollment.

In Chapter II, the Law establishes a presumption of adequacy of the endowment from 30,000 euros, in order to guarantee the economic viability of the new entity, without prejudice to that this amount can be reduced when the Protectorate considers it necessary, in attention to the specific purposes of each foundation.

On the other hand, to guarantee the seriousness of the actions leading to the constitution of foundations, the cessation of employers who have not urged the registration of the entity incorporated in the six months following the granting of the founding deed, the Protectorate proceeding to appoint new employers, prior judicial authorization, which explicitly assume the obligation to register the foundation in the Corresponding Foundations Registry.

In Chapter III, the stability and proper functioning of the organs are enhanced of government of foundations with the obligatory figure of the Secretary, and with the possibility of creating bodies other than the Board of Trustees to carry out the tasks that expressly entrusted to it.

In order to facilitate the operation of the Board of Trustees, in addition to the mandatory representation of legal entities by individuals, that employers can be represented by other members of the collegiate body.

The possibility, hitherto unpublished in the Law, of the Board of Trustees agreeing on a adequate remuneration for employers who provide the foundation with services other than those implies the performance of the functions that correspond to them as members of the Board of Trustees, provided that the founder had not prohibited it, thus solving a problem repeatedly raised by the sector.

The heritage of the foundation, regulated in Chapter IV, is one of the fields where the The inspiring principle of freedom of the entire Law is more widely manifested, by

to replace, in certain cases, the prior authorization system by the Protectorate for the simple communication to the same of the act or business carried out, in order to that it can, where appropriate, carry out the appropriate legal actions.

Chapter V covers the possibility that the foundation can develop on its own same economic activities, provided they are activities related to the foundational purposes or are accessory or complementary to them.

In order to facilitate the accounting management of smaller foundations,

the use of abbreviated models of accountability is authorized when they meet the requirements legally established for this purpose for commercial companies. On the other hand, small foundations may adopt a simplified model for managing accounting and will be exempt from the general obligation to submit the annual accounts to external audit.

Furthermore, the obligation to approve an annual budget has been replaced by that of present an action plan, thereby maintaining the essential purpose of offering information about foundational projects, it greatly facilitates the management of these entities.

Chapter VII reformulates the functions of the Protectorate, enhancing those of support and advice to the foundations over which it exercises its competence, especially those that are in the process of constitution.

In Chapter VIII, regulator of the Registry of Foundations of state competence, it is provided for the first time the creation of a denominations section, in which they will be noted the names of the foundations registered in the state and autonomous registers, as well as the names on whose use there is a temporary reserve, in order to avoid duplicities.

On the other hand, a Commission of cooperation and registry information that will be in charge of establishing mechanisms for collaboration and mutual information between registries.

Chapter XI designs the regime applicable to constituted foundations mostly by entities of the state public sector, applying the founding technique to scope of public management. This regulation establishes the requirements and limitations required by the special nature of the aforementioned public foundational figure.

In the additional and final provisions, the application of the Law to the foundations managed by the National Heritage, called Royal Trustees, and has strict respect for the provisions of cooperation agreements and conventions subscribed by the State with the Catholic Church and with other churches and confessions, in relation with foundations created or promoted by them.

On the other hand, the application of the new regulations requires establishing the necessary provisions regarding the temporary subsistence of the current Registers of Foundations of state competence, as well as to set a term for the adaptation, when appropriate, of the Statutes of already established foundations.

In a Law such as this, where regulatory provisions of the foundations of state competence together with others directed to all foundations, it turns out It is of paramount importance to make a precise delimitation of the different types of regulations.

In this sense, the first final provision lists the precepts that are applicable to all foundations, whether state or regional, either to regulate conditions principles that guarantee the equality of Spaniards in the exercise of the founding right (article 149.1.1.<sup>a</sup> CE), either due to its procedural nature (article 149.1.6.<sup>a</sup> CE), or incorporate civil law norms, without prejudice to the preferential applicability of the law civil or special civilian where it exists (article 149.1.8.<sup>a</sup> CE). The remaining precepts of the Law will apply only to foundations under state jurisdiction.

The new regulation of the Foundations of the State Public Sector has forced to carry out in the General Budget Law certain adaptations, which are introduced by of a final provision.

Lastly, it should be noted that, despite the relevance of the innovations made, preserved a significant number of precepts of the 1994 Law, whose validity and effectiveness have been confirmed by practice.

## CHAPTER I

**General disposition****Article 1. Purpose of the Law.**

The purpose of this Law is to develop the foundation right, recognized in the Article 34 of the Constitution and establish the rules of the legal regime of foundations that it corresponds to dictate to the State, as well as to regulate the foundations of state competition.

**Article 2. Concept.**

1. Foundations are non-profit organizations that, by will of its creators have their assets permanently affected by the realization of general interest.
2. Foundations are governed by the will of the founder, by its Statutes and, in all case, by law.

**Article 3. Purposes and beneficiaries.**

1. Foundations must pursue purposes of general interest, such as, among others, those for the defense of human rights, victims of terrorism and acts violent, social assistance and social inclusion, civic, educational, cultural, scientific, sports, health, labor, institutional strengthening, cooperation for the development, promotion of volunteering, promotion of social action, defense of the environment, and promotion of the social economy, promotion and attention to people at risk of exclusion for physical, social or cultural reasons, promoting constitutional values and defense of democratic principles, promoting the tolerance, development of the information society, or scientific research and technological development.
2. The foundational purpose must benefit generic communities of people. This group of workers from one or more companies and their relatives.
3. In no case may foundations be established with the main purpose of allocating their benefits to the founder or employers, their spouses or people related to analogous relationship of affectivity, or their relatives up to the fourth degree inclusive, as well as Individual legal entities that do not pursue purposes of general interest.
4. Foundations whose exclusive purpose or main is the conservation and restoration of assets of the Spanish historical heritage, provided they comply with the requirements of Law 16/1985, of June 25, on Heritage Spanish History, in particular regarding the duties of visit and public exhibition of said goods.

**Article 4. Legal personality.**

1. Foundations will have legal personality from the registration of the deed of its constitution in the corresponding Registry of Foundations.  
Registration may only be denied when said deed does not comply with the prescriptions of the law.
2. Only the entities registered in the Registry referred to in the previous section, may use the name of "Foundation".

**Article 5. Denomination.**

1. The name of the foundations will be adjusted to the following rules:
  - a) The word "Foundation" must appear, and may not coincide or resemble each other that may create confusion with any other previously registered in the Registers of Foundations.

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b) Terms or expressions that are contrary to the laws or that may not be included may violate the fundamental rights of people.

c) It cannot be formed exclusively with the name of Spain, of the Communities Autonomous or Local Entities, nor use the name of official organizations or public, both national and international, except in the case of the founding entities.

d) The use of the name or pseudonym of a natural person or of the denomination or acronym of a legal person other than the founder must have your consent express, or, in case of being incapable, with that of its legal representative.

e) No names may be adopted that refer to activities that are not correspond to the foundational purposes, or lead to error or confusion regarding the nature or activity of the foundation.

f) The prohibitions and naming reserves provided for in the legislation will be observed valid.

2. Any denomination that does not comply with any of the rules will not be accepted established in the previous section, or verify that it coincides or resembles that of a pre-existing entity registered in another public Registry, or with a protected name or reserved to other public or private entities for its specific legislation.

**Article 6. Address.**

1. Foundations that develop mainly must be domiciled in Spain its activity within the national territory.

2. The foundations will have their statutory domicile in the place where the headquarters of its Board of Trustees, or in the place where they mainly carry out their activities.

Foundations that register in Spain to carry out a main activity in abroad, will have their statutory domicile at the headquarters of their Board of Trustees within the territory national.

**Article 7. Foreign foundations.**

1. Foreign foundations that intend to carry out their activities in a stable way in Spain, they must maintain a delegation in Spanish territory that will constitute their domicile for the purposes of this Law, and register in the competent Registry of Foundations depending on the territorial scope in which they mainly carry out their activities.

2. The foreign foundation that intends its registration must prove before the Registry of corresponding Foundations that have been validly constituted in accordance with its law personal.

Registration may be denied when the circumstance indicated in the previous paragraph, as well as when the purposes are not of general interest in accordance with Spanish order.

3. Foreign foundations that do not comply with the requirements established in this article they will not be able to use the denomination of "Foundation".

4. The delegations in Spain of foreign foundations will be subject to Protectorate that corresponds depending on the territorial scope in which they develop mainly its activities, the legal regime provided for the Spanish foundations.

CHAPTER II

**Foundation Constitution**

**Article 8. Capacity to found.**

1. Natural persons and legal entities may form foundations, be they public or private.

2. Natural persons will require the capacity to dispose free, inter vivos or mortis causa, of the assets and rights in which the endowment consists.

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3. Private legal entities of an associative nature will require the express agreement of competent body to dispose of your assets free of charge, in accordance with its Statutes or to the legislation that is applicable to them. Those of an institutional nature must have the agreement of its governing body.

4. Legal-public persons shall have the capacity to establish foundations, except that its regulatory standards establish otherwise.

**Article 9. Modalities of constitution.**

1. The foundation may be constituted by acts "inter vivos" or "mortis causa".

2. The constitution of the foundation by act "inter vivos" will be done by writing public, with the content determined by the following article.

3. The constitution of the foundation by act "mortis causa" will be carried out testamentary, fulfilling in the will the requirements established in the article next for the articles of incorporation.

4. If in the constitution of a foundation by act "mortis causa" the testator had limited to establishing its will to create a foundation and to dispose of assets and endowment rights, the public deed in which the other requirements are contained required by this Law will be granted by the testamentary executor and, failing that, by the testamentary heirs. In case these did not exist, or did not comply with this obligation, the deed will be granted by the Protectorate, prior judicial authorization.

**Article 10. Articles of incorporation.**

The deed of constitution of a foundation must contain, at least, the following extremes:

a) The name, surname, age and marital status of the founder or founders, if they are persons physical, and their name or business name, if they are legal persons, and, in both cases, their nationality and domicile and tax identification number.

b) The will to establish a foundation.

c) The endowment, its assessment and the form and reality of its contribution.

d) The statutes of the foundation, the content of which will be adjusted to the prescriptions of the next article.

e) The identification of the people who make up the Board of Trustees, as well as their acceptance if it is carried out at the founding moment.

**Article 11. Statutes.**

1. The statutes of the foundation shall state:

a) The name of the entity.

b) The foundational purposes.

c) The domicile of the foundation and the territorial area in which it is to develop mainly their activities.

d) The basic rules for the application of resources to fulfill the purposes foundational and for the determination of the beneficiaries.

e) The composition of the Board of Trustees, the rules for the appointment and replacement of its members, the reasons for their removal, their powers and the way to deliberate and adopt agreements.

f) Any other legal provisions and conditions that the founder or founders please establish.

2. Any provision of the Statutes of the foundation or manifestation of the will of the

Founder who is, contrary to the Law, shall be deemed not to have been set, unless it affects the validity constitutive of it. In the latter case, the registration of the foundation in the Corresponding Foundations Registry.

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**Article 12.** *Endowment.*

1. The endowment, which may consist of goods and rights of any kind, must be adequate and sufficient for the fulfillment of the foundational purposes. It will be presumed sufficient the endowment whose economic value reaches 30,000 euros.

When the endowment is of lower value, the founder must justify its adequacy and sufficiency for foundational purposes by presenting the first program of performance, together with an economic study that proves its viability using exclusively these resources.

2. If the contribution is monetary, it may be made successively. In such a case, the initial disbursement will be at least 25 percent, and the rest must be paid in a term not exceeding five years, counted from the granting of the public deed of foundation constitution.

If the contribution is not monetary, it must be incorporated into the articles of incorporation appraisal by an independent expert.

In either case, the reality of the contributions must be accredited or guaranteed before the authorizing notary, in the terms established by regulation.

3. The commitment of contributions from third parties will be accepted as endowment, provided that This obligation is recorded in titles that carry execution.

4. The assets and rights of patrimonial content will also form part of the endowment that during the existence of the foundation they are contributed in such a way by the founder or by third parties, or that are affected by the Board, on a permanent basis, for the purposes foundational.

5. In no case shall the mere purpose of collecting donations be considered endowment.

**Article 13.** *Foundation in formation process.*

1. Granted the founding deed, and inscription in the Corresponding Foundations Registry, the Foundation Board of Trustees will carry out, in addition to the acts necessary for registration, only those others that result indispensable for the conservation of their heritage and those that do not admit delay without damage to the foundation, which will be understood automatically assumed by it when you obtain legal personality.

2. Six months after the granting of the founding public deed without that the employers had urged the inscription in the corresponding Registry of Foundations, the Protectorate will proceed to dismiss the employers, who will respond jointly and severally of the obligations contracted on behalf of the foundation and for damages that causes the lack of registration.

Likewise, the Protectorate will appoint new employers, with prior authorization. judicial, which will assume the obligation to register the foundation in the corresponding Registry of Foundations.

**Article 14. Board of Trustees.**

1. In every foundation there must be, under the name of the Board of Trustees, an organ of government and its representation, which will adopt its agreements by majority in the terms established in the Statutes.

2. It corresponds to the Board of Trustees to fulfill the foundational purposes and to administer diligently the assets and rights that make up the heritage of the foundation, maintaining the performance and utility thereof.

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**Page 12****STATE OFFICIAL NEWSLETTER  
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1. The Board of Trustees will be made up of a minimum of three members, who will choose between them a President, if the appointment of the same in the articles of incorporation or in the Bylaws.

Likewise, the Board of Trustees shall appoint a Secretary, a position that may lie with a outsider, in which case they will have a voice but no vote, and to whom the certification of the Board's agreements.

2. Individuals with full capacity may be members of the Board of Trustees to act and are not disabled for the exercise of public office.

Legal entities may form part of the Board of Trustees, and must designate the person or individuals that represent them in the terms established in the Statutes.

3. The employers will enter to exercise their functions after having accepted expressly charge in public document, in private document with legitimate signature by notary or by appearance made for this purpose in the Registry of Foundations.

Likewise, acceptance may be carried out before the Board of Trustees, accrediting through of certification issued by the Secretary, with a notarized signature.

In any case, the acceptance will be formally notified to the Protectorate, and will be registered in the Registry of Foundations.

4. Employers will exercise their position free of charge without prejudice to the right to be reimbursed for the duly justified expenses that the charge causes in the exercise of their function.

Notwithstanding the provisions of the preceding paragraph, and unless the founder had otherwise provided, the Board of Trustees may set an adequate remuneration for those employers that provide the foundation with services other than those implied by the performance of the functions that correspond to them as members of the Board of Trustees, with prior authorization from the Protectorate.

5. The position of employer that falls on a natural person must be exercised personally. However, another employer appointed by him may act on his behalf and representation. This action will always be for specific acts and must comply with the instructions that, where appropriate, the represented party formulates in writing.

He may act on behalf of whoever is called to exercise the function of employer by reason of the position that he occupies, the person to whom his replacement corresponds.

**Article 16. Delegation and powers of attorney.**

1. If the Statutes do not prohibit it, the Board of Trustees may delegate its powers to one or

more of its members. The approval of the accounts and the performance, modification of the Statutes, merger and liquidation of the foundation or those acts that require the authorization of the Protectorate.

2. The Statutes may provide for the existence of other bodies for the performance of the functions expressly entrusted to them, with the exceptions provided in the previous paragraph.

3. The Board of Trustees may grant and revoke general and special powers, unless the Statutes provide otherwise.

4. Delegations, general powers of attorney and their revocation, as well as creation of other bodies, must be registered in the Register of Foundations.

**Article 17. Responsibility of employers.**

1. Employers must carry out the position with the diligence of a loyal representative.

2. The employers will respond jointly against the foundation of the damages and damages caused by acts contrary to the Law or the Statutes, or by those carried out without the diligence with which they must carry out the position. They will be exempt from liability those who have voted against the agreement, and those who prove that, not having intervened in its adoption and execution, were unaware of its existence or, knowing it, made everything convenient to avoid the damage or, at least, they were expressly opposed to it.

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3. The action of responsibility will be filed, before the judicial authority and on behalf of the Foundation:

a) By the foundation's own governing body, after a reasoned agreement from the same, In whose adoption the affected employer will not participate.

b) By the Protectorate, in the terms established in article 35.2.

c) By dissident or absent employers, in the terms of section 2 of this article, as well as by the founder when he was not Patron.

**Article 18. Substitution, cessation and suspension of employers.**

1. The replacement of employers will take place in the manner provided in the Statutes. When this is not possible, we will proceed in accordance with the provisions of article 29 of this Law, the Protectorate being empowered, until the statutory modification is produces, for the designation of the person or persons who provisionally integrate the governing body and representation of the foundation.

2. The cessation of the employers of a foundation will take place in the following cases:

a) By death or declaration of death, as well as by extinction of the person legal.

b) Due to incapacity, disqualification or incompatibility, in accordance with the provisions of the Law.

c) Due to cessation of the position for which they were appointed members of the Board of Trustees.

d) For not carrying out the position with the diligence provided for in section 1 of the article above, if so declared in a court decision.

e) By judicial resolution that accepts the action of responsibility for the acts mentioned in section 2 of the previous article.

f) For the period of six months from the granting of the public deed foundational without having urged the inscription in the corresponding Foundations Registry.

g) For the period of their mandate if they were appointed by a certain weather.

h) By resignation, which may be carried out by any of the means and through the procedures for acceptance.

- i) For the reasons validly established for removal from the Bylaws.
- 3. The suspension of the employers may be provisionally agreed by the judge when liability action is brought against them.
- 4. The substitution, dismissal and suspension of employers will be registered in the Corresponding Foundations Registry.

## CHAPTER IV

### Foundation heritage

#### **Article 19.** *Composition, administration and disposition of the patrimony.*

1. The foundation's assets are made up of all the assets, rights and obligations subject to economic valuation that make up the endowment, as well as those who acquire the foundation after its constitution, whether or not they affect the endowment.

2. The administration and disposition of the patrimony will correspond to the Board of Trustees in the form established in the Statutes and subject to the provisions of this Law.

#### **Article 20.** *Ownership of assets and rights.*

1. The foundation must appear as the owner of all the assets and rights of your assets, which must be included in your annual inventory.

2. The governing bodies will promote, under their responsibility, the registration to name of the foundation of the assets and rights that make up its heritage, in the Corresponding public records.

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#### **Article 21.** *Alienation and lien.*

1. The alienation, onerous or free, as well as the lien of the goods and rights that are part of the endowment, or are directly linked to compliance with the foundational purposes, will require the prior authorization of the Protectorate, which will be granted if there is just cause duly accredited.

2. It is understood that the assets and rights of the foundation are directly linked to the fulfillment of the foundational purposes, when said link is contained in a express declaration of will, whether by the founder, the Board of Trustees or the natural or legal person, public or private, who makes a voluntary contribution to the foundation, and always with respect to the assets and rights provided.

Likewise, the linkage referred to in the preceding paragraph may be made by motivated resolution of the Protectorate or the judicial authority.

3. The remaining acts of disposition of those assets and foundational rights other than those that are part of the endowment or are directly linked to the fulfillment of the foundational purposes, including the transaction or commitment, and lien for real estate, commercial or industrial establishments, assets cultural interest, as well as those whose amount, regardless of its object, is greater than 20% of the assets of the foundation resulting from the last approved balance, must be communicated by the Board of Trustees to the Protectorate within a maximum period of thirty business days following its completion.

The Protectorate may exercise the corresponding liability actions against the employers, when the agreements of the Board of Trustees were harmful to the foundation in the terms provided in the Law.

4. The disposals or encumbrances referred to in this article will be made be recorded annually in the Foundations Register at the end of the fiscal year. Of the In the same way, they will be registered in the Property Registry or in the public Registry that corresponds by reason of the object, and will be reflected in the inventory book of the foundation.

**Article 22. Inheritances and donations.**

1. The acceptance of inheritances by foundations shall be understood as always made at inventory benefit.

The employers will be responsible against the foundation for the loss of the benefit of inventory for the acts referred to in article 1024 of the Civil Code.

2. The acceptance of legacies with burdens or donations onerous or remunerative and the repudiation of inheritances, donations or legacies without charges will be communicated by the Board of Trustees to the Protectorate within a maximum period of the next ten business days, being able The latter exercise the corresponding liability actions against the employers, if the acts of the Board of Trustees were harmful to the foundation, in the terms provided in this Law.

## CHAPTER V

### Foundation operation and activity

**Article 23. Principles of action.**

Foundations are required to:

- a) To effectively allocate the heritage and its income, in accordance with this Law and the statutes of the foundation, for its foundational purposes.
- b) Give sufficient information about their purposes and activities so that they are known by their possible beneficiaries and other interested parties.
- c) Act with criteria of impartiality and non-discrimination in determining their beneficiaries.

**Article 24. Economic activities.**

1. Foundations may carry out economic activities whose object is related to the foundational purposes or are complementary or accessory to the themselves, subject to the regulatory rules of the defense of competition.

In addition, they may intervene in any economic activities through their participation in companies, in accordance with the provisions of the following sections.

2. Foundations may participate in commercial companies in which no personally respond to social debts. When this participation is majority they must report to the Protectorate as soon as said circumstance occurs.

3. If the foundation received by any title, either as part of the initial endowment, either at a later time, some participation in companies in which you must be personally liable for social debts, you must dispose of said participation except that, within a maximum period of one year, the transformation of such companies into others in which the foundation's liability is limited.

**Article 25. Accounting, auditing and action plan.**

1. Foundations must keep an orderly and adequate accounting for their activity,

that allows a chronological monitoring of the operations carried out.

For this they will necessarily keep a Daily Book and an Inventory and Account Book Annual.

2. The President, or the person that according to the statutes of the foundation, or the agreement adopted by its corresponding governing bodies, will prepare the annual accounts, which They must be approved within a maximum period of six months from the end of the year by the Foundation Board of Trustees.

The annual accounts, which comprise the balance sheet, the income statement and the report, they form a unit, they must be written clearly and show the faithful image of the patrimony, the financial situation and the results of the foundation.

The report, in addition to completing, expanding and commenting on the information contained in the balance sheet and in the income statement, will include the foundational activities, changes in its governing, management and representation bodies, as well as the degree of compliance with action plan, indicating the resources used, their origin and the number of beneficiaries in each of the different actions carried out, the agreements that, in their case, have been carried out with other entities for these purposes, and the degree of compliance with the rules established in article 27 of this Law.

The foundational activities will be detailed with the requirements that regulations are established. Likewise, an inventory will be incorporated into the memory of the patrimonial elements, whose content will be developed by regulation.

3. Foundations may formulate their annual accounts in abbreviated forms when they meet the requirements established in this regard for commercial companies. The reference to the net amount of the annual turnover, established in the legislation mercantile, will be understood as realized at the amount of the annual volume of income from the activity own plus, if applicable, the turnover of its commercial activity.

4. Regulations will develop a simplified model of keeping the accounting, which may be applied by foundations in which, at the end of the year, meet at least two of the following circumstances:

a) That the total of the asset items does not exceed 150,000 euros. For these purposes, active total means the total that appears in the balance sheet model.

b) That the amount of the annual volume of income from its own activity, plus, in its case, that of the turnover of its commercial activity, is less than 150,000 euros.

c) That the average number of workers employed during the year is not higher to 5.

5. There is an obligation to submit to external audit the annual accounts of all the foundations in which, at the end of the financial year, at least two of the following circumstances:

a) That the total of the asset items exceeds 2,400,000 euros.

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b) That the net amount of its annual volume of income from its own activity plus, in your case, that of the turnover of your commercial activity is more than 2,400,000 euros.

c) That the average number of workers employed during the year is greater than fifty.

The audit will be contracted and carried out in accordance with the provisions of Law 19/1988, of 12 July, Auditing Accounts, providing the auditors with a minimum period of one month, from the moment the formulated annual accounts were delivered to them, to make the audit report. The appointment and revocation regime for auditors will be established by regulation.

6. In relation to the circumstances indicated in sections 3, 4 and 5 above, These will be applied taking into account the following:

a) When a foundation, on the closing date of the fiscal year, becomes two of the said circumstances, or cease to comply with them, such situation will only produce effects As for the indicated if it is repeated during two consecutive exercises.

b) In the first financial year since its constitution or merger, the foundations will comply with the provisions of the aforementioned sections if they meet, at the close of said exercise, at least two of the three circumstances indicated.

7. The annual accounts will be approved by the Foundation's Board of Trustees and will be presented to the Protectorate within ten business days after its approval.

Where appropriate, they will be accompanied by the audit report.

The Protectorate, once its formal compliance with the regulations has been examined and verified in force, will proceed to deposit them in the Foundations Registry. Any person can obtain information from the deposited documents.

8. The Board of Trustees will prepare and send to the Protectorate, in the last three months of each exercise, an action plan, which reflects the objectives and activities that is planned to be developed during the following exercise.

9. When economic activities are carried out, the accounts of the foundations are shall adjust to the provisions of the Commercial Code, and must prepare annual accounts consolidated when the foundation is in any of the cases provided therein for the dominant society.

In any case, detailed information must be incorporated in a specific section of the memory, indicating the different patrimonial elements affected by the activity trade.

**Article 26. *Obtaining income.***

Foundations may obtain income from their activities as long as it does not implies an unjustified limitation of the scope of its possible beneficiaries.

**Article 27. *Destination of income and income.***

1. For the realization of the foundational purposes, at least 70 per 100 of the results of the economic exploitations that are developed and of the income that are obtained for any other concept, deducting the expenses incurred, for the obtaining such results or income, the rest should be used to increase the endowment or reserves according to the agreement of the Board of Trustees. The expenses incurred for the obtaining such income may be integrated, where appropriate, by the proportional part of expenses for external services, personnel expenses, other management expenses, financial and tax expenses, insofar as they contribute to obtaining the income, excluding from this calculation the expenses incurred to fulfill the purposes statutory.

The term for the fulfillment of this obligation will be between the beginning of the year in which the respective results and income have been obtained and the four years following the close of said fiscal year.

The calculation of income will not include contributions or donations received in endowment concept at the time of incorporation or at a time subsequent, nor the income obtained in the onerous transfer of real estate in the that the entity carries out its own activity or specific purpose, provided that

the amount of the aforementioned transfer is reinvested in real estate in which it participates said circumstance.

2. Administrative expenses are understood as those directly caused by the administration of the assets and rights that make up the foundation's assets, and those others from whom employers have the right to recover in accordance with article

15.4. The maximum proportion of said expenses will be determined by regulation.

**Article 28. Self-contracting.**

Employers may contract with the foundation, either on their own behalf or on behalf of a third, with the prior authorization of the Protectorate that will be extended to the case of persons physical that act as representatives of the employers.

CHAPTER VI

**Modification, merger and termination of the foundation**

**Article 29. Modification of the Statutes.**

1. The Board of Trustees may agree to modify the statutes of the foundation provided that is convenient in the interest of the same, unless the founder has prohibited it.

2. When the circumstances that presided over the foundation's constitution have varied so that it cannot act satisfactorily under its Statutes, the Board of Trustees must agree to modify them, except that in this case the founder has foreseen the extinction of the foundation.

3. If the Board does not comply with the provisions of the previous section, the Protectorate will require you to comply, requesting otherwise from the authority judicial that decides on the origin of the modification of statutes required.

4. The modification or new wording of the Statutes agreed by the Board of Trustees is will notify the Protectorate, which may only oppose it for legal reasons and through reasoned agreement, within a maximum period of three months from the notification thereof of the corresponding Board of Trustees agreement. The Protectorate may communicate at any moment within said term and expressly its non-opposition to the modification or new wording of the Statutes.

5. The modification or new wording must be formalized in a public deed and registered in the corresponding Foundations Registry.

**Article 30. Merger.**

1. Foundations, provided that the founder has not prohibited it, may merge with the prior agreement of the respective Trustees, which will be communicated to the Protectorate.

2. The Protectorate may oppose the merger for legal reasons and through reasoned agreement, within a maximum period of three months from the notification thereof of the respective agreements of the interested foundations. The Protectorate may communicate at any time within said period and expressly your non-opposition to the merger agreement.

3. The merger will require the granting of a public deed and registration in the Corresponding Foundations Registry.

The public deed will contain the statutes of the foundation resulting from the merger, as well as the identification of the members of its first Board of Trustees.

4. When a foundation is unable to achieve its ends, the Protectorate may require it to merge with another of similar purposes that it has manifested before the Protected his will favorable to said merger, provided that the founder had not prohibited.

Faced with the opposition of the former, the Protectorate may request from the judicial authority order the aforementioned merger.

**Article 31. Causes of extinction.**

The foundation will be extinguished:

- a) When the term for which it was established expires.
- b) When the foundational purpose has been fully realized.
- c) When it is impossible to achieve the foundational purpose, without prejudice to the provisions in articles 29 and 30 of this Law.
- d) When this results from the merger referred to in the previous article.
- e) When there is any other cause provided for in the constitutive act or in the Statutes.
- f) When there is any other cause established by law.

**Article 32. Forms of extinction.**

1. In the case of paragraph a) of the previous article, the foundation will be extinguished fully right.
2. In the cases contemplated in paragraphs b), c) and e) of the previous article, the Termination of the foundation will require the agreement of the Board of Trustees ratified by the Protectorate. If not if the Board of Trustees agreed, or it was not ratified by the Protectorate, the extinction of the foundation will require a motivated judicial resolution, which may be requested by the Protectorate or by the Board, depending on the case.
3. In the case of paragraph f) of the previous article, a judicial resolution will be required motivated.
4. The termination agreement or, where appropriate, the court decision, will be entered in the Corresponding Foundations Registry.

**Article 33. Liquidation.**

1. The extinction of the foundation, except in the case provided for in article 31.d), will determine the opening of the liquidation procedure, which will be carried out by the Board of Trustees of the foundation under the control of the Protectorate.
2. The assets and rights resulting from the liquidation will go to the foundations or to private non-profit entities that pursue purposes of general interest and that have affected its assets, even in the event of its dissolution, to the achievement of those, and that have been designated in the foundational business or in the Statutes of the foundation extinguished. Failing this, this destination may be decided, in favor of the same Foundations and entities mentioned by the Board of Trustees, when they have recognized that faculty by the founder, and, in the absence of that faculty, it will correspond to the Protectorate to fulfill that task.
3. Notwithstanding the provisions of the preceding paragraph, foundations may provide for its statutes or foundational clauses that the goods and rights resulting from the liquidation are intended for public entities, of a non-foundational nature, that pursue purposes of general interest.
4. By regulation the regulatory criteria of the procedure of settlement referred to in the previous sections.

## CHAPTER VII

**The Protectorate****Article 34. Protectorate.**

1. The Protectorate will ensure the proper exercise of the foundation right and the legality of the constitution and operation of foundations.
2. The functions of the Protectorate with respect to the foundations of state competence will be exercised by the General State Administration through a single body administrative, in the manner determined by regulation.

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**Article 35.** *Functions of the Protectorate.*

1. The functions of the Protectorate are:

a) Inform, on a mandatory and binding basis for the Registry of Foundations, about the suitability of the purposes and the endowment sufficiency of the foundations that are in the process of constitution, in accordance with the provisions of articles 3 and 12 of the present Law.

b) Advise the foundations that are in the process of constitution, in relation to with the regulations applicable to said process.

c) Advise the foundations already registered on their legal, economic regime-financial and accounting, as well as any question related to the activities by them developed in the fulfillment of its purposes, providing them for this purpose the necessary support.

d) Publicize the existence and activities of foundations.

e) To ensure the effective fulfillment of the foundational purposes, in accordance with the will of the founder, and taking into account the achievement of the general interest.

f) Verify if the financial resources of the foundation have been applied to the ends foundational, being able to request information from the Board of Trustees necessary, after an expert report made under the conditions that are determine.

g) Provisionally exercise the functions of the governing body of the foundation if by any reason missing all the people called to integrate it.

h) Appoint new trustees of foundations in the constitution period when the Initially appointed employers would not have promoted their registration, in the terms provided in article 13.2 of this Law.

i) How many other functions are established in this or other laws.

2. In any case, the Protectorate is entitled to exercise the corresponding action of responsibility for the acts related to article 17.2 and to urge the cessation of the employers in the case contemplated in paragraph d) of article 18.2.

Likewise, it is entitled to challenge the acts and agreements of the Board of Trustees that are contrary to the legal or statutory precepts by which the foundation is governed.

3. When the Protectorate finds rational indications of criminal illegality in the activity of a foundation, will issue a reasoned resolution, transferring all the documentation to the Prosecutor's Office or the competent court, communicating this circumstance to the interested foundation.

CHAPTER VIII

**The Registry of Foundations of State Competition**

**Article 36.** *The Registry of Foundations under State jurisdiction.*

1. There will be a Registry of Foundations under state jurisdiction depending on the Ministry of Justice, in which the acts related to the foundations that carry out their activity in the entire territory of the State or mainly in the territory of more than one Autonomous Community.

2. The structure and operation of the Registry of Foundations of State competence will be determined by regulation.

3. In the Registry of Foundations of state competence a section of denominations, which will include those of the foundations already registered in the Registries state and regional, and the names on whose use there is temporary reserve.

The Autonomous Communities, once the registration of the constitution of the foundation or, where appropriate, its extinction, will convey these circumstances to the Registry of Foundations under State jurisdiction, for the purposes of the provisions of paragraph above and for the record and general publicity.

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**Article 37.** *Effects.*

1. The Registers of Foundations will be public, presuming knowledge of the seat content.

2. Advertising will be made effective by certifying the content of the seats, by simple informative note or by copy of the entries and of the documents deposited in the Records or by computer or telematic means that will comply with the requirements established in the current regulations on the protection of personal data.

3. Unregistered acts subject to registration will not harm a third party in good faith. The good faith of the third party is presumed as long as it is not proven that he knew the act subject to registration not registered.

4. The provisions of this article are understood without prejudice to the regulatory regulations of other existing public registries.

5. When the Registry finds rational indications of criminal wrongfulness in the constitution of a foundation, will issue a reasoned resolution, transferring all the documentation to the Prosecutor's Office or the competent court, communicating this circumstance to the interested foundation, the registration procedure being suspended until a firm judicial decision is required.

CHAPTER IX

**The Superior Council of Foundations**

**Article 38.** *Superior Council of Foundations.*

1. The Superior Council of Foundations is created as a consultative body.

2. The Superior Council of Foundations will be made up of representatives of the General Administration of the State, of the Autonomous Communities and of the foundations, paying particular attention to the existence of foundations associations with implantation state, and will be governed by the regulations that are established on its structure and composition.

**Article 39.** *Functions of the Superior Council of Foundations.*

The functions of the Superior Council of Foundations will be:

a) Advise and report on any legal or regulatory provision of a character that directly affects the foundations, as well as formulating proposals in this ambit. You may also report on such matters when you are consulted by the Government Councils of the Autonomous Communities.

b) Plan and propose the necessary actions for the promotion and promotion of foundations, carrying out the necessary studies for this purpose.

c) Any others that may be attributed by the current provisions.

**Article 40.** *Commission for cooperation and registry information.*

The Cooperation and Cooperation Commission is created in the Superior Council of Foundations registry information, which will be made up of representatives of the General Administration of the State and the Autonomous Communities.

This Commission will be in charge of establishing mechanisms for collaboration and Mutual information between the different registers, in particular regarding

denominations and communications on registration and, where appropriate, the extinction of foundations.

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CHAPTER X

**Authorizations, temporary intervention and resources**

**Article 41.** *Authorizations.*

The processing of the authorizations referred to in this Law shall be governed by the provisions of Law 30/1992, of November 26, on the Legal Regime of the Public Administrations and the Common Administrative Procedure.

**Article 42.** *Temporary intervention.*

1. If the Protectorate noticed a serious irregularity in the economic management that endanger the subsistence of the foundation or a serious deviation between the ends foundational and the activity carried out, will require the Board, once heard, the adoption of the measures it deems pertinent to correct it.

2. If the requirement referred to in the previous section were not met within the period that the effect is indicated, the Protectorate may request the judicial authority to agree, after hearing the Board of Trustees, the temporary intervention of the foundation. Authorized judicially the intervention of the foundation, the Protectorate will assume all the attributions legal and statutory of the Board of Trustees during the time determined by the judge. The intervention will be raised at the expiration of the established period, unless you agree to extend it by a new court decision.

3. The judicial resolution that agrees the temporary intervention of the foundation is will register in the corresponding Foundations Registry.

**Article 43.** *Jurisdictional resources.*

1. The acts of the Protectorate put an end to the administrative route and will be open to challenge the contentious-administrative jurisdictional order.

2. The resolutions issued in the appeals against the qualification of the Registers of Foundations put an end to the administrative route and may be challenged before the order contentious-administrative jurisdiction.

3. It will correspond to the Court of First Instance of the domicile of the foundation to know, in accordance with the corresponding declaratory process procedures, from the claims to those referred to in articles 9.4, 13.2; 17.3; 18.2.d); 18.3; 29.3; 30.4; 32.2, 3 and 4; 35.2 and 42.2 of this Law.

CHAPTER XI

**State public sector foundations**

**Article 44.** *Concept.*

**(Repealed)**

**Article 45.** *Creation.*

**(Repealed)**

**Article 46.** *Legal regime.*

**(Repealed)**

**First additional provision.** *National Heritage Foundations.*

This Law shall not apply to the foundations referred to in Law 23/1982, June 16, National Heritage.

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**Second additional provision.** *Foundations of religious entities.*

The provisions of this Law are understood without prejudice to the provisions of the agreements with the Catholic Church and in the agreements and cooperation agreements signed by the State with other churches, confessions and religious communities, as well as in the regulations issued for its application, for foundations created or promoted by them.

**Third additional provision.** *Excluded public foundations.*

The public health foundations referred to in article 111 of Law 50/1998, of December 30, Fiscal, administrative and social order measures will continue to apply for its specific regulations.

**Fourth additional provision.** *Foundations established under Law 15/1997, of April 25, on enabling new forms of management of the National Health System.*

The foundations established under Law 15/1997, of April 25, on empowerment of new forms of management of the National Health System, will continue to govern by its specific regulations, applying the precepts of Chapter XI with character extension.

**Fifth additional provision.** *Obligations of notaries.*

Notaries must inform the Protectorate of the content of the public deeds regarding the constitution of foundations and its modifications subsequent, by sending a simple copy of the mentioned deeds.

In the event that the foundation has been constituted in a will, the referred obligation will be fulfilled when the authorizing notary has knowledge of the death of the testator.

**Sixth additional provision.** *Deposit of accounts and legalization of books.*

The functions related to the Registry of Foundations of state competence correspond to the deposit of accounts and the legalization of the books of the foundations of competition state. Regulations will develop the prescriptions contained in this precept.

**Seventh additional provision.** *Foundations linked to political parties.*

Foundations linked to political parties will be governed by the provisions of the This Law, and its resources may come from public financing through the budgets of the different public administrations in the terms established in the applicable budget legislation and, where appropriate, through the corresponding public calls.

**Eighth additional provision.** *Banking foundations.*

Bank foundations will be governed by the provisions of Law 26/2013, of 27 December, from savings banks and bank foundations.

**First transitional provision.** *Adaptation of the Statutes of foundations and endowment modification.*

1. Within two years from the entry into force of this Law, foundations already constituted must adapt their Statutes, where appropriate, to the provisions thereof, the statutory adaptation periods provided for in the legislation are extinguished previous. The endowment of said foundations will not be subject to the regime provided in article 12 of this Law.

2. For the foundations of competence of the Autonomous Communities said adaptation will only proceed in the terms of the first final provision.

3. After the period referred to in section 1 has elapsed without the adaptation of Statutes, when necessary, no document of the

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foundation in the corresponding Foundations Registry until the adaptation has been verified; all without prejudice to the provisions of article 29.3 of this Law.

4. The statutory conditions contrary to this Foundation Law constituted "faithfully and conscientiously" shall be deemed not to have been set.

**Second transitional provision.** *Pre-existing foundations of the state public sector.*

The already established state public sector foundations must, where appropriate, adapt its Statutes to the provisions of chapter XI of this Law, within two years count from the date of its entry into force.

**Third transitional provision.** *Protectorates of foundations.*

Until the regulatory regulation of the Protectorate of foundations is approved of state competence, foundations of this nature will continue to be attached to the Currently existing protectorates.

**Fourth transitional provision.** *Registries of foundations of state competence.*

For the purposes provided in this Law, and as long as the Registry of Foundations referred to in article 36, the Registers of Foundations will subsist currently existing.

**Sole repeal provision.** *Regulatory repeal.*

Upon the entry into force of this Law, all the provisions that are oppose the provisions thereof and, in particular, Title I and the provisions additional first, second, third, eighth, thirteenth, fourteenth, seventeenth and eighteenth of Law 30/1994, of November 24, on Foundations and Incentives Prosecutors for Private Participation in Activities of General Interest.

**First final provision.** *Application of the law.*

1. Articles 2; 3.1, 2 and 3; 4; 14; 31 and 34.1 constitute the basic conditions for exercise of the right of foundation recognized in article 34, in relation to 53, of the Constitution, and are of general application under the provisions of article 149.1.1.<sup>a</sup> of the Constitution.

2. a) Articles 6; 7 and 37.4 are of general application under the provisions of the Article 149.1.1.<sup>a</sup> and 8.<sup>a</sup> of the Constitution.

b) Articles 5, 8, 9, 10, 11, 12, 13, 17.1 and 2, 18.1.2. and 4, 19.1, 22.1 and 2, except the Last subsection 29.1, 2, 3 and 5, 30.1, 3 and 4, 32 and 42 constitute civil legislation and are of general application under the provisions of article 149.1.8.<sup>a</sup> of the Constitution, without prejudice to the preferential applicability of Foral or Special Civil Law, where it exists.

3. Articles 17.3; 18.3; 21.3, second paragraph; 22.2, last paragraph; 35.2 and 43, constitute procedural legislation, and are generally applicable under article 149.1.6.<sup>a</sup> of the Constitution.

4. The remaining precepts of the Law will be applied to the foundations of state competition.

**Second final provision.** *Modification of paragraph 5 of article 6 of the consolidated text of the General Budget Law, approved by Royal Legislative Decree 1091/1988, of 23 September.*

Section 5 of article 6 of the consolidated text of the General Budgetary Law, approved by Royal Legislative Decree 1091/1988, of September 23, will be drawn up as follows:

"5. Foundations of the state public sector are those foundations in which any of the following circumstances exist:

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a) That they be constituted with a majority contribution, direct or indirect, from the General State Administration, its public bodies or other entities of the state public sector.

b) That its foundational heritage, with a permanent character, is formed in more than 50 percent for goods or rights contributed or assigned by the referred entities. "

**Third final provision.** *Adaptation of the General Accounting Plan and regulations elaboration of the action plan.*

Within one year from the entry into force of this Law, the Government update the adaptation rules of the General Accounting Plan to entities without lucrative purposes and will approve the norms of elaboration of the action plan of said entities.

**Fourth final provision.** *Regulatory development.*

The Government is authorized to issue the necessary provisions for the development and execution of this law.

**Fifth final provision.** *Entry into force.*

This Law shall enter into force on January 1, 2003.

Command all Spaniards, individuals and authorities, to save and have them saved this law.

Madrid, December 26, 2002.

JUAN CARLOS R.

The president of the Government,  
JOSÉ MARÍA AZNAR LÓPEZ

This consolidated text has legal value.  
More information at [info@boe.es](mailto:info@boe.es)