

# ESTABLISHMENT AND REGISTRATION OF LEGAL ENTITIES

*A reference handbook  
for self-help groups and support groups*

BOOK NOT FOR SALE

A reference handbook  
for self-help groups and support groups

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JUDICIAL PUBLISHING HOUSE



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HEALTH POLICY INITIATIVE VIETNAM  
JOINT UNITED NATIONS PROGRAMME ON HIV/AIDS

**ESTABLISHMENT  
AND REGISTRATION  
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HANOI - 2010

# Introduction

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The Viet Nam Communist Party and the Government of Viet Nam consider HIV prevention and control the responsibility of every person, family, and community. The different branches and levels of Government and non-governmental organizations have taken part actively in the socialization of HIV prevention and control. People living with HIV and their families have also played an important role in HIV prevention in their communities.

According to the 2010 UNGASS report, Viet Nam's strong civil society participation in the response to HIV from 2008-2010 included participation in: HIV prevention, treatment, care and support activities, behaviour change communication, HIV counseling and testing, and activities to reduce stigma and discrimination, promote harm-reduction, provide economic support and improve the quality of life of people living with HIV.

Current trends show that self-help groups, support groups, and clubs for people living with HIV in Viet Nam have increased in number, improved in quality and widened in operational scope. Many of these groups are interested in obtaining more information regarding the regulations for the establishment and registration as a legal entity. In order to better serve the people living with HIV, Health Policy Initiative (HPI) Viet Nam, in collaboration with UNAIDS Viet Nam and the Judicial Publishing House, has developed this handbook to make necessary information and guidance available to groups undergoing the process of legal establishment and registration.

This handbook was completed with the cooperation of and contribution from domestic state management agencies, international experts, non-governmental organizations, self-help groups, support groups, and people living with HIV. HPI and UNAIDS Viet Nam would like to respectfully express their sincere thanks to all valued contributors.

**Ha Noi, 6/2010**  
**JUDICIAL PUBLISHING HOUSE**

## Directions for use

### 1. What is the purpose of this handbook?

This handbook is intended to provide groups of people living with HIV with information on the process of registering a legal entity. The information given should contribute to strengthening the participation of these groups in HIV prevention and control activities.

### 2. Who should use this handbook?

This document is targeted toward all groups of people living with HIV (self-help groups, support groups, etc.) who are engaged in HIV prevention and control activities. In addition, this handbook may also be used by other groups looking for information related to the legal entity registration process.

### 3. How should this handbook be used?

This handbook is a reference that provides information on how to legally establish and register an organization. It includes detailed information tailored to different types of organizations.

This handbook is presented in order from general to more detailed information and is organized according to organization type. There are many ways to use it. Users may read from the beginning to the end, or may turn directly to reference just the information they need for their type of organization.

The book makes use of the below symbols to highlight key issues:



**Case study**



**Key information**


#### 4. What does this handbook include?

This handbook includes the following content:

**Part A. General information** - This part contains basic information relating to legal entities, such as the requirements for recognition as a legal entity and the rights and obligations of a legal entity.

**Part B. Requirements and Procedures for legal registration** - This part provides detailed information on the requirements and procedures for establishing different types of legal entities. This information will help groups select which organization type is most appropriate for them. Practical examples of groups who were successful in selecting their organization type and establishing and legally registering themselves are introduced as references.

**Part C. Annex** - This part contains the legal framework that regulates the establishment, organization and operation of the organization types introduced in Part B. It lists websites for additional information as well as the addresses of legal aid offices and Provincial Associations of HIV Prevention and Control.

 The information in this handbook is based on the existing legal framework for organizing, managing and operating some types of organizations in Viet Nam. This handbook was finalized at the end of April 2010, and the information may have changed since then. Readers are recommended to check if the normative legal texts have been supplemented, revised or replaced.

## Part A

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### General information

### 1. Legal entity

As stipulated in Article 84 of the 2005 Civil Code, an organization shall be recognized as a legal entity when it meets all the following conditions:

- Being established lawfully
- Having a well - organized structure
- Possessing property independent from that of individuals and other organizations, and bearing its own liability with such property
- Independently entering into legal relations in its own name

### 2. Establishment of a legal entity

As stipulated in Article 85 of the 2005 Civil Code, a legal entity may be established on the initiative of an individual or an organization, or by decision of a competent state agency.

### 3. Rights and obligations of a legal entity

Once an organization is recognized as a legal entity, it has the following rights and obligations:

- Right to have a legal representative or an authorized representative in civil transactions
- A legal entity shall bear civil liability for the exercise of its civil rights and performance of civil obligations established and performed by a representative in the name of the legal entity
- The representative of the legal entity has the right to sign economic contracts, tender for projects, carry out scientific research, provide public services and shall bear civil responsibility with its own property.

Once an organization is recognized as a legal entity, it has civil legal capacity and can establish civil transactions independently. The civil capacity of a legal entity refers to its civil rights and obligations consistent with the purpose of its operation.

### 4. Available types of legal entities for groups of people living with HIV (PLHIV)

There are several different types of legal entities specified in Vietnamese law. PLHIV self-help groups, support groups and networks (hereinafter referred as PLHIV groups) have different options for registering their status:

- Association
- Social Fund / Charity Fund
- Science and Technology Organization
- Cooperative Group
- Cooperative
- Household business
- Enterprise

Specific provisions and requirements for each of the types mentioned - above will be described in Part B.

# Part B

## Requirements and procedures for legal establishment/registration

Before turning to the full description of each of the different types of legal entities, the following table provides an overview of the main characteristics of each - i.e. its requirements, advantages and challenges - so that readers can get a sense of which registration option might be most suitable for their organization.

Overview of organization type

No.	Type of Organization	Purpose	General Requirements for Establishment/Registration	Key Requirements for Establishment/Registration	Advantages
1	Association	<ul style="list-style-type: none"> <li>Protect the legitimate rights and interests of members</li> <li>Coordinate efforts for greater efficiency</li> <li>Contribute to the country's socio-economic development</li> </ul>	<ul style="list-style-type: none"> <li>Mission/goal that does not violate the law</li> <li>Name and main activities are not identical to those of existing registered associations</li> <li>Charter</li> <li>Headquarters</li> <li>Adequate number of registered members</li> </ul>	<ul style="list-style-type: none"> <li>An Establishment Mobilization Board (EMB) recognized by relevant government agencies</li> <li>Sufficient number of signatures to demonstrate adequate membership</li> </ul>	<ul style="list-style-type: none"> <li>No registration fee</li> <li>Issued a stamp</li> <li>May have a bank account</li> </ul>
2	Social Fund and Charity Fund	<ul style="list-style-type: none"> <li>Encourage donation of funds for the development of culture, education, sport, science, charity and other fields of non-profit community development</li> </ul>	<ul style="list-style-type: none"> <li>Mission/goal to encourage the development of culture, education, sport, science, charity and other fields of non-profit community development</li> <li>Proof of members' commitment to donate their assets</li> <li>Charter and suitable organization structure</li> <li>Headquarters</li> </ul>	<ul style="list-style-type: none"> <li>Sufficient initial operating capital</li> </ul>	<ul style="list-style-type: none"> <li>No registration fee</li> <li>Issued a stamp</li> <li>May have a bank account</li> </ul>

No.	Type of Organization	Purpose	General Requirements for Establishment/Registration	Key Requirements for Establishment/Registration	Advantages
3	Science and Technology Organization	<ul style="list-style-type: none"> <li>Carry out science and technology-related activities</li> <li>Conduct activities in the service of scientific research and technology development</li> </ul>	<ul style="list-style-type: none"> <li>Goals and strategies in line with current legal regulations</li> <li>Charter and organizational/management plan</li> <li>Minimum of 5 university graduates, of whom 20% have professional qualifications in the Organization's field</li> <li>Minimum of 40% of human resources are employed full time in Organization's work</li> <li>Registered capital in cash or assets with a total value of at least of 200 million VND</li> <li>Headquarters</li> </ul>	<ul style="list-style-type: none"> <li>Science and technology personnel</li> <li>Sufficient initial operating capital, minimum amount of 200 million VND</li> </ul>	<ul style="list-style-type: none"> <li>Issued a stamp</li> <li>May have a bank account</li> </ul>
		<ul style="list-style-type: none"> <li>Conduct activities related to intellectual property and technology transfer</li> <li>Educate, train, consult on, foster and popularise the applications of science and technology</li> </ul>	<ul style="list-style-type: none"> <li>Must maintain at least 2 full-time employees</li> <li>Head of the organization must have an advanced university degree</li> <li>Headquarters</li> <li>Facilities sufficient to meet the organization's Charter</li> </ul>	<ul style="list-style-type: none"> <li>May give opinions on government policies and programs to relevant state agencies but not to the public media</li> </ul>	

No.	Type of Organization	Purpose	General Requirements for Establishment/Registration	Key Requirements for Establishment/Registration	Advantages
4	Cooperative Group	<ul style="list-style-type: none"> <li>Production or business</li> <li>Create income and jobs for members</li> <li>Develop and implement programs, plans and projects for collective economic benefit</li> </ul>	<ul style="list-style-type: none"> <li>Minimum of 3 members</li> <li>Cooperation contract certified by the commune People's Committee</li> </ul>	<ul style="list-style-type: none"> <li>Activities related to production or business</li> <li>Adequate capital</li> </ul>	<ul style="list-style-type: none"> <li>No educational requirement for founding members</li> <li>Certification free of charge</li> </ul>
5	Cooperative	<ul style="list-style-type: none"> <li>Conduct production/business activities to improve members' material and spiritual lives, thus contributing to national socio-economic development</li> </ul>	<ul style="list-style-type: none"> <li>Valid business registration</li> <li>Be engaged in a legal production and/or business field</li> <li>Name and logo (if any)</li> <li>Charter capital. This capital is not lower than the legal capital in some fields regulated by the Government</li> <li>Payment of required business registration fees</li> </ul>	<ul style="list-style-type: none"> <li>Activities must be related to production or business</li> <li>Adequate capital</li> </ul>	<ul style="list-style-type: none"> <li>Have a stamp</li> <li>May have a bank account</li> <li>Entitled to be notified of policies regarding training, land, finance, credit, trade promotion, applied technology, infrastructure investments serving for the cooperative's production, and the lives of its members and their participation in socio-economic development programs</li> </ul>



No.	Type of Organization	Purpose	General Requirements for Establishment/Registration	Key Requirements for Establishment/Registration	Advantages
6	Household business	<ul style="list-style-type: none"> <li>• Conduct business</li> <li>• Create income and jobs for members</li> </ul>	<ul style="list-style-type: none"> <li>• Be engaged in a legal production and/or business field</li> <li>• Proposed business name</li> <li>• Payment of required business registration fees</li> </ul>	<ul style="list-style-type: none"> <li>• Activities must be related to production or business</li> <li>• Adequate capital</li> </ul>	<ul style="list-style-type: none"> <li>• May have a bank account</li> </ul>
7	Enterprise	<ul style="list-style-type: none"> <li>• Production or business</li> <li>• Create income and jobs for members</li> </ul>	<ul style="list-style-type: none"> <li>• Business registration application deemed valid according to the provisions of the law</li> <li>• Legally stipulated business registration fee paid in full</li> </ul>	<ul style="list-style-type: none"> <li>• Head of enterprise must have high qualifications in economics and management</li> <li>• Adequate capital</li> </ul>	<ul style="list-style-type: none"> <li>• Have a stamp</li> <li>• May have a bank account</li> </ul>

## I. Associations

### 1. Definition of an association

According to Article 2 of Decree No.45/2010/NĐ-CP dated 21/4/2010 of the Government stipulating the organization, operation and management of associations (hereinafter called Decree 45), an Association is understood to be:

- An association is the voluntary organization of Vietnamese citizens of the same profession, the same hobbies or the same sex, who gather together for regular activities. It aims to protect members' and communities' legitimate rights and interests, carry out activities more efficiently and contribute to the country's socioeconomic development.

- An association may bear different names, such as 'union of associations', 'confederation', 'federation', 'society' and 'club', yet still retain its status as a legal entity according to the provisions of the law.

### 2. Rights and obligations of an association

The following are among the rights of an association, as stipulated in Article 23 of Decree No 45:

- Organize and operate according to the provisions of the Association's approved charter
- Publicise itself and its mission/goal
- Disseminate necessary information and provide training to members according to the provisions of the law
- Participate in programs, projects and scientific studies, consult and comment on matters within their scope of operation at the request of

government agencies; provide public service in the association's field; organize vocational training in accordance with current legal regulations

- Apply for and obtain legal status in accordance with current legal regulations

- Give opinions on legal documents relating to the operation of associations, according to the provisions of the law. Make suggestions to State agencies on matters related to the development of associations and to domains where the association has operated in. Associations may organize training activities and other services in accordance with current legal regulations and may grant professional certificates to those trainees who meet all necessary requirements, as stipulated by law.

- Coordinate with relevant agencies and/or organizations in the performance of the association's tasks.

- Raise funds through membership fees and profits from business and/or service activities, within the provisions of the law, in order to cover operational costs

- Receive lawful financial support from domestic and foreign organizations and/or individuals within the provisions of the law. Activities related to State assigned duties are eligible for State funding.

*Article 24 of Decree No 45 stipulates the following obligations:*

- Carry out all current legal obligations related to the operation and organization of the Association and its charter. Associations are forbidden to act in any way detrimental to national security, social order, ethics, traditional customs, national traditions, legal rights and the benefit of other individuals and organizations.

- An association's activities must comply with their approved Charters.

- An association operating within a certain domain must be subject to the State management agency in that domain.

- An association must report annually on its status and activities to relevant State agencies, and to those agencies that manage, on behalf of the State, the branches and domains that pertain to the association, no later than December 1st of year.

- An association must obey the guidance, examination and inspection of the competent State bodies according to the provisions of the law.

- An association must maintain list of membership, branches and representative office, financial records, and meeting minutes at its headquarters and representative office.

- An association's use of funding must comply with the provisions of the law and it must submit an annual financial record to the finance bodies of the same levels and state jurisdiction agencies for receiving and using aid from individuals and foreign organizations.

### **3. Requirements for the establishment of an association**

*According to Article 5 of Decree No.45, the requirements for the establishment of an association are defined as follows:*

- It has a legal mission/goal.

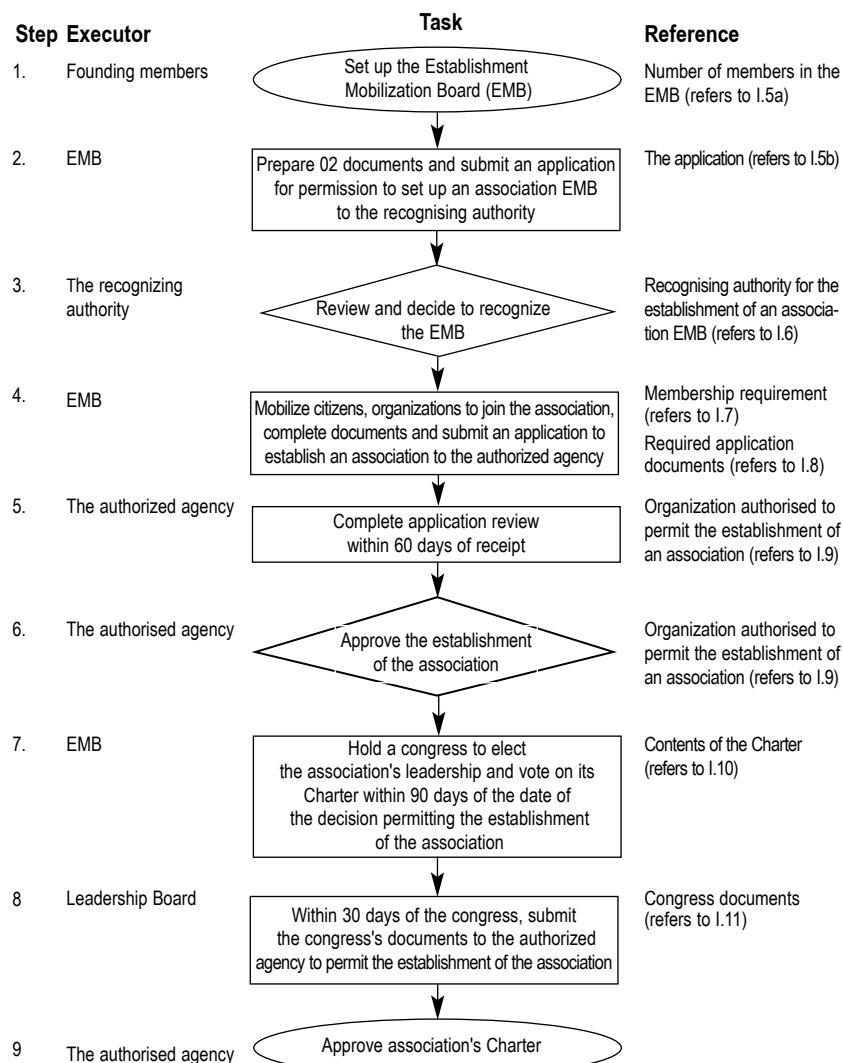
- Its name and main activities are not identical to those of legally registered associations in the same geographic area.

- It has a Charter.

- It has a headquarters.

- It is established by Vietnamese citizens or registered Vietnamese organizations.

#### 4. Steps to establish an association



#### 5. Setting up the Establishment Mobilization Board (EMB)

##### a) The number of members in the EMB:

- At least 10 members are required for the EMB if the association operates at the national or inter-provincial level.
- At least 5 members are required for the EMB if the association operates within provinces only.
- At least 3 members are required for the EMB if the association operates within districts or communes only.

##### b) Documents for approving the EMB

According to Article 6, Decree 45, the following documents are required for the establishment of an Association's Establishment Mobilization Committee:

- The application for recognition of an EMB must clearly state the association's name, its guiding principles and mission/goal, the domain where the association expects to operate, the scope of the association's activities, the expected timeframe for the establishment of the association, and the EMB's provisional meeting venue.
- The list and curriculum vitae of the EMB's proposed membership should include each person's full name, date of birth, place of residence and educational and professional qualifications.

#### 6. Organization authorised to recognize the EMB

According to Article 6, Decree 45, the recognition of EMB is stipulated as follows:

- An EMB operating at the national or inter-provincial level shall be recognized by ministries or ministerial level agencies of the main fields, sectors.
- An EMB operating within provinces shall be recognized by provincial state departments or agencies.

- An EMB operating within districts, towns or cities belonging to the province (generally called "District People's Committee") shall be recognized by the District People's Committees.

The Chairman of the District People's Committee is authorized by the Chairman of the Provincial/City People's Committee, directly under the central government (hereafter the Provincial People's Committee), to set up divide, separate, merge, unify, dissolve, rename and approve charters for associations that operate at the commune level. The Specialized Division of the District People's Committee acknowledges the Association Establishment Mobilization Committees that operate at the commune level.

### **7. Membership requirement**

The membership required to establish an association:

- At least 100 signatures (applications for participation) for associations operating at the national or inter-provincial level
- At least 50 citizens (applications for participation) for associations operating within provinces
- At least 20 citizens (applications for participation) for associations operating within districts
- At least 10 citizens (applications for participation) for associations operating within communes

For professional associations: the number of citizens and organizations who must voluntarily register to establish the association is decided by the state jurisdiction agencies, stipulated in Article 14 in Decree 45, who consider each specific case in turn.

### **8. Required application documents for establishing an association**

When applying for establishment, an association must submit:

- An application for establishment

- Draft Charter
- Work plan
- The list of EMB members recognized by the competent State agency
- Judicial or resume of the head of the Association's Establishment Mobilization Committee
- Documents identifying the location of the association's headquarters
- List of assets voluntarily contributed by the founder (if any)

### **9. Organization authorised to permit the establishment of an association**

*According to Article 14, Decree No.45:*

- The Minister of Home Affairs shall permit the establishment of associations operating at the national or inter-provincial level.
- Chairmen of the Provincial People's Committee (through the Department of Home Affairs) shall permit the establishment of associations operating within their respective provinces.

### **10. The main content of the association's Charter**

*According to Article 8, Decree No.45 an association's Charter must include:*

- Name of association
- Guiding principles, mission/goal, domain and scope of activities
- Tasks and powers
- Organization and operating principles
- Procedure for joining and leaving the association, authority to enlist and exclude members
- Membership criteria
- Members' rights and obligations

- Description of the association's leadership, including its structure, organization, procedures for election and dismissal, tasks and powers, governing board and other leadership post, principles, voting method
- Financial and other assets and the system for managing them
- Requirements for closing on financial assets and liquidating non-financial assets
- Rewarding, disciplining and handling and solving complaints within the association
- Procedures for amending/supplementing the Charter.
- Date the Charter goes into effect

#### **11. Congress documents submitted to state authority**

*According to Article 12, Decree No.45, the following Congress documents are required:*

- Record showing members' approval of the association's Charter
- Record showing members' election of the association's leadership, the governing board list of the members attached and the curriculum vitae of the association's head
- The association's work plan
- Congress resolution

#### **12. State management of associations**

The State management tasks of the ministries and ministerial-level agencies charged with supervising the associations and their operations include the following:

- Recognize the EMB.
- Give comments to relevant State agencies on the establishment of associations.

- Guide and create conditions for associations to operate in strict accordance with the law.
- Consult with associations in order to finalize the provisions of the State management of associations.
- Monitor associations' compliance with relevant legislation and the implementation of their Charter.

**!** If an organization's objectives and activities relate to HIV prevention and control then it will be managed by a State agency responsible for HIV prevention (e.g. the Ministry of Health for associations operating at the national level and the relevant provincial Department of Health for associations operating at the provincial level). The State management agency will recognize the association's EMB and coordinate with other relevant agencies to permit its establishment. After an association is established, the State management agency is responsible for guiding and supporting its operation in accordance with the Law on HIV/AIDS Prevention and Control and the National Strategy on HIV/AIDS Prevention and Control. The State management agency will also provide official information related to HIV issues as well as monitor the association's compliance with relevant legislation and the implementation of its Charter.

#### **13. Relevant legal documents**

- Decree No. 45/2010/NĐ-CP dated 21/4/2010 of the Government stipulating the organization, operation and management of Associations.

**!** PLHIV groups may apply for their organization to be an associate member under the umbrella of an existing association. At present, several HIV associations have been established, such as the Viet Nam HIV/AIDS Preventive Association and other local associations (i.e. Ha Noi, Ho Chi Minh City, Hai Phong, An Giang, and Khanh Hoa AIDS Associations). These associations work to support PLHIV and have PLHIV participating on their Management Boards.



### Registration Case Study

The Belief Group is an example of a PLHIV group that successfully registered. After two months of following the necessary procedures, and with the support of the Ho Chi Minh City HIV/AIDS Association, the Belief Group was recognised and established as the 'Belief Branch' of the Ho Chi Minh City HIV/AIDS Association on May 9, 2009. The Branch currently has 35 members and carries out the following activities: (1) mobilizing PLHIV to receive medical care, treatment and psychological support; (2) providing support and care for members' children to improve their access to education and medical care.

As a second example, in Ha Noi 30 PLHIV self-help groups successfully registered as a branch of the Hanoi HIV/AIDS Association.

In these cases, the branches belong to an existing HIV Association. They do not have a separate legal status and they use the stamp and bank account of the Ho Chi Minh and Hanoi City HIV/AIDS Association, respectively.

## II. Social funds and charity funds

### 1. Definition of a fund

*According to Article 3 of Decree No.148/2007/NĐ-CP dated September 29, 2007 on the organization and operation of social funds and charity funds (hereafter Decree No.148/2007/NĐ-CP):*

Social funds and charity funds (hereafter called funds) are authorized non-profit entities that are established on and work within the principles of volunteerism and self-funding. Funds use their own assets to cover their expenditures and liabilities. Funds seek donations to carry out cultural, educational, sport, science, charity and other non-profit community activities.

### 2. Rights and obligations of a fund

#### *Rights:*

- Organize and operate in compliance with their recognized Charter and in line with relevant laws
- Mobilize funds from domestic and international sources in accordance with the legally-defined principles and purposes of a fund
- Establish personal and organizational relationships for the purpose of resource mobilisation and project implementation, in accordance with the law
- Collaborate with communities, organizations, and individuals in need of support to develop projects in compliance with the principles and purposes of the fund
- Organize services and other activities as regulated by the law to preserve and increase the fund's assets

#### *Obligations:*

- Use all mobilized money and property appropriately and in the service of target groups

- Maintain and make available, in accordance with the law, financial and management records such as receipts, evidence of property and financial status, and meeting minutes and decisions, in accordance with the law.

- Use property and finances in strict accordance with the fund's operating principles and purposes

- Pay taxes, bills and fees and follow proper accounting, auditing and statistics procedures in accordance with the law

- Submit to inspection and supervision by State agencies, as well as to individual and institutional donors and the community, in accordance with the law

- Submit financial statements and annual reports on the organization's status and operation to the agency that permitted the fund's establishment and recognized its Charter, as well as to the finance agency of the same level, and make public the fund's contributions before March 31st of the following year

- Changes occurring in the fund's leadership, officers and personnel, and amendments to its charter must be reported to the State agency that permitted the fund's establishment.

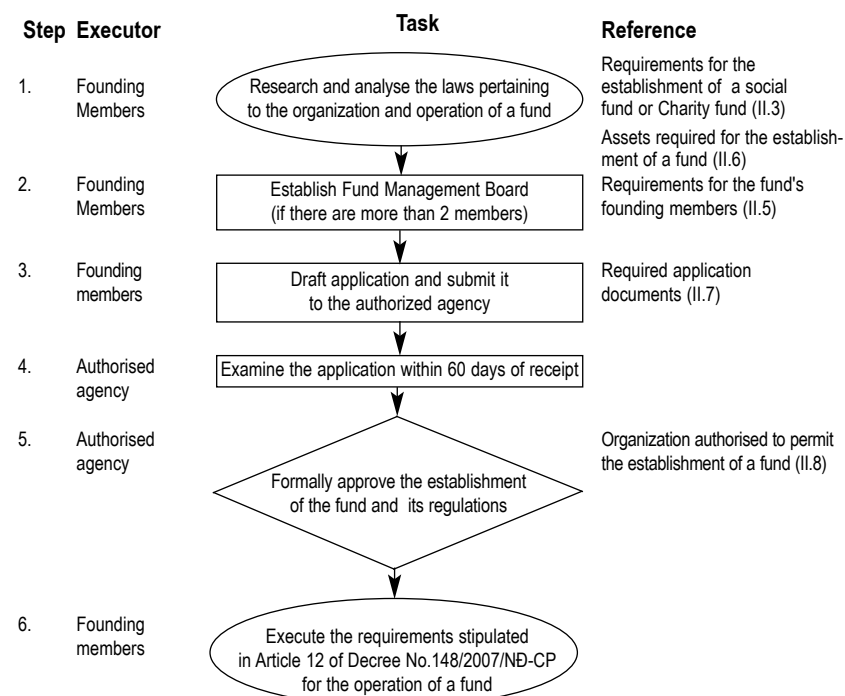
### 3. Requirements for the establishment of a social fund or charity fund

According to Article 9 of Decree No.148, a Social Fund or Charity Fund may be established when it meets the following requirements:

- The fund is organised for the purpose of encouraging cultural, educational, sport, science, charity and other non-profit community development.
- Members are committed to donating their assets.

- Charter and suitable organization structure are in place.
- The fund has a headquarters.

### 4. Steps to establish a social fund or charity fund



### 5. Requirements for the fund's founding members

According to Article 8 of Decree No.148, the founding members of a fund must meet the following requirements:

- Vietnamese citizen aged 18 years or older and has the civil capacity.
- Vietnamese organizations, joint enterprises or enterprises with 100% foreign capital established lawfully in VietNam. They must contribute their own assets and nominate a representative to carry out the procedure for establishing a fund.

- The individuals or organizations who are legally responsible for establishing the fund must satisfy the requirements of a donor, as stipulated in the establishment contract.

- Foreign individuals and organizations may only establish a fund in Viet Nam if they are in partnership with a Vietnamese individual and organization.

#### **6. Assets required for the establishment of a fund**

The initial assets required for Vietnamese individuals and organizations to establish a fund are stipulated below:

- Commune level: 50,000,000.00 VND
- District level: 100,000,000.00 VND
- Provincial level: 500,000,000.00 VND
- National level: 2,000,000,000.00 VND

The initial assets required for joint stock enterprises, foreign invested enterprises and foreign individuals and organizations to establish a fund in partnership with Vietnamese individuals and organizations are stipulated below:

- Commune level: 1,000,000,000.00 VND
- District level: 2,000,000,000.00 VND
- Provincial level: 5,000,000,000.00 VND
- National level: 10,000,000,000.00 VND

**!** Concerning the establishment of social funds and charity funds, please note it is required to have proof of the founding members' commitment to contribute assets to the fund. The fund can operate only when it has (1) a certificate of establishment and the State's recognition of the fund's Charter; (2) a bank account with sufficient capital; (3) a headquarters, and (4) notices declaring the fund's establishment in three electronic and/or print newspapers.

#### **7. Required application documents**

According to Article 10 of Decree No.148, when applying for establishment, a fund must submit:

- An application for establishment of the fund
- Charter
- Work plan
- Funding commitment of the fund's members
- Proof that the fund has a headquarters
- List of founding members:

- + For Vietnamese citizens: judicial curriculum vitae, commitment of assets for the establishment of the fund

- + For foreigners: curriculum vitae authenticated in the country of citizenship and proof of commitment to contribute assets and obey the Vietnamese laws and regulations that govern the operation of a fund

- + For Vietnamese organizations: valid organization name and address, proof of commitment to establish a fund and contribute assets, copy of the organization's Charter, copy of the Decision of the relevant authority to become a founding member of the fund

- + For foreign organizations: valid name and headquarters address, copy of the organization's regulations, proof of commitment to contribute assets and obey the Vietnamese laws and regulations that govern the operation of a fund, authenticated curriculum vitae of the organization's representative

#### **8. Organization authorised to permit the establishment of a fund**

- The Minister of Home Affairs is authorized to permit the establishment of interprovincial, national and international funds.

- The president of the provincial People's Committee is authorized



to permit the establishment of interdistrict and provincial funds. Depending on each specific case, the presidents of city/provincial People's Committees may authorize the Chairman of district People's Committees to permit the establishment of commune funds.

#### **9. Relevant legal documents**

- Decree No.148/2007/NĐ-CP dated September 29, 2007 on the organization and operation of social funds and charity funds
- Decision No. 10/2008/QĐ-BTC dated February 12, 2008 prescribing the system of financial management of social funds and charity funds
- Circular No.09/2008/TT-BNV dated December 31, 2008 guiding the implementation of a number of articles of Decree No.148/2007/NĐ-CP dated September 25, 2007 on the organization and operation of social funds and charity funds

### **III. Science and technology organizations**

#### **1. Types of science and technology organizations**

*According to Article 9 of the Law on Science and Technology, science and technology organizations are defined as follows:*

- Scientific research institutions and scientific research and technological development institutions (hereafter referred collectively to as research and development institutions)
- Universities, institutes and colleges, (hereafter referred collectively to as universities)
- Science and technology service organizations

#### **2. Rights and obligations of a science and technology organization**

*Rights:*

- Carry out science and technology activities
- Conduct scientific research and technology development activities related to intellectual property and technology transfer
- Educate, train, consult on, foster and popularise the applications of science and technology
- Enter into cooperation or joint ventures with organizations and/or individuals and contribute capital in cash, assets or intellectual property rights in order to conduct science and technology activities and carry out production and business activities according to the law
- Receive aid from organizations and/or individuals for the purpose of implementing science and technology activities

*Obligations:*

- Fulfill science and technology contracts and other science and technology tasks as assigned by relevant agencies and/or organizations

- Use State funding efficiently for the development of science and technology and report research results
- Contribute to realising the country's science and technology potential
- Protect the legitimate rights and interests of individuals involved in science and technology activities within their respective organizations and keep science and technology know-how as prescribed by law
- Exercise democracy, equality and transparency in the assignment and performance of science and technology tasks

### 3. Requirements for the establishment of a science and technology organization

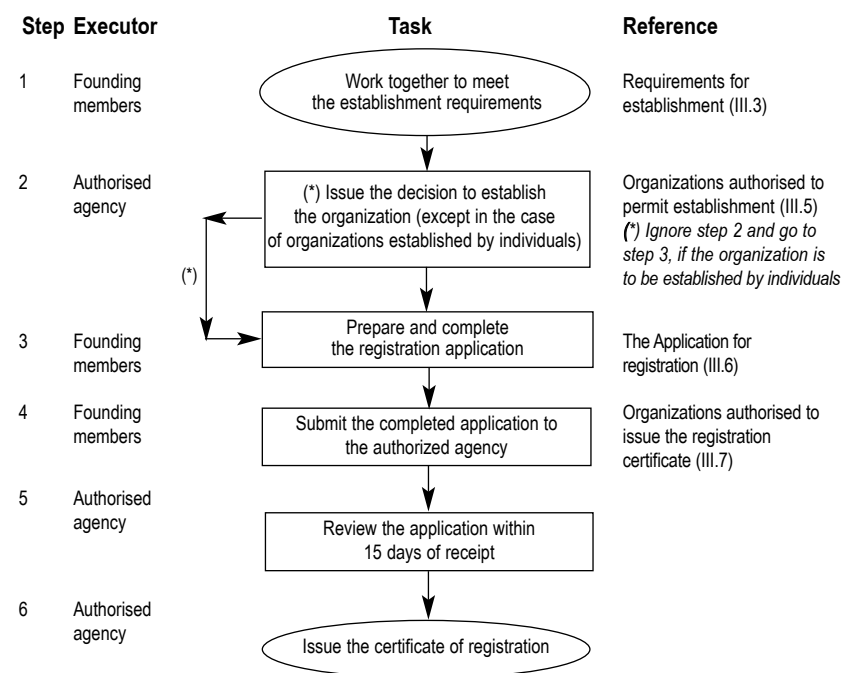
According to Article 4 in Decree No. 81/2002/NĐ-CP dated 17/10/2002 of the Government stipulating in detail the implementation of some articles of the Law on Science and Technology (hereafter called Decree 81), Research and Development Organizations and Science and Technology Organizations may be established when they meet the following conditions:

- The organization's mission/goal and objectives conform to the provisions of the law.
- The organization has a Charter.
- The organization has a sufficient number of staff, including part-time staff and an adequate level of professional expertise to carry out science and technology activities.
- The organization has a headquarters and the facilities needed to fulfill the Charter.

! According to Circular No. 02/2010/TT-BKHCN dated 18/3/2010 of the Ministry of Science and Technology guiding the establishment, registration and operation of a science and technology organization (hereafter Circular 02), the number of staff needed by a Science and Technology Organization is as follows:

- \* At least 05 people who graduated from university, of whom at least 20% have professional qualifications in one of the main registered fields
- \* At least 40% of staff must work full time.
- \* Registered capital in cash or other assets with a total value of at least of 200 million VND

### 4. Steps to establish a science and technology organization



! 1. According to Circular 02/2010/TT-BKHCN dated 18/8/2010 of the Ministry of Science and Technology, regarding science and technology organizations founded by 1 individual: application for operation replaces □decision for establishment□. Science and technology organizations established by 2 or more individuals: meeting minutes with founders□ signatures replaces □decision for establishment□, provided minutes show agreement on the orga-

Charter, activities, registered capital, leader and manager titles and other content.

2. Individuals have the right to conduct science and technology activities on their own as long as such activities are in line with relevant laws and regulations, and only within the scope of Decision No.97/2007/QĐ-TTg. Individuals have the right to express to the relevant authorities their opinion on the implementation of the State's policies, laws, and socio-economic development plans. However, Decision No.97/2009/QĐ-TTg stipulates that if individuals want to address their comments on guidelines and policies to State agencies, they must submit such opinions directly to the relevant Party or State agency and not make their views public in name of the science and technology organization.

### **5. Organizations authorised to permit the establishment of a science and technology organization**

*According to Article 5, Decree 81 and Article 4, Circular 02, the authority granted the power to permit the establishment of a science and technology organization is as follows:*

" Political and socio-political organizations at the central level decide whether to establish research and development organizations in line with their charters ".


" Ministers, leaders of agencies equivalent to Ministries and the chairmen of Provincial/City People's Committees directly under the central government decide whether to establish research and development organizations in their localities ".

" Leaders of research and development organizations at the ministerial and provincial levels, leaders of research and development organizations and political and socio-political organizations at the central level, and leaders of enterprises, universities and state hospitals decide whether to establish research and development organizations

at the local level, provided approval is obtained directly from the management level ".

" Political and socio-political organizations are not at the central, social and social-professional organizations, organizations and individual to establish research and development organizations at the local level according to Decree 81.

" Science and technology organizations established as cooperations or associations must seek approval from a relevant authorized agency or organization ".

 At present, several PLHIV groups have been established as science and technology organizations after first seeking membership in the Viet Nam Union of Science and Technology Associations (VUSTA). VUSTA is responsible for permitting the establishment of organizations and creating favorable conditions for organizations to register with the Ministry of Science and Technology. Once the Ministry of Science and Technology has permitted an organization to undertake science and technology activities, VUSTA is responsible for guiding and supporting the organization to carry out its activities in accordance with the Charters approved by VUSTA. VUSTA is specifically responsible for: (1) providing information on legal and policy issues relevant to science and technology activities; (2) capacity building; and (3) inspecting and monitoring to ensure the organization is implementing its activities in accordance with the law and its Charter. Organizations regulated by VUSTA must pay VUSTA a monthly management fee.

### **6. The Application for registration**

*In order to apply for establishment, science and technology organizations must submit:*


- Registration form
- Establishment decision

- Charter (or draft Charter, for organizations established by individuals)
- List of science and technology personnel
- Curriculum vitae of the organization's head
- Documents of headquarters
- List of facilities

### 7. Organizations authorised to issue the registration certificate

*According to Article 7 of Circular 02, the issuing of registration certificate for the following Science and technology organizations is defined as follows:*

- + Research and development institutions set up by decision of political and socio-political organizations at the central level;
- + Foreign-owned science and technology organizations.
- The provincial Departments of Science and Technology where science and technology organizations not mentioned above are expected to operate will issue the certificate of registration (i.e., science and technology organizations operating at the provincial level).

 Unlike organization types such as associations, social funds and charity funds, science and technology organizations have to go through two stages to obtain legal status: establishment and registration of science and technology activities. Science and technology organizations can operate when having a registration certificate for the implementation of science and technology activities.

### 8. Relevant legal documents

- The Law on Science and Technology
- Decree No. 81/2002/NĐ-CP dated October 17, 2002 detailing the

implementation of a number of articles of the Law on Science and Technology

- Circular No.02/2010/TT- BKHCN dated August 18, 2010 by the Ministry of Science and Technology guiding the implementation of the establishment and registration of science and technology organizations

- Decision No. 97/2009/QĐ-TTg dated July 24, 2009 issuing a list of fields in which individuals can establish a science and technology organization



### Registration Case Study

#### Action Center for People Living with HIV

The Provisional Management Board of the Viet Nam Network of People living with HIV (VNP+) took the initiative to become established as the "Action Center for People Living with HIV". The center was established as a science and technology organization in August 2009, by the Viet Nam Union of Scientific and Technology Associations (VUSTA). The main tasks of the center are to serve as a national network of PLHIV groups, conduct research, implement HIV projects and programs, communicate HIV prevention messages and support capacity building for PLHIV. To date, the center has 4 key members and an office based in Ha Noi. In November 2009, the Ministry of Science and Technology issued a registration certificate to the center.

The Center's registration was successful in part because Mr. Pham Quoc Hung, the director of the center, prepared the required documents very carefully. He took particular care developing the Charter, as it outlines the function and mission/goal of the center.

## IV. Cooperative groups

### 1. Definition of a cooperative group

*According to Article 111 of the Civil Code, a cooperative group is defined as follows:*

A cooperative group is based on cooperation contracts certified by commune/ward/township People's Committees and is entered into by three or more individuals who jointly contribute property and labor in order to perform certain tasks and to jointly enjoy benefits and jointly bear liabilities.

### 2. Rights and obligations of a cooperative group


*According to Article 12 of Decree No. 151/2007/NĐ-CP dated October 10, 2007 stipulating the organization and operation of cooperative groups (hereafter Decree 151), a cooperative group has the following rights:*

- Participate in those fields of trade and production not banned by the law and operate freely only in the location wherein the cooperation contract was certified
- Export, import and cooperate with other Vietnamese and foreign individuals and/or organizations for the expansion of production and business as permitted by law
- Be involved in the development and implementation of programs, plans and projects targeting collective economic development, socio-economic development, poverty-alleviation and vocational guidance at the community level
- Have a bank account

- Sign civil contracts

*According to Article 13 of Decree 151, a cooperative group has the following obligations:*


- Bear the civil responsibility for the fulfilment of those rights and obligations established by the group's representative in the name of the group
- Be responsible for the group's assets
- Fulfill commitments made to members, organizations and other individuals
- Bear responsibility for laborers hired by the cooperative group, according to the provisions of the law

 A cooperative group may be the most appropriate solution for groups engaged in production or business, socio-economic development, job creation, and poverty alleviation. Besides helping each other to increase their salaries, members can participate in developing and implementing HIV prevention programs and projects such as HIV communication, counseling and community-based care and support for PLHIV.

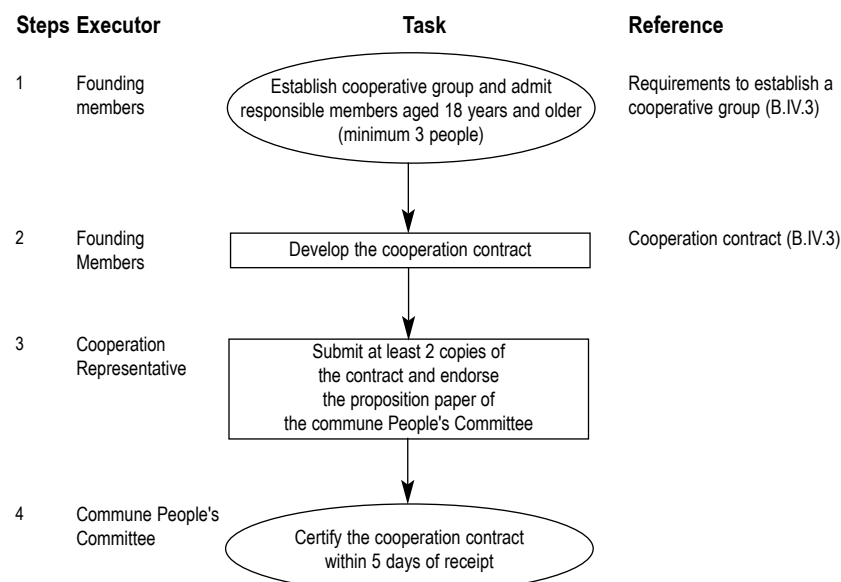
### 3. Requirements to establish a cooperative group

*To establish a cooperative group, the following requirements must be met:*

- The group must be composed of at least 3 members.
- The group must have a joint cooperative contract among the group members.
- The cooperative's contract must be certified by a commune People's Committee and relevant State agencies.

 According to the Law, cooperatives meeting all conditions to become a legal entity may register their activities with and obtain legal status from a competent State agency.

#### 4. Steps to establish a cooperative group



#### 5. Contents of a cooperation contract

As stipulated in Article 111 of the Civil Code and Article 5 of Decree 151 the main contents of a cooperation contract include:

- Purpose and duration of contract
- Full name, residence and signatures of the director and members
- Assets contributed (if any); formula for dividing income and profit between members
- Rights, obligations and responsibilities of the members, directors and executive committee (if any)
- Requirements for becoming a member and for terminating membership.
- Requirements for terminating the group
- Other agreements

#### 6. Organization authorized to certify the cooperation contract

As stipulated in Article 6 of Decree 151/2007/NĐ-CP, the cooperation contract will be certified by the commune People's Committee.

Cooperative groups who meet all the requirements for becoming a legal entity in accordance with the provisions of the law shall register with relevant State agencies.

**!** To become a cooperative group, the cooperation contract should be certified by the commune People's Committee. After certification, the group will receive information, counseling and training as stipulated in Circular 04/2008/TT-BKH dated July 09, 2009 by the Ministry of Planning and Investment guiding a number of provisions of the Government's Decree No. 151/2007/NĐ-CP.

#### 7. Relevant legal documents

- Decree No. 151/2007/NĐ-CP dated October 10, 2007 on the organization and operation of cooperative groups
- Circular 04/2008/TT-BKH dated July 9, 2008 by the Ministry of Planning and Investment guiding provisions of Decree No. 151/2007 on the organization and operation of cooperative groups

#### Registration Case study

##### **Hope Cooperative Group in Thai Binh**

The Thai Binh network of PLHIV groups took the initiative to found a Cooperative Group. After 5 months of preparation, the Hope Cooperative Group, comprised of 5 key members and including a leader, a deputy head and 2 members, was established by the Dong Hung Commune People's Committee. The Hope Cooperative Group has its own stamp and office located in Phong Loi Tay village, Dong Hop Commune, Dong Hung District. The group formed a clothing establishment to help create jobs for its 36 members. Besides the clothing industry, the group participates in credit activities for household economic development, expands their group, communicates and educates the

community on fighting against stigma and discrimination, and provides counseling, care and treatment for PLHIV. According to the group's leader Mr. Pham Cong Chuan, the Hope Cooperative Group has received support from the commune People's Committee and relevant provincial branches and agencies, and has also received technical and financial support from COHED through the Irish Aid project.

## V. Cooperatives

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### 1. Definition of a Cooperative

According to the Law on Cooperatives 2003, a cooperative is a collective economic organization established within the provisions of the law by individuals, households or legal entities (hereinafter referred to as cooperative members) who share common needs and interests and volunteer to contribute capital and labor in order to maximise the collective strength of all members, to help one another conduct production/business activities more efficiently and to improve members' material and spiritual lives, thus contributing to national socio-economic development.

A cooperative operates as a type of enterprise, having the status of a legal entity, enjoying autonomy and taking responsibility for financial obligations within the scope of its sufficient initial operating capital, accumulated capital and other capital sources, in accordance with the provisions of the law.

### 2. Rights and obligations of a cooperative

*According to Article 6 of Law on cooperatives, a cooperative has the following rights:*

- Choose to operate in any field of production/business not prohibited by law
- Independently determine the form and structure of the cooperative's production/business
- Import/export products directly and enter into joint-ventures and associations with domestic and foreign organizations and individuals

for the purpose of production/business expansion, in accordance with the provisions of the law

- Hire outside labor if cooperative members fail to meet the cooperative's production/business requirements, in accordance with the provisions of the law

- Decide on the admission of new members, permit members to terminate their membership and expel members, according to the provisions of the cooperative's charter

- Determine income distribution and handle the cooperative's losses.

- Choose the appropriate method for commending and/or rewarding members who are highly successful in building and developing the cooperative, discipline members who violate the cooperative's Charter and decide on the compensation paid by members who have caused damage to the cooperative

- Borrow capital from credit institutions and mobilize capital from other sources

- Manage internal credit in accordance with the provisions of the law.

- Receive protection for the cooperative's industrial property rights in accordance with the provisions of the law

*According to Article 7 of the Law on Cooperatives, a cooperative has the following obligations:*

- Undertake production/business activities in strict accordance with just those fields of production/business or concerning those commodity items listed in the cooperative's registration

- Comply strictly with the provisions of the law concerning accounting, statistics and auditing

- Pay taxes and fulfill other financial obligations in accordance with the provisions of the law

- Reserve and expend working capital and manage and use State-assigned land in accordance with the provisions of the law

- Bear responsibility for financial obligations stipulated by the cooperative's Charter and for accumulated capital and other financial resources, in accordance with the provisions of the law

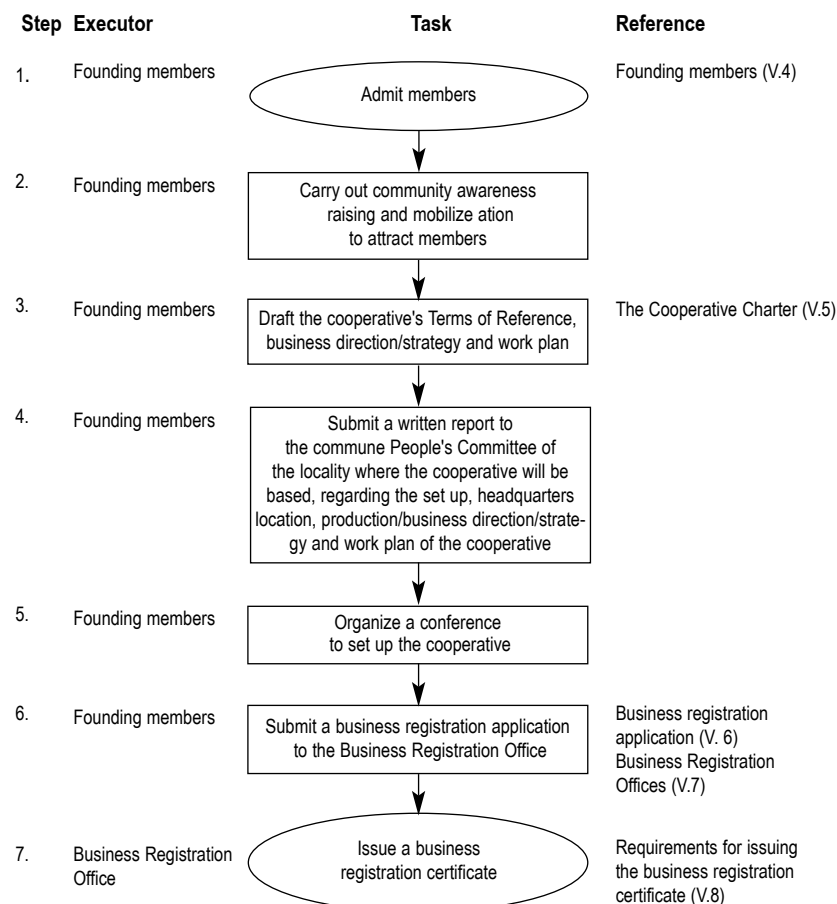
- Ensure that members' rights and responsibilities are fulfilled

- Pay compulsory social insurance premiums for members and laborers who work regularly for the cooperative, in accordance with the provisions of the cooperative's Charter and the provisions of the insurance law

- Provide training and capacity building for all cooperative members



### 3. Steps to establish a cooperative



### 4. Founding members

According to Decree No.177/2004/NĐ-CP dated 12, October, 2004 of the Government, the founding members of a cooperative must be Vietnamese citizens aged 18 years or older and civically responsible as defined by the Civil Code. They must be competent representatives of households or legal entities, understand the legal implications of

forming a cooperative and make a written commitment to building and developing the cooperative on the basis of their own initiative.

### 5. The Cooperative Charter

According to article 12 of the 2003 Law on Cooperatives, the Cooperative Charter must include:

- The name and logo (if any) of the cooperative
- The address of the cooperative's headquarters
- The cooperative's field of production and/or business
- Procedures for becoming a member and for terminating membership
- Regulations on the interests, responsibilities and obligations of cooperative members
- Procedures for paying compulsory social insurance premiums and determining beneficiaries
- The cooperative's charter capital
- Explanation of the minimum contributed capital (including the level, form and terms of members' contributions and the requirements for the return of the capital contributed by cooperative members)
- System of resource mobilization
- System for paying remunerations and handling losses, for distributing profits according to the capital and labor contributed by cooperative members, in accordance with the extent that the services were used by the cooperative, and the system governing the deduction of monies for setting up, managing and using the cooperative's funds
- Modalities for managing, using, saving and handling the cooperative's common property and accumulated capital when the cooperative is operating and when it is dissolved
- The organization and management structure of the cooperative and

the functions, powers, tasks and responsibilities of the Management Board

- Management Board's director, the cooperative manager, the Control Board, the Control Board's director, and the sections assisting the cooperative
- The cooperative's legal representative
- Modalities for holding a founding congress of cooperative members and adopting the congress's decisions
- System for handling violations of the cooperative's Charter and guidelines for settling internal disputes
- Modalities for amending the cooperative's Charter.
- Other regulations as decided on by the congress of cooperative members, provided they do not contradict the law

#### **6. Business registration application**

According to Decree No. 87/2005/NĐ-CP dated 11 July 2005 of the Government on the business Registration of cooperatives and Circular No. 05/2005/TT-BKH dated 15 December 2005 of the Ministry of Planning and Investment, the business registration application of cooperatives must include:

- An application for business registration
- The cooperative's Charter
- A membership list, including the number of members and the membership of the Management Board and Control Board
- The minutes of the cooperative's founding congress


#### **7. Business Registration Offices**

A cooperative must apply for business registration at the provincial or district-level Business Registration Office of the locality where the cooperative will be based, depending on its ability.

- The Provincial Business Registration Office is located within the

Business Registration Department that belongs to the Department of Planning and Investment.


- The Communal Business Registration Office is located within the Department of Planning and Investment that belongs to the commune People's Committee.

 Within fifteen days of receiving a complete and valid application, the Business Registration Office must consider the application and either grant the business registration certificate to the cooperative or provide the cooperative with a refusal in writing.

#### **8. Requirements for issuing a business registration certificate**

In order to qualify for a business registration certificate, cooperatives must meet the following requirements:

- Have a valid business registration application
- Be engaged in fields of production and/or business not prohibited by law
- Have a name and logo (if any)
- Have Charter capital (For cooperatives engaged in fields of production and/or business that require legal capital as stipulated by the State, then the charter capital must not be lower than this legal capital).
- Have fully paid the required business registration fees

 A cooperative has the status of a legal entity and may operate from the date it is granted a business registration certificate.

Cooperatives are entitled to be notified of the policies relevant to them, such as those that support and encourage the development of cooperatives in terms of training, land, finance, credit, trade promotion, applied technology, infrastructure investments serving for the cooperative's production and the lives of its members and their participation in socio-economic development programs.

## 9. Relevant legal documents

- Law on Cooperatives 2003
- Decree No177/2004/NĐ-CP dated October 12, 2004 guiding a number of articles of the Law on Cooperatives 2003
- Decree No.87/2005/NĐ-CP dated November 7, 2005 on business registration by cooperatives
- Decree No.77/2005/NĐ-CP dated June 7, 2005 promulgating the model terms of reference of cooperatives
- Circular No.05/2005/TT-BKH dated December 15, 2005 guiding a number of provisions of the Government's Decree No.87/2005/NĐ-CP dated November 7, 2005 on business registration by cooperatives
- Decree 88/2005/NĐ-CP dated July 11, 2005, on a number of policies to support and encourage the development of cooperatives
- Circular No.02/2006/TT-BKH dated April 13, 2006 of the Ministry of Planning and Investment guiding the implementation of some articles of the Government's Decree No. 88/2005/NĐ-CP
- Circular No 66/2006/TT-BTC dated July 17, 2006 of the Ministry of Finance guiding the implementation of the Government's Decree No. 88/2005/NĐ-CP of July 11, 2005, on financial support for founding members of to-be-established cooperatives and subjects entitled to training and re-training in cooperatives

## VI. Household businesses

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### 1. Definition of a household business

As stipulated in Article 36 of Decree 88/2006/NĐ-CP dated August 29, 2006 on business registration (hereafter Decree No.88), a household business is a business established by an individual, group or household of Vietnamese citizens. A household business may only be registered in one location, may not employ more than ten employees, may not have a stamp and is liable for all assets pertaining to the business's activities.

### 2. The right to set up a household business and the obligation to register that business

*As stipulated in Article 37 of Decree 88:*

- All persons who are 18 years or older, legal citizens of Viet Nam and civically responsible as defined by the Civil Code have the right to set up a household business and the responsibility to register that business according to Chapter VI of the Decree 88.

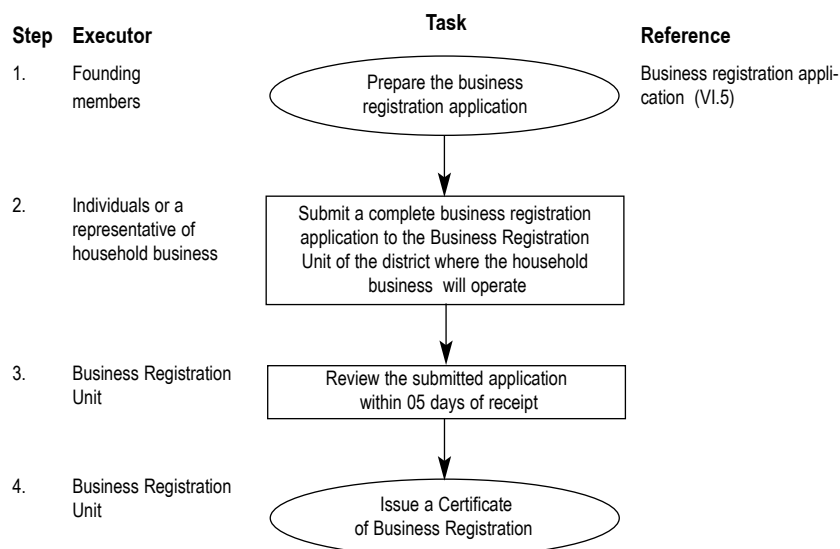
- Those individuals and households listed in Clause 1 of Article 36 may register only one household business each, nationwide.

### 3. Requirements for issuing a household business registration certificate

*As stipulated in Article 38 of Decree 88, household businesses must meet the following requirements in order to qualify for a business registration certificate:*

- Be engaged in fields of production and/or business not prohibited by law
- Have a business name that conforms to the parameters listed in Article 42 of Decree 88
- Have fully paid the required business registration fees

#### 4. Steps to register a household business



#### 5. Household business registration application

- The name and address of the household business
- Proposed product or nature/field of business
- The household business's existing capital
- Complete information on the household business's representative, including full name, residential address, identity number and the date of issuance of her/his identification card, and signature



For business activities that require a certificate, a valid copy of the representative's certificate should be included in the application.

For business activities that require legal capital, a valid copy of written certification of proof of legal capital, issued by a competent agency or organization, should be included in the application.

#### 6. Organization authorised to issue the certificate of business registration

The Business Registration Unit in the district where the household business expects to operate is authorised to issue the Certificate of Business Registration.

#### 7. Relevant legal documents

- Decree 88/2006/NĐ-CP dated August 29, 2006 on business registration.
- Circular No. 03/2006/TT-BKH dated October 19, 2006 of the Ministry of Planning and Investment on business registration.
- Circular No. 01/2009/TT-BKH of the Ministry of Planning and Investment dated January 13, 2009 amending Circular No. 03/2006/TT-BKH on business registration



Household businesses which regularly employ more than ten laborers must register as enterprises.

## VII. Enterprises

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### 1. Definition of an enterprise

An enterprise is an economic organization that has its own name, assets and permanent office and is duly constituted for the purpose of conducting business.

### 2. Types of enterprises

According to the 2005 Law on Enterprises, an enterprise may be established as a partnership, limited liability company or shareholding company, or as a private enterprise.

### 3. Rights and obligations of an enterprise

#### *Rights:*

- Conduct any business activities not prohibited by law.
- Conduct business activities that are subject to certain requirements under the Investment Law and other related laws, if all necessary requirements are met
- Receive encouragement, support and incentives from the State for the production or provision of public goods or services
- Seek out markets and customers and sign contracts
- Make use of cutting edge science and technology in order to enhance business performance and competitiveness

#### *Obligations:*

- Conduct only those business activities listed on the Certificate of

Business Registration and ensure all business requirements are fulfilled, as required by law

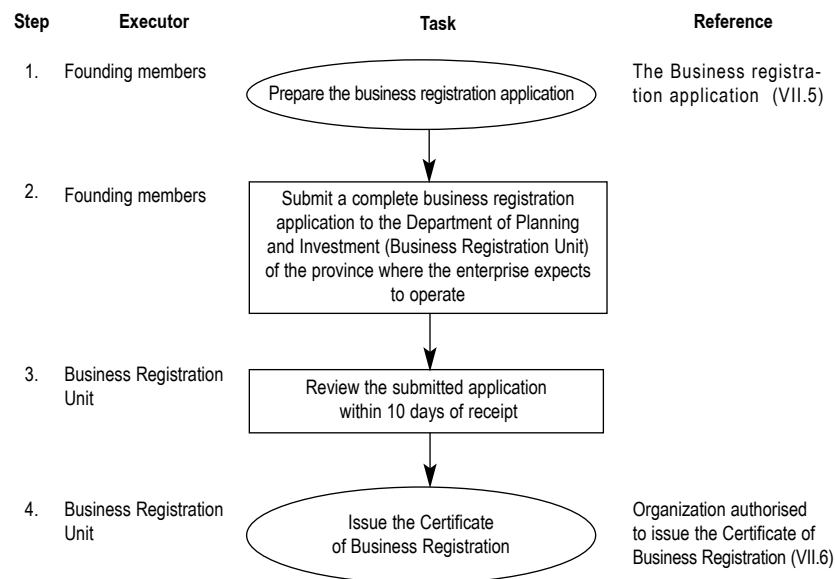
- Maintain financial records and submit financial reports faithfully, accurately and promptly in accordance with accounting laws
- Register for a tax code, pay taxes and perform other financial obligations in accordance with the law
- Safeguard the rights and interests of employees, in accordance with the Labor Law, and ensure that social insurance, health insurance and other insurance are given to employees, in accordance with insurance laws
- Ensure and be liable for the quality of goods and services, in accordance with the declared or registered standard

### 4. Requirements to register a business

According to Article 24 of the Enterprise Law 2005, enterprises will be granted a business registration if the following requirements are satisfied:

- The registered business activities are not prohibited by law.
- The enterprise has a name, in compliance with articles 31, 32, 33 and 34 of the Enterprise Law.
- The enterprise has a headquarters that complies with article 35 of the Enterprise Law.
- The business registration application is valid, as stipulated by law.
- The business registration fee is fully paid, as stipulated by law.

## 5. Steps to register a business



## 6. The business registration application

*The business registration application for each type of enterprise is stipulated in the Enterprise Law. The business registration application must include:*

- Application form (following the template of the business registrar)
- Draft charter
- List of partners and copies of their identification cards, passports or other legal proofs of identity
- Proof of capital, issued by relevant agency (for business activities requiring legal capital, as stipulated by law)
- Professional certificate (for business activities requiring a professional certificate, as stipulated by law)

## 7. Organization authorised to issue the Certificate of Business Registration

The Department of Planning and Investment is authorised to issue a Certificate of Business Registration to operating enterprises.

**!** According to the current Law on Corporate Income Tax, companies whose work force is at least 51% people living with HIV or recovering drug users will be exempted from paying corporate income tax. However, this law may be revised to allow proportional exemptions for work forces that are less than 51% people living with HIV and recovering drug users.

## 8. Relevant legal documents

- The Enterprise Law, 2005
- The Law on Enterprise Income Tax
- Decree No.88/2006/NĐ-CP dated August 29, 2006 on business registration
- Decree No.139/2007/NĐ-CP dated September 5, 2007 guiding the implementation of some articles of the Enterprise Law 2005
- Circular No.03/2006/TT-BKH of the Ministry of Planning and Investment dated October 19, 2006 on business registration
- Circular No. 01/2009/TT-BKH of the Ministry of Planning and Investment dated January 13, 2009 amending Circular No. 03/2006/TT-BKH on business registration

## **!** A FINAL REMARK

This handbook is intended to be used as a reference to help groups of people living with HIV become aware of and comply with the State's legal regulations governing legal establishment and registration.

Groups must determine what their functions, tasks and Charters

are before selecting an organization type and applying for establishment/registration. An organization may be established and register as a legal entity only after it has become fully compliant with all requirements and procedures prescribed by current laws and regulations.

When considering the five types of organizations, groups should choose their type based on the goals of their group, namely:

- **Association:** An organization whose purpose is to collaborate to protect members' legitimate rights and interests and carry out joint activities more efficiently (i.e. HIV counseling, behavior change communication, peer education and outreach, care and support for people living with HIV, vocational training, job placement, job creation and policy advocacy)

- **Social Fund or Charity Fund:** An organization whose purpose is to mobilize resources to support people living with HIV

- **Science and Technology Organization:** An organization whose purpose is to conduct scientific research and provide science and technology services

- **Cooperative Group, Cooperative or Enterprise:** An organization whose purpose is to have a business and create income and jobs

## Part C

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## Annex

## I. Relevant legal documents, forms and website addresses for downloading further information

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### Associations

1. Decree No. 45/2010/NĐ-CP dated 21/4/2010 by the Government stipulating the organization, operation and management of an association

[http://www.unaids.org.vn/resource/topic/legaldocs/VB ve hoi hiep hoi/nghi dinh 45 ve thanh lap Hoi.pdf](http://www.unaids.org.vn/resource/topic/legaldocs/VB%20ve%20hoi%20hiep%20hoi/nghi%20dinh%2045%20ve%20thanh%20lap%20Hoi.pdf)

2. Circular No. 01/2004/TT-BNV of the Ministry of Home Affairs dated January 15, 2004 providing guidance on the implementation of a number of articles of Decree No. 88/2003/NĐ-CP

[http://www.unaids.org.vn/resource/topic/legaldocs/VB ve hoi hiep hoi/Thong tu 01 cua BNV ve huong dan ND88.pdf](http://www.unaids.org.vn/resource/topic/legaldocs/VB%20ve%20hoi%20hiep%20hoi/Thong%20tu%2001%20cua%20BNV%20ve%20huong%20dan%20ND88.pdf)

### Social Funds and Charity Funds

1. Decree No. 148/2007/NĐ-CP of the Government dated September 25, 2007 on the organization and operation of social funds and charity funds

[http://www.unaids.org.vn/resource/topic/legaldocs/VB ve quy xh tu nhien/Nghi dinh 148 ve to chuc hoat dong cua Quy XH, Quy tu thien.pdf](http://www.unaids.org.vn/resource/topic/legaldocs/VB%20ve%20quy%20xh%20tu%20nhien/Nghi%20dinh%20148%20ve%20to%20chuc%20hoat%20dong%20cua%20Quy%20XH,%20Quy%20tu%20thien.pdf)

2. Decision No.10/2008/QĐ-BTC of the Ministry of Finance dated February 12, 2008 prescribing the system of financial management of social funds and charity funds

[http://www.unaids.org.vn/resource/topic/legaldocs/VB ve quy xh tu nhien/Quy dinh so 10 cua Bo tai chinh ve quy che quan ly tai chinh Quy.pdf](http://www.unaids.org.vn/resource/topic/legaldocs/VB%20ve%20quy%20xh%20tu%20nhien/Quy%20dinh%20so%2010%20cua%20Bo%20tai%20chinh%20ve%20quy%20che%20quan%20ly%20tai%20chinh%20Quy.pdf)

3. Circular No.09/2008/TT-BNV dated December 31, 2008 guiding the implementation of a number of articles of Decree No.148/2007/NĐ-CP dated September 25, 2007 on the organization and operation of social funds and charity funds

[http://www.unaids.org.vn/resource/topic/legaldocs/VB ve quy xh tu nhien/Thong tu 09 huong dan Nghi dinh 148ve hoat dong Quy.pdf](http://www.unaids.org.vn/resource/topic/legaldocs/VB%20ve%20quy%20xh%20tu%20nhien/Thong%20tu%2009%20huong%20dan%20Nghi%20dinh%20148%20ve%20hoat%20dong%20Quy.pdf)

### Science and Technology Organizations

1. The Law on Science and Technology

[http://www.unaids.org.vn/resource/topic/legaldocs/VB ve to chuc khcn/LuatKhoa hoc-Cong nghe.pdf](http://www.unaids.org.vn/resource/topic/legaldocs/VB%20ve%20to%20chuc%20khcn/Luat%20Khoa%20hoc-Cong%20nghe.pdf)

2. Decree No. 81/2002/NĐ-CP of the Government dated October 17, 2002 detailing the implementation of a number of articles of the Law on Science and Technology

[http://www.unaids.org.vn/resource/topic/legaldocs/VB ve to chuc khcn/Nghi dinh 81thi hanh Luat KHCHN.pdf](http://www.unaids.org.vn/resource/topic/legaldocs/VB%20ve%20to%20chuc%20khcn/Nghi%20dinh%2081%20thi%20hanh%20Lu%E1%BB%81t%20KHCHN.pdf)

3. Circular No.02/2010/TT- BKHCN dated 18/8/2010 by the Ministry of Science and Technology guiding the implementation of the establishment and registration of Science and Technology Organizations

[http://www.unaids.org.vn/resource/topic/legaldocs/VB ve to chuc khcn/Thong tu so 02 huong dan thanh lap to chuc KHCHN.pdf](http://www.unaids.org.vn/resource/topic/legaldocs/VB%20ve%20to%20chuc%20khcn/Thong%20tu%20so%2002%20huong%20dan%20thanh%20lap%20to%20chuc%20KHCHN.pdf)

4. Decision No. 97/2009/QĐ-TTg of the Prime Minister dated July 24, 2009 issuing a list of fields within which individuals may establish science and technology organizations



[http://www.unaids.org.vn/resource/topic/legaldocs/VB ve to chuc khcn/Quy%20dinh97.pdf](http://www.unaids.org.vn/resource/topic/legaldocs/VB%20ve%20chuc%20khcn/Quy%20dinh97.pdf)

### **Cooperative Groups**

1. Decree No. 151/2007/NĐ-CP of the Government dated October 10, 2007 stipulating the organization and operation of cooperative groups

[http://www.unaids.org.vn/resource/topic/legaldocs/VB ve to hop tac/nghi dinh 151 ve to hop tac.pdf](http://www.unaids.org.vn/resource/topic/legaldocs/VB%20ve%20hop%20tac/nghi%20dinh%20151%20ve%20to%20hop%20tac.pdf)

2. Circular No.04/2008/TT-BKH of the Ministry of Planning and Investment dated July 9, 2008 guiding a number of provisions of the Government's Decree No. 151/2007/NĐ-CP

[http://www.unaids.org.vn/resource/topic/legaldocs/VB ve to hop tac/Thong tu 04 cua BKHDT huong dan ND 151 ve to hop tac.pdf](http://www.unaids.org.vn/resource/topic/legaldocs/VB%20ve%20hop%20tac/Thong%20tu%2004%20cua%20BKHDT%20huong%20dan%20ND%20151%20ve%20to%20hop%20tac.pdf)

### **Cooperatives**

1. Law on Cooperatives 2003

[http://www.unaids.org.vn/resource/topic/legaldocs/VB ve htx/Luat hop tac xa 2003.pdf](http://www.unaids.org.vn/resource/topic/legaldocs/VB%20ve%20htx/Luat%20hop%20tac%20xa%202003.pdf)

2. Decree No.177/2004/NĐ-CP dated October 12, 2004 guiding a number of articles of the Law on Cooperatives 2003

[http://www.unaids.org.vn/resource/topic/legaldocs/VB ve htx/nghi dinh 177 huong dan luat HTX.pdf](http://www.unaids.org.vn/resource/topic/legaldocs/VB%20ve%20htx/nghi%20dinh%20177%20huong%20dan%20luat%20HTX.pdf)

3. Decree No.87/2005/NĐ-CP dated November 7, 2005 on the business registration of cooperatives

[http://www.unaids.org.vn/resource/topic/legaldocs/VB ve htx/nghi dinh 87 dang ky KD HTX.pdf](http://www.unaids.org.vn/resource/topic/legaldocs/VB%20ve%20htx/nghi%20dinh%2087%20dang%20ky%20KD%20HTX.pdf)

4. Decree No.77/2005/NĐ-CP dated June 7, 2005 promulgating the model terms of reference of cooperatives

[http://www.unaids.org.vn/resource/topic/legaldocs/VB ve htx/Nghi dinh 77 ve mau dieu le HTX.doc.pdf](http://www.unaids.org.vn/resource/topic/legaldocs/VB%20ve%20htx/Nghi%20dinh%2077%20ve%20mau%20dieu%20le%20HTX.doc.pdf)

5. Circular No.05/2005/TT-BKH dated December 15, 2005 guiding a number of provisions of the Government's Decree No.87/2005/NĐ-CP dated November 7, 2005 on the business registration of cooperatives

[http://www.unaids.org.vn/resource/topic/legaldocs/VB ve htx/Thong tu 05 huong dan Nghi dinh 87 ve dang ky HTX.pdf](http://www.unaids.org.vn/resource/topic/legaldocs/VB%20ve%20htx/Thong%20tu%2005%20huong%20dan%20Nghi%20dinh%2087%20ve%20dang%20ky%20HTX.pdf)

6. Decree 88/2005/NĐ-CP dated July 11, 2005 on a number of policies to support and encourage the development of cooperatives

[http://www.unaids.org.vn/resource/topic/legaldocs/VB ve htx/ND 88 ve chinh sach phat trien to hop tac.pdf](http://www.unaids.org.vn/resource/topic/legaldocs/VB%20ve%20htx/ND%2088%20ve%20chinh%20sach%20phat%20trien%20to%20hop%20tac.pdf)

7. Circular No. 02/2006/TT-BKH dated April 13, 2006 of the Ministry of Planning and Investment guiding the implementation of some articles of the Government's Decree No. 88/2005/NĐ-CP

[http://www.unaids.org.vn/resource/topic/legaldocs/VB ve htx/thong tu so 02 cua BKHDT hg dan ND 88.pdf](http://www.unaids.org.vn/resource/topic/legaldocs/VB%20ve%20htx/thong%20tu%20so%2002%20cua%20BKHDT%20hg%20dan%20ND%2088.pdf)

8. Circular No 66/2006/TT-BTC dated July 17, 2006 of the Ministry of Finance guiding the implementation of the Government's Decree No. 88/2005/NĐ-CP of July 11, 2005 on financial support for the founding members of proposed cooperatives and subjects entitled to training and re-training in cooperatives

[http://www.unaids.org.vn/resource/topic/legaldocs/VB ve htx/Thong tu 66 cua Bo tai chinh huong dan ND88 ve chinh sach ho tro phat trien to hop tac.pdf](http://www.unaids.org.vn/resource/topic/legaldocs/VB%20ve%20htx/Thong%20tu%2066%20cua%20Bo%20tai%20chinh%20huong%20dan%20ND88%20ve%20chinh%20sach%20ho%20tro%20phat%20trien%20to%20hop%20tac.pdf)

### **Household businesses**

1. Decree 88/2006/NĐ-CP dated August 29, 2006 on business registration

[http://www.unaids.org.vn/resource/topic/legaldocs/VB ve doanh nghiep cty/ND88 ve dang ky kinh doanh 2006.pdf](http://www.unaids.org.vn/resource/topic/legaldocs/VB%20ve%20doanh%20nghiep%20cty/ND88%20ve%20dang%20ky%20kinh%20doanh%202006.pdf)

2. Circular No.03/2006/TT-BKH dated October 19, 2006 of the Ministry of Planning and Investment on business registration

[http://www.unaids.org.vn/resource/topic/legaldocs/VB ve doanh nghiep cty/thong tu 03 cua BKHDT ve dang ky KD.pdf](http://www.unaids.org.vn/resource/topic/legaldocs/VB%20ve%20doanh%20nghiep%20cty/thong%20tu%2003%20cua%20BKHDT%20ve%20dang%20ky%20KD.pdf)

3. Circular No. 01/2009/TT-BKH of the Ministry of Planning and Investment dated January 13, 2009 amending Circular No 03/2006/TT-BKH on business registration

[http://www.unaids.org.vn/resource/topic/legaldocs/VB ve doanh nghiep cty/Thong tu 01 sua doi TT03 cua BKHDT ve dang ky KD.pdf](http://www.unaids.org.vn/resource/topic/legaldocs/VB%20ve%20doanh%20nghiep%20cty/Thong%20tu%2001%20sua%20doi%20TT03%20cua%20BKHDT%20ve%20dang%20ky%20KD.pdf)

### **Enterprises**

1. Enterprise Law 2005

[http://www.unaids.org.vn/resource/topic/legaldocs/VB ve doanh nghiep cty/luat doanh nghiep 2005.pdf](http://www.unaids.org.vn/resource/topic/legaldocs/VB%20ve%20doanh%20nghiep%20cty/luat%20doanh%20nghiep%202005.pdf)

2. Law on Enterprise Income Tax 2005

[http://www.unaids.org.vn/resource/topic/legaldocs/VB ve doanh nghiep cty/Luat thue thu nhap doanh nghiep 2008.pdf](http://www.unaids.org.vn/resource/topic/legaldocs/VB%20ve%20doanh%20nghiep%20cty/Luat%20thue%20thu%20nhap%20doanh%20nghiep%202008.pdf)

3. Decree No. 88/2006/NĐ-CP of the Government dated August 29, 2006 on business registration

[http://www.unaids.org.vn/resource/topic/legaldocs/VB ve doanh nghiep cty/ND88 ve dang ky kinh doanh 2006.pdf](http://www.unaids.org.vn/resource/topic/legaldocs/VB%20ve%20doanh%20nghiep%20cty/ND88%20ve%20dang%20ky%20kinh%20doanh%202006.pdf)

4. Decree No. 139/2007/NĐ-CP of the Government dated September 5, 2007 guiding the implementation of some articles of the Enterprise Law 2005

[http://www.unaids.org.vn/resource/topic/legaldocs/VB ve doanh nghiep cty/ND139 2007 huong dan mot so dieu Luat doanh nghiep.pdf](http://www.unaids.org.vn/resource/topic/legaldocs/VB%20ve%20doanh%20nghiep%20cty/ND139%202007%20huong%20dan%20mot%20so%20dieu%20Luat%20doanh%20nghiep.pdf)

5. Circular No. 03/2006/TT-BKH of the Ministry of Planning and Investment dated October 19, 2006 on business registration

[http://www.unaids.org.vn/resource/topic/legaldocs/VB ve doanh nghiep cty/thong tu 03 cua BKHDT ve dang ky KD.pdf](http://www.unaids.org.vn/resource/topic/legaldocs/VB%20ve%20doanh%20nghiep%20cty/thong%20tu%2003%20cua%20BKHDT%20ve%20dang%20ky%20KD.pdf)

6. Circular No. 01/2009/TT-BKH of the Ministry of Planning and Investment dated January 13, 2009 amending Circular No 03/2006/TT-BKH on business registration

[http://www.unaids.org.vn/resource/topic/legaldocs/VB ve doanh nghiep cty/Thong tu 01 sua doi TT03 cua BKHDT ve dang ky KD.pdf](http://www.unaids.org.vn/resource/topic/legaldocs/VB%20ve%20doanh%20nghiep%20cty/Thong%20tu%2001%20sua%20doi%20TT03%20cua%20BKHDT%20ve%20dang%20ky%20KD.pdf)

### **Policies governing the use of aid**

1. Decree No. 69/2008/NĐ-CP dated May 30, 2008 of the Government on the policies regarding social encouragement for activities in the domain of education, vocational training, health, culture, sport and environment

[http://www.unaids.org.vn/resource/topic/legaldocs/VB ve chinh sach/ND 69-2008\\_Khuyen khich XHH.pdf](http://www.unaids.org.vn/resource/topic/legaldocs/VB%20ve%20chinh%20sach/ND%2069-2008_Khuyen%20khich%20XHH.pdf)

2. Decision No. 93/2009/QĐ- TTg dated October 22, 2009 of the Government on the management and utilization of aid from international non-governmental organizations

[http://www.unaids.org.vn/resource/topic/legaldocs/VB ve chinh sach/Nghi dinh 93 ban hanh quy che quan ly va su dung vien tro PCPNN.pdf](http://www.unaids.org.vn/resource/topic/legaldocs/VB%20ve%20chinh%20sach/Nghi%20dinh%2093%20ban%20hanh%20quy%20che%20quan%20ly%20va%20su%20dung%20vien%20tro%20PCPNN.pdf)

3. Circular No. 135/2008/TT-BTC dated December 31, 2008 of Ministry of Finance guiding Decree No 69/2008/NĐ-CP dated May 30, 2008 of the Government on the policies regarding social encourage-

ment for activities in the domain of education, vocational training, health, culture, sport and environment

*[http://www.unaids.org.vn/resource/topic/legaldocs/VB ve chinh sach/Thong tu huong danND 69.pdf](http://www.unaids.org.vn/resource/topic/legaldocs/VB_ve_chinh_sach/Thong_tu_huong_danND_69.pdf)*

## II. HIV legal clinics

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Below are addresses of legal clinics providing people living with HIV with free legal consul and support from experienced lawyers, jurists and people living with HIV, thanks to the sponsorship of HPI. These clinics may be able to provide legal assistance in the registration process.

### 1. Hai Phong HIV/AIDS Legal Clinic

Address: 58 Dien Bien Phu, Hai Phong

Telephone: (031) 3746182

### 2. Quang Ninh HIV/AIDS Legal Clinic

Address: Lane 12, Nguyen Van Cu, Ha Long, Quang Ninh

Telephone: (033) 3835362/3820014

### 3. Ha Noi HIV/AIDS Legal Clinic

Address: No 1, Lane 135 Nui Truc, Ha Noi

Telephone: (04) 37366524/37368043

### 4. Ho Chi Minh HIV/AIDS Legal Clinic

Address: No 111 Le Thanh Ton, District 1, Ho Chi Minh City

Telephone: (08) 38 223028/38272658

### 5. An Giang HIV/AIDS Legal Clinic

Address: No 32, Chu Van An, Long Xuyen

Telephone: (076) 3.949234

### 6. Free nationwide HIV legal services hotline: 18001521

### III. HIV associations

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#### 1. Viet Nam HIV/AIDS Association

Address: No 138 Giang Vo, Ba Dinh, Ha Noi

Telephone: (04) 462792099

#### 2. Ha Noi HIV/AIDS Association

Address: No 86A Tho Nhuom, Hoan Kiem, Ha Noi

Telephone: (04) 22104773

#### 3. Ho Chi Minh HIV/AIDS Association

Address: No 121 Ly Chinh Thang, Ward 17, District 3, Ho Chi Minh City

Telephone: (08) 39309309, x168

#### 4. An Giang HIV/AIDS Association

Address: No 10-11 Le Loi, My Binh, Long Xuyen

Telephone: 0763.211275/955401

#### 5. Hai Phong HIV/AIDS Association

Address: No 38 Le Dai Hanh, Hai Phong

Telephone: (031) 3822355

#### 6. Khanh Hoa HIV/AIDS Association

Address: No 31 Le Thanh Phuong, Nha Trang

Telephone: (058) 3562744

### Contents

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<b>Introduction</b>	5
<b>Directions for use</b>	7
 <b>Part A</b>	
<b>GENERAL INFORMATION</b>	9
 <b>Part B</b>	
<b>REQUIREMENTS AND PROCEDURES FOR LEGAL ESTABLISHMENT/REGISTRATION</b>	12
Overview of organization types	13
I. Associations	17
II. Social Funds and Charity Funds	27
II. Science and Technology Organizations	33
IV. Cooperative Groups	40
V. Cooperatives	45
VI. Household businesses	53
VII. Enterprises	56
 <b>Part C.</b>	
<b>ANNEX</b>	61
I. Relevant legal documents, forms and website addresses for downloading further information	62
II. HIV Legal Clinics	69
III. HIV Associations	70