

# Civil Procedure Law of the People's Republic of China

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## Part One General Principles

### Chapter 1 Purposes, Scope of Regulation and Basic Principles

Article 1 The Civil Procedure Law of the People's Republic of China is formulated according to the Constitution and in the light of the experience and actual conditions of adjudicating civil cases in our country.

Article 2 The purposes of the Civil Procedure Law of the People's Republic of China are to protect the litigation rights exercised by the parties, to ensure that the people's courts find facts, to distinguish right from wrong, to apply the law correctly, to try civil cases promptly, to affirm the rights and obligations in civil affairs, to impose sanctions for civil wrong doings, to protect the lawful rights and interests of the parties, to educate citizens to voluntarily abide by the law, to maintain the social and economic order, and to guarantee the smooth progress of the socialist construction.

Article 3 The provisions of this Law shall apply to all the civil litigation accepted by people's courts regarding disputes over the status of property and personal relations among citizens, legal persons, or other organizations respectively and mutually between citizens, legal persons, or other organizations.

Article 4 All those who involve in civil lawsuits within the territory of the People's Republic of China must abide by this Law.

Article 5 Foreign nationals, stateless persons, foreign enterprises, or organizations, which initiate or respond to lawsuits in people's courts, shall have the same litigation rights and obligations as the citizens, legal persons, or other organizations of the People's Republic of China.

Should the courts of a foreign country impose restrictions on the civil litigation rights of the citizens, legal persons, or other organizations of the People's Republic of China, the people's courts of the People's Republic of China shall follow the principle of reciprocity

regarding the civil litigation rights of the citizens, enterprises, or organizations of that foreign country.

Article 6 The adjudication authority over civil cases shall be exercised by the people's courts only.

The people's courts shall adjudicate civil cases independently according to law, and shall not be subject to any interference from an administrative organ, public organization, or individual.

Article 7 The people's courts must take the facts as the basis and take the law as the criterion when adjudicating civil cases.

Article 8 All parties to a civil litigation shall have equal litigation rights. The people's courts shall, when adjudicating civil cases, guarantee and facilitate all parties to exercise their litigation rights, and apply the law equally to all parties.

Article 9 When adjudicating civil cases, the people's courts may mediate the disputes according to the principles of voluntariness and lawfulness; if a mediation agreement can not be reached, the courts shall render judgments without delay.

Article 10 When adjudicating civil cases, the people's courts shall apply the systems of collegial panel, recusal, public trial, and "two trials and the second one is final".

Article 11 Chinese citizens of all ethnicities shall have the right to use their native spoken and written languages in civil proceedings.

In the areas where an ethnic minority is concentrated or a number of different ethnic nationalities live together, the people's courts shall conduct hearings and publish legal documents in the spoken and written languages commonly used by these people.

The people's courts shall provide translations for any litigation participants who are not familiar with the spoken or written languages commonly used by the local people.

Article 12 When adjudicating civil cases by the people's court, the parties shall have the right to engage in argument.

Article 13 The parties to a civil litigation shall be entitled, within the scope stipulated by law, to dispose their rights of civil affairs and litigation.

Article 14 The people's procuratorates shall have the right to exercise legal supervision over the civil proceedings.

Article 15 If the civil rights and interests of the state, a collective, or an individual have been infringed, a state organ, public organization, enterprise, or institution may support the injured unit or individual to initiate legal action in a people's court.

Article 16 The People's Conciliation Committees are the organizations for mass to mediate civil disputes derived from private citizens under the guidance of basic people's governments and the basic people's courts.

The People's Conciliation Committees shall conduct all mediations according to legal provisions and the principle of voluntariness. All concerned parties shall enforce mediation agreement. Where any concerned parties refuse mediation, fail to reach a mediation agreement, or retract a mediation agreement, they may initiate legal proceedings in a people's court.

If a People's Conciliation Committee violates the law when mediating civil disputes, the people's court shall correct it.

Article 17 The people's congresses of the national autonomous areas may formulate some accommodating or supplementary provisions according to the principles of the Constitution and this Law and based on the specific circumstances of their localities. Such provisions made by an autonomous region shall be submitted to the Standing Committee of the National People's Congress for approval. The provisions made by an autonomous prefecture or autonomous county shall be submitted to the standing committee of the people's congress of the relevant autonomous region or province for approval and to the Standing Committee of the National People's Congress for the record.

## Chapter 2 Jurisdiction

### Section 1 Jurisdiction by Levels of Courts

Article 18 A basic people's court shall have jurisdiction as the court of first instance over civil cases, unless otherwise stipulated in this Law.

Article 19 An intermediate people's court shall have jurisdiction as courts of first instance over the following civil cases:

- (1) Major cases involving foreign elements;
- (2) Cases that have major impacts in the area of its jurisdiction; and
- (3) Cases under the jurisdiction of the intermediate people's courts as determined by the Supreme People's Court.

Article 20 A higher people's courts shall have jurisdiction as the court of first instance over civil cases that have major impacts on the areas of its jurisdiction.

Article 21 The Supreme People's Court shall have jurisdiction as the court of first instance over the following civil cases:

- (1) Cases that have major impacts on the whole country; and

(2)Cases that the Supreme People’s Court deems should be adjudicated by itself.

## Section 2 Territorial Jurisdiction

Article 22 A civil lawsuit brought against a citizen shall be under the jurisdiction of the people’s court located in the place where the defendant has his domicile; if the defendant’s domicile is different from his habitual residence, the lawsuit shall be under the jurisdiction of the people’s court located in the place of his habitual residence.

A civil lawsuit brought against a legal person or an organization shall be under the jurisdiction of the people’s court located in the place where the defendant has its domicile.

Where the domiciles or habitual residences of several defendants in the same lawsuit are in the areas under the jurisdiction of two or more people’s courts, all of those people’s courts shall have jurisdiction over the lawsuit.

Article 23 The civil litigations described below shall be under the jurisdiction of the people’s court located in the place where the plaintiff has his domicile; if the plaintiff’s domicile is different from his habitual residence, the lawsuit shall be under the jurisdiction of the people’ court located in the place of the plaintiff’s habitual residence. The relevant civil litigations are:

(1)Litigations concerning the status of persons who do not reside within the territory of the People’s Republic of China;

(2)Litigations concerning the status of persons whose whereabouts are unknown or whom have been declared missing;

(3)Litigations brought against the persons who are undergoing reeducation through labor; and

(4)Litigations brought against persons who are in imprisonment.

Article 24 A lawsuit brought about a contract dispute shall be under the jurisdiction of the people’s court located in the place where the defendant has his domicile or where the contract is performed.

Article 25 The parties to a contract may, through the written contract, choose a people’s court, which located in the place where the defendant would have his domicile, the contract would be performed, the contract would be signed, the plaintiff would have his domicile, or the subject of the contract would be located, to have jurisdiction over the case, as long as this jurisdiction choice does not violate the provisions of this Law regarding the Jurisdiction by Level and the Exclusive Jurisdiction.

Article 26 A lawsuit brought for insurance contract dispute shall be under the jurisdiction of the people's court located in the place where the defendant has his domicile or where the insured subject matter is located.

Article 27 A lawsuit brought for a negotiable instrument dispute shall be under the jurisdiction of the people's court located in the place where the negotiable instrument is to be paid or where the defendant has his domicile.

Article 28 A lawsuit brought for a dispute over transportation contract via railway, highway, water, air, or combined transportation shall be under the jurisdiction of the people's court located in the place of the departure or the destination, or where the defendant has his domicile.

Article 29 A lawsuit brought for a tortious act shall be under the jurisdiction of the people's court located in the place where the infringing act took place or where the defendant has his domicile.

Article 30 A lawsuit to claim damages caused by a railway, highway, water, or aviation transportation accident shall be under the jurisdiction of the people's court located in the place where the accident took place, where the vehicle or ship first arrived after the accident, where the aircraft first landed after the accident, or where the defendant has his domicile.

Article 31 A lawsuit brought for damages caused by a ship collision or any other maritime accident shall be under the jurisdiction of the people's court located in the place where the collision took place or where the collision ship first docked after the accident or where the ship at fault was detained, or where the defendant has his domicile.

Article 32 A lawsuit brought for a maritime salvage shall be under the jurisdiction of the people's court located in the place where the salvage took place or where the salvaged vessel first docked after the disaster.

Article 33 A lawsuit brought for a general average shall be under the jurisdiction of the people's court located in the place where the ship first docked after the general average adjustment took place or the adjustment thereof was conducted or where the voyage ended.

Article 34 The following cases shall be under the exclusive jurisdiction of the people's courts herein specified:

(1) A lawsuit brought for real estate shall be under the jurisdiction of the people's court located in the place where the real estate is located;

(2) A lawsuit concerning harbor operations shall be under the jurisdiction of the people's court located in the place where the harbor is located; and

(3) A lawsuit concerning an inheritance shall be under the jurisdiction of the people's court located in the place where the decedent had his domicile upon his death, or where the principal portion of his estate is located.

Article 35 When two or more people's courts have jurisdiction over a lawsuit, the plaintiff may bring his lawsuit in one of these people's courts; if the plaintiff brings the lawsuit in two or more people's courts that have jurisdiction over the lawsuit, it shall be handled by the people's court that accepts the case first.

### Section 3 Jurisdiction by Transfer and Jurisdiction by Designation

Article 36 If a people's court discovers that a case it has accepted is not under its jurisdiction, it shall transfer the case to the people's court that does have jurisdiction over the case. The people's court to which a case has been transferred shall accept the case, and if it considers that, according to relevant regulations, the transferred case is not under its jurisdiction, it shall report to a superior people's court for the designation of jurisdiction and shall not transfer the case to another people's court without authorization.

Article 37 If a people's court which has jurisdiction over a case is unable to exercise the jurisdiction for a special reason, the superior people's court shall designate another court to exercise the jurisdiction.

If there is a dispute over a jurisdiction among people's courts, it shall be resolved by the disputing parties through consultation; if the dispute cannot be resolved through consultation, the disputing courts shall ask their superior people's court to designate the jurisdiction.

Article 38 If a party rejects the jurisdiction of his case after the case was accepted by a people's court, the party shall raise the rejection during the period for submitting briefs. The people's court shall examine such objection. If the objection is tenable, the people's court shall rule that the case be transferred to the people's court that does have jurisdiction over the case; if the rejection is untenable, the people's court shall overrule the objection.

Article 39 People's courts at higher levels shall have the authority to try civil cases over which people's courts at lower levels have jurisdiction as courts of first instance; they may also transfer civil cases over which they themselves have jurisdiction as courts of first instance to people's courts at lower levels for adjudication.

If a people's court at a lower level deems it necessary for a civil case of first instance under its jurisdiction to be tried by a people's court at a higher level, it may request such a people's court to adjudicate the case.

### Chapter 3 Trial Organization



Article 40 Civil cases of first instance shall be tried in a people's court by a collegial bench consisting of both judges and assessors or of judges alone. The numbers of members of a collegial bench shall be odd.

Civil cases to which summary procedure is applied shall be tried by a single judge alone.

When carrying out their duties as assessors, the assessors shall have equal rights and obligations as the judges.

Article 41 Civil cases of second instance shall be tried in a people's court by a collegial bench of judges. The numbers of members of a collegial bench shall be odd.

For the retrial of a remanded case, the people's court of first instance shall form a new collegial bench according to the procedure of first instance.

If a case for retrial was originally tried at first instance, a new collegial bench shall be formed according to the procedure of first instance; if the case was originally tried at second instance or was removed to a people's court at a higher level for trial, a new collegial bench shall be formed according to the procedure of second instance.

Article 42 The president of the court or the chief judge of a division shall designate a judge to serve as the presiding judge of the collegial bench; if the president or the chief judge participates in trial, he himself shall serve as the presiding judge.

Article 43 When deliberating a case, a collegial bench shall observe the principle of minority obeying majority. The deliberations shall be recorded in writing, and the transcript shall be signed by the members of the collegial bench. The dissenting opinions in the deliberations shall be truthfully recorded in the transcript.

Article 44 The adjudicating personnel shall handle the case impartially and according to law.

The adjudicating personnel shall not accept a treat or gift from the parties or their agents.

Any adjudicating personnel who commits embezzlement, accepts bribes, practices favoritism for himself or relatives, twists the law in rendering judgment shall be investigated for legal responsibility; if a crime is committed, the offender shall be investigated for criminal responsibility according to law.

#### Chapter 4 Recusal of Adjudicating Personnel

Article 45 Any member of the adjudicating personnel in any of the following circumstances shall be disqualified, and the litigation parties shall also have the right to request, orally or in writing, such an adjudicator to be withdrawn from this case. The relevant circumstances are:

(1) He is a party or a near relative of a party or a near relative of a litigation representative to the case;

(2) He has a personal interest in the case; or

(3) He has some other relationship with a party to the case, which could influence the impartial adjudication.

The above provisions shall also apply to clerks, interpreters, expert witnesses, and examiners.

Article 46 When a party makes a request to disqualify an adjudicator, he shall make an explanation and submit the request at the beginning of the proceedings; a request for recusal may also be submitted before the end of court debate if the recusal reason is uncovered after the proceeding begins.

If a recusal decision is waiting for a people's court to decide, the personnel who have been requested to be disqualified shall temporarily be suspended from participating in the proceedings, but with the exception of cases that require emergency measures.

Article 47 The recusal of a court president who serves as the presiding judge shall be decided by the adjudicating committee; the recusal of adjudicators shall be decided by the court president; the recusal of other personnel shall be decided by the presiding judge.

Article 48 The decision of a people's court on a request for recusal shall be made orally or in writing within three days after the request was made. If a party is not satisfied with a recusal decision, it may apply for reconsideration once. During the period of reconsideration, the personnel who have been requested to be disqualified shall not be suspended from participating in the proceedings. The decision of a people's court on an application for reconsideration shall be made within three days after receiving the application and the person who has made the application for reconsideration shall be notified of the decision.

## Chapter 5 Litigation Participants

### Section 1 Parties

Article 49 Any citizen, legal person or any other organization may become a party to a civil lawsuit.

Legal persons shall be represented by their legal representatives in litigation. Other organizations shall be represented by their principal leading personnel in litigation.

Article 50 The parties shall have the right to appoint representatives, request recusals of adjudicating personnel, collect and provide evidence, engage in debate, request mediation, file an appeal, and apply for an enforcement of judgments.

The parties may consult the materials relating to the court proceedings of the case and copy the materials and other legal documents pertaining to the case. However, materials involving state secrets, trade secrets, or the private affairs of individuals shall be exceptions.

The parties must exercise their litigation rights according to the law, observe litigation procedures and carry out legally effective written judgments or orders and mediation statements.

Article 51 The two parties may reach a settlement agreement on their own.

Article 52 The plaintiff may relinquish or modify his claim. The defendant may confirm or repudiate the claim and shall have the right to file a counterclaim.

Article 53 When one party or both parties consist of two or more persons and the subject matter of the action is the same or under the same category, the people's court may adjudicate them together upon the consent of all the parties. Such adjudication is called joint litigation.

If a party of two or more persons of a joint litigation who have the common rights and obligations with respect to the subject matter of action and the act of any of them is recognized by the others of the party, such an act shall bind the rest of the party; if a party of two or more persons have no common rights and obligations with respect to the subject matter of action, any acts taken by any one of them shall not bind the rest of the party.

Article 54 A joint litigation in which one party has numerous litigants may be brought by the representatives elected by the litigants of the party. The act of litigation taken by these representatives shall bind all litigants of the party whom they represent. However, any substitution of representatives, relinquishing claims, acceptance of claims of the opposing party, or negotiating settlement shall be approved by the litigants of the party.

Article 55 Where the subject matters of an action is under the same category and one of the parties has numerous litigants but the exact number of the litigants is uncertain when the lawsuit is filed, the people's court may issue a public notice to explain the nature of the case and the claims of the litigation and informing those interested persons who are entitled to the claim to register their rights with the people's court within a fixed period of time.

Those who have registered their rights with the people's court may elect representatives from among themselves to proceed with the litigation; if the election fails its purpose, such representatives may be determined by the people's court through consultation with those who have registered their rights with the court.

The acts of litigation taken by these representatives shall bind all litigants of the party whom they represent. However, any substitution of representatives, relinquishing claims,

acceptance of claims of the opposing party, or negotiating settlement shall be approved by the litigants of the party.

The judgments or written orders rendered by the people's court shall bind all those interested persons who have registered their rights with the court. Such judgments or written orders shall apply to those who have not registered their rights but have instituted legal proceedings during the time of the statute of limitation.

Article 56 If a third party considers that he has the independent right to claim the subject matter of the action of both parties, he shall have the right to bring an action.

If a third party does not have the independent right to claim the subject matter of the action of both parties but the outcome of the case will affect his legal interest, it may file a request to join the litigation or the people's court may notify him to join the litigation. If a people's court holds a third party to bear a civil liability, such a third party shall have the litigation rights as a party to the litigation.

## Section 2 Litigation Representatives

Article 57 For litigation-incompetent persons, their guardians shall be their legal representative in their litigations. If all legal representatives try to avoid their duties of representation, the people's court may appoint one of them as the litigation represent.

Article 58 Each party or legal representative may appoint one or two persons to act as his litigation representatives.

Lawyers, a party's near relatives, persons recommended by relevant public organizations or the units to which a party belongs, or any other citizens approved by a people's court may be entrusted as the party's litigation representatives.

Article 59 When a party entrusts a person to be his litigation representative, he shall submit a power of attorney bearing his signature or seal to the people's court.

The power of attorney must specify the matters and authority scopes entrusted. A litigation representative must possess special authorization from his principal to be able to accept, relinquish, or modify the claim, to reach a settlement, or bring a counterclaim or an appeal.

When a citizen of the People's Republic of China, who is residing abroad, mails or entrusts someone to deliver a power of attorney to China, he shall have the power of attorney certified by the Chinese embassy or consulate to that country. If there is no Chinese embassy or consulate in that country, he shall have the power of attorney certified by an embassy or a consulate of a third country, which has diplomatic relations with the People's Republic of China and is stationed in the country, and then be transferred to the embassy or consulate of the People's Republic of China stationed in

that third state for verification; he may have the power of attorney certified by a local patriotic overseas Chinese organization.

Article 60 A party who changes or revokes the authority of his litigation representative shall inform the people's court in writing and the court shall notify the other party of the change or revocation.

Article 61 Lawyers who serve as litigation representatives or other litigation representatives shall have the right to investigate and collect evidence, and may consult relevant materials to the case. The scopes and measures of consulting relevant materials to a case shall be regulated by the Supreme People's Court.

Article 62 For a divorce case in which a party has appointed a litigation representative, that party shall appear in court in person unless he is incapable of expressing his own opinion. A party who is truly unable to appear in court due to a special reason shall submit his opinion in writing to the people's court.

## Chapter 6 Evidence

Article 63 Evidence shall be classified as follows:

- (1) documentary evidence;
- (2) physical evidence;
- (3) audio and visual material;
- (4) testimony of witnesses;
- (5) statements of involving parties;
- (6) conclusions of expert witnesses; and
- (7) transcripts of inspection and examination.

Any of the above-mentioned evidence must be verified before it can be taken as a basis for finding a fact.

Article 64 A party shall have the responsibility to provide evidence in support of its own propositions.

For the evidence that cannot be obtained by any parties or their litigation representatives because of some realistic reasons or for the evidence that the people's court considers necessary for adjudicating the case, the people's court shall investigate and collect such evidence.

The people's court shall, according to the procedure prescribed by law, collect and examine evidence comprehensively and objectively.

Article 65 The people's court shall have the authority to obtain evidence from any relevant units or individuals, and such units or individuals may not refuse to provide evidence.

The people's court shall verify and determine the validity of documentary evidence provided by relevant units or individuals.

Article 66 Evidence shall be presented in the court and cross-examined by parties, however, evidence that involves state secrets, trade secrets, or individual privacy shall not be presented in an open court session.

Article 67 The people's court shall admit the legal acts, legal facts and documents that are notarized according to legal procedures as a basis for finding facts, except when there is contrary evidence that is sufficient to invalidate the notarization.

Article 68 Any document submitted as evidence shall be the original one. Physical evidence shall also be original. If it is truly difficult to present the original document or physical evidence, then duplications, photographs, copies, or extracts of the original evidence may be admitted.

If a document in a foreign language is submitted as evidence, a Chinese translation shall be appended.

Article 69 The people's court shall authenticate audio and visual materials and decide whether they can be admitted as a basis for finding the facts after examining them and comparing them with other evidence of the same case.

Article 70 All units and individuals who have information about a case shall have the obligation to testify in court. The responsible persons of relevant units shall encourage the witnesses to give testimony. When it is truly too difficult for a witness to appear in court, he may, with the approval of the people's court, submit a written testimony.

Any person who is incapable of expressing his opinion properly shall not testify.

Article 71 The people's court shall examine the statements of the parties in connection with other evidence of the case to decide whether such statements can be taken as a basis for finding the facts.

The refusal of a party to make a statement shall not prevent the people's court from finding the facts of a case based on other evidence.

Article 72 When a people's court deems it necessary to make an evaluation of a specialized issue, it shall refer the issue to an authentication department authorized by

law for the evaluation. In the absence of such department, the people's court shall appoint an authentication department to make the evaluation.

The authentication department and the expert witness designated by the department shall have the right to consult the case materials necessary for the evaluation and direct inquiries to the parties and witnesses when circumstances require.

An authentication department and expert witness shall present its or his conclusion of the evaluation in writing and sign it or put his seal on it. With respect to an evaluation made by an expert witness, the unit to which the expert witness belongs shall certify his status by affixing its seal to the expert conclusion.

Article 73 When inspecting or examining physical evidence on site, the inspector must show his credentials issued by a people's court. He shall invite the local basic organization or the relevant unit to send personnel to participate in the inspection. The parties concerned or the adult members of their families shall be present; however, their refusal to appear on the scene shall not prevent the inspection from proceeding.

Upon notification by the people's court, the relevant units and individuals shall have the obligation to preserve the site and provide assistance for the inspection.

The inspector and examiner shall prepare a written record for the circumstances and results of the inspection or examination. The inspector, examiner, the party concerned and the invited participants shall affix their signatures or seals to the record.

Article 74 Under circumstances where there is a likely-hood that evidence may be destroyed, lost or too difficult to obtain later on, any litigation participants may apply to the people's court for the preservation of the evidence. The people's court may also take initiative to preserve such evidence.

## Chapter 7 Time Periods and Service

### Section 1 Time Periods

Article 75 Time periods shall include those prescribed by law and those designated by a people's court.

Time periods shall be computed by hour, day, month, and year. The hour and day from which a time period begins shall not be computed as within that time period.

If the expiration date of a time period falls on a holiday, the day immediately following the holiday shall be regarded as the expiration date.

A statutory time period shall not include the time spent in transmittal of documents. A litigation document that is mailed before a deadline shall not be regarded as overdue.

Article 76 If a party fails to meet a deadline due to reasons beyond his control or other justifiable reasons, he may petition for an extension of the time limit within 10 days after the obstacle is removed. The requested extension shall be subject to approval by a people's court.

## Section 2 Service

Article 77 A receipt shall be required for every litigation document that is served and it shall bear the signature or seal of the recipient of the service and the date of receipt.

The date of receipt as signed by the recipient of the service shall be regarded as the date the document is served.

Article 78 Litigation documents shall be served directly on the recipient of the service. If the recipient of the service is a citizen, the documents may, in the case of his absence, be served on an adult member of the recipient's family who lives with him. If the recipient of the service is a legal person or any other organization, the document shall be served on the legal representatives of the legal person, the principal leading personnel of any other organization, the personnel of the legal person or any other organization in charge of receiving such documents; If the recipient of the service has a litigation representative, the documents may be served on the litigation representative. If the recipient of the service has designated an agent to receive his litigation documents and has informed the people's court of it, the documents may be served on the agent.

The date of receipt as signed by the adult family member living with the recipient of service, or persons in charge of receiving documents of the legal persons or other organizations, or litigation representative, or agents designated to receive his documents shall be regarded as the date the document is served.

Article 79 If the recipient of a service or any of his adult family members living with him refuses to accept a legal document, the person serving the document shall ask the representatives of the relevant basic organization or unit to which the recipient of the service belongs to appear on the scene, explain the situation to them, and record the reasons of the refusal and the date on the receipt. After the person serving the document and the witnesses have affixed their signatures or seals on the receipt, the document may be left at the place where the recipient of the service stays and the service shall be considered completed.

Article 80 If direct delivery service of a litigation document proves too difficult, such a service may be entrusted to the other people's court, or it may be served by postal service. If a document is served by post, the date as stated on the receipt shall be regarded as the date the document is served.

Article 81 If the recipient of a service is in the military, the document shall be forwarded to him via the political organ at or above the regimen level in the unit to which the recipient belongs.



Article 82 If the recipient of the service is undergoing imprisonment, the document shall be forwarded to him via the prison or the unit of rehabilitation through labor where he is serving his sentence.

If the recipient of the service is undergoing reeducation through labor, the document shall be forwarded to him via the unit supervising his reeducation through labor.

Article 83 Any organization or unit that receives a litigation document to be forwarded must immediately deliver it to the recipient of the service for a receipt. The date as stated on the receipt shall be regarded as the date the document is served.

Article 84 If the whereabouts of a recipient is unknown, or if a document cannot be served by the other methods prescribed in this section, the document shall be served by public announcement. Sixty days after the date of the public announcement, the document shall be deemed to have been served.

The reasons for service by public announcement and the procedures taken shall be recorded in the case files.

## Chapter 8 Mediation

Article 85 In handling civil cases, the people's court may distinguish between right and wrong and mediate disputes according to the principle of parties' voluntariness and based on clear facts.

Article 86 When a people's court conducts mediation, a single judge or a collegial bench may preside in the mediation. Mediations shall be conducted locally whenever possible.

When a people's court conducts mediation, it may employ simplified methods to notify the parties and witnesses to appear in court.

Article 87 When a people's court conducts mediation, it may request assistance from relevant units or individuals. The invited units or individuals shall assist the people's court in mediation.

Article 88 A mediation agreement must be based on voluntariness of both parties, and shall not be reached through compulsion. The content of the mediation agreement may not contravene the law.

Article 89 When a mediation agreement is reached, the people's court shall draw up a written mediation agreement. A mediation agreement shall clearly set forth the claims of the action, the facts about the case, and the result of the mediation.

The mediation statement shall be signed by the judge and the court clerk, sealed by the people's court, and served on both parties.

Once the mediation agreement is signed and exchanged by both parties, it shall become legally binding.

Article 90 The people's court need not draw up a mediation agreement for the following cases when an agreement is reached through mediation:

- (1) Divorce cases in which both parties have become reconciled after mediation;
- (2) Adoption cases in which adoptive relationship has been retained through mediation;
- (3) Cases in which the claims can be immediately satisfied; and
- (4) Other cases that do not require mediation statements.

Any agreement that does not require a mediation agreement shall be entered into the transcript and become legally effective after the transcript is signed or sealed by both parties, the judge, and the court clerk.

Article 91 If no agreement is reached through mediation or if one party retracts his reconciliation before the mediation agreement is served, the people's court shall render a judgment without delay.

#### Chapter 9 Property Preservation and Advance Enforcement

Article 92 If it becomes impossible or difficult to enforce a judgment because of the acts taken by one of the parties or for other reasons, the people's court may, upon the request of the other party, make an order to preserve the property. In the absence of such requests, the people's court may, when necessary, also order to adopt property preservation measures.

When a people's court has decided to adopt property preservation, it may instruct the applicant to provide a surety; if the applicant fails to do so, his application may be rejected.

After receiving a party's application, if the case is urgent, the people's court must make an order regarding property preservation within 48 hours; if a people's court makes an order for property preservation, it shall enforce the preservation immediately.

Article 93 Any interested party whose lawful rights and interests, due to urgent circumstances, would suffer from un-remediable harms if he fails to petition for property preservation immediately, may, before filing the lawsuit, petition to the people's court for the adoption of property preservation measures. The petitioner shall provide a surety; if the petitioner fails to do so, his petition may be rejected.

After receiving a party's petition for property preservation, the people's court shall make a ruling within 48 hours; if property preservation is granted by a ruling, the preservation thereof shall be enforced immediately.

If the petitioner fails to file a lawsuit within 15 days after the people's court has adopted the preservation measures, the people's court shall cancel the property preservation.

Article 94 Property preservation shall be limited to the scope of the claim or to the property related to the case.

The measures of property preservation may include seizure, detain, freeze, or other methods as prescribed by law.

When a people's court freezes a property, it shall notify the person whose property is frozen.

Those properties that have already been seized, detained, or frozen shall not be seized or frozen again.

Article 95 If the defending party whose property is preserved provides a security, the people's court shall cancel the property preservation.

Article 96 Where a petition is wrongfully made, the petitioner shall compensate the defending party for any loss incurred from the property preservation.

Article 97 The people's court may, at the request of a party, order the measures for the following cases to be enforced in advance:

- (1) Cases involving claims of alimonies, supports for children or elders, pension for the disabled or the family of a decedent, or expenses for medical care;
- (2) Cases involving claims of wages; and
- (3) Cases involving urgent circumstances that require enforcement in advance.

Article 98 The people's court shall make sure the following conditions are met before making a ruling to enforce the property preservation in advance:

- (1) The relationship of rights and obligations between the parties is definite, and the refusal of advance enforcement would seriously affect the life or business operation of petitioners; and
- (2) The defending party whose property would be preserved is capable of fulfilling the obligations involved in the advance enforcement.

The people's court may order the petitioners to provide sureties; if a petitioner fails to do so, his petition may be rejected. If the petitioner loses the lawsuit, he shall compensate the defending party whose property was preserved for any loss incurred from the advance enforcement.

Article 99 If a party is not satisfied with an order on property preservation or advance enforcement, he may petition for reconsideration that can be granted only once. However, the enforcement of the order shall not be suspended during the time of reconsideration.

#### Chapter 10 Compulsory Measures against Obstruction of Civil Actions

Article 100 If a defendant who is required to appear in court has been served twice with subpoena but still refuses to appear in court without legitimate reason, the people's court may summon him to court by force.

Article 101 All litigation participants and other persons shall abide by the court rules.

For those persons who violate the court rules, the people's courts may reprimand them, evict them from the courts, or impose a fine or detention on them.

For those persons who create uproars, disturb courtrooms, insult, slander, threat, or assault adjudicating personnel, or seriously disrupt the order of courtrooms, the people's court shall investigate them for criminal liabilities according to law; if the circumstances are minor, a fine or detention may be imposed on the offender.

Article 102 Where any litigation participants or any other persons commit any of the following acts, the people's courts shall impose a fine or detention on them based on the circumstances; if a crime is committed, the people's court shall investigate them for criminal liabilities according to law.

(1) Forging or destroying significant evidence, which would obstruct the a people's court's adjudication of a case;

(2) Using violence, threats, or bribery to hinder a witness from giving testimony, or instigating, bribing, or coercing others to commit perjury;

(3) Concealing, transferring, selling, or destroying any properties that have been seized or detained, or any properties that have been inventoried and ordered by a court under the offenders' custody, or transferring the property that has been frozen;

(4) Insulting, slandering, incriminating with false charges, beating up, or retaliating adjudicating personnel, litigation participants, witnesses, interpreters, experts witnesses, inspectors, or personnel assisting in enforcement; or

(5) Using violence, threats, or other means to hinder adjudicating personnel from performing their duties; or

(6)Refusing to comply with legally effective judgments or orders rendered by a people's court.

Where a unit commits any of the following acts stipulated in the preceding paragraph, the people's courts may impose a fine or detention on the principal leading personnel of the unit or the person directly responsible; if a crime is committed, the people's court shall investigate them for criminal liabilities according to law.

Article 103 If a unit that has an obligation to assist in judicial investigation or enforcement commits any of the following acts, the people's court may order the unit to perform its obligation but also impose a fine on the unit:

(1)Refusing or obstructing a people's court from investigation or collecting evidence;

(2)Where the unit is a bank, credit union, or other institution engaging in saving deposit business, refusing to assist in inquiring, freezing, or transferring funds after receiving a notification from the people's court for enforcement assistance;

(3)After receiving a notification on assistance in enforcement from the people's court, refusing to assist in withholding the income of a defending party whom is ordered to pay or handling the transfer of property titles, relevant negotiable instruments, certificates and licenses, or other properties; or

(4)Refusing to provide other assistance in enforcement order by court.

With respect to a unit that commits any of the acts specified in the preceding paragraph, the people's court may impose a fine on the principal leading personnel of the unit or the person directly responsible; and may detain them if they still fail to perform the obligation to provide assistance; and may also make judicial suggestions to the supervisory organ or other relevant organs on imposing a disciplinary sanction on the unit.

Article 104 A fine on an individual shall be not more than Renminbi 10, 000 Yuan. A fine on a unit shall be not less than Renminbi 10,000 Yuan and not more than Renminbi 300,000 Yuan.

A detention period shall not be longer than fifteen days.

The people's court shall deliver detainees to a public security organ for custody. The people's court may decide to grant the detainee an early release if he admits and is willing to correct his wrongdoing.

Article 105 Any summons by force, fines, or detentions shall be approved by the president of a people's court.

A warrant shall be issued before carrying out a summon by force.

The rulings of fines and detentions shall be issued in written letter form. If a party does not agree with a decision, he may apply to a people's court at a higher level for reconsideration and the reconsideration can be granted only once. However, the enforcement of the decision shall not be suspended during the time of reconsideration.

Article 106 Any decision on the adoption of compulsory measures against obstruction of civil actions shall be made by the people's court. Any unit or individual pressing a debt payment by unlawfully detaining a person or illegally seizing other people's property shall be investigated for criminal liabilities according to law or may be punished by detention or fine.

## Chapter 11 Litigation Expenses

Article 107 Any party filing a civil lawsuit shall pay a case handling fee according to relevant regulations. For cases involving property, the party shall pay other litigation expenses, in addition to case handling fee.

Parties who truly have difficulties to pay litigation expenses may, according to relevant regulations, petition the people's court to postpone, reduce, or wave the payment.

Procedures for the payment of litigation expenses shall be formulated separately.

## Part Two Trial Procedure

### Chapter 12 Ordinary Procedure of First Instance

#### Section 1 Filing and Accepting Lawsuits

Article 108 The following conditions must be met before a lawsuit is filed:

- (1)The plaintiff must be a citizen, legal person, or an organization having a direct interest with the case;
- (2)There must be a specific defendant;
- (3)There must be a concrete claim, a factual basis, and a cause for the lawsuit; and
- (4)The lawsuit must be within the scope of civil lawsuits to be accepted by the people's courts and within the jurisdiction of the people's court to which the lawsuit is filed.

Article 109 When filing a lawsuit, the motion of complaint shall be submitted to the people's court with enough copies of the motion for all members of defendants.

If a plaintiff is truly difficult to write a motion of complaint, he may file his complaint orally, and the court shall record his complain in the transcript and inform the other party.

Article 110 A motion of complaint shall clearly state the following items:

- (1)The name, sex, age, ethnicity, occupation, working unit, and address of parties or, if the parties are legal persons or organizations, their names and addresses and the names and positions of their legal representatives or principal leading personnel;
- (2)The claims of the lawsuit and the facts and grounds on which the lawsuit is based; and
- (3)Evidence and its source, as well as the names and addresses of witnesses.

Article 111 People's courts shall accept the lawsuits filed in conformity with the provisions of Article 108 of this Law. For the lawsuits described below, people's courts shall handle them according to their specific circumstances:

- (1)For the cases within the scope of administrative lawsuits according to the provisions of the Administrative Procedure Law, the plaintiffs shall be informed to file administrative lawsuits;
- (2)For the cases where both parties have voluntarily reached a written agreement according to law to submit their contract disputes to an arbitration agency for an arbitration, no one shall file a lawsuit in a people's court and the plaintiffs shall be notified to submit the disputes to the arbitration agencies for arbitration;
- (3)For the disputes which, according to law, should be handled by other organs, the plaintiffs shall be notified to petition the relevant organs for settlement;
- (4)For the cases that are not within their jurisdictions, the people's courts shall notify the plaintiffs to bring their lawsuits to the proper people's courts that have the jurisdictions;
- (5)Where one side of the parties file lawsuits against the same cases in which their judgments or orders have become legally effective, the people's courts shall notify the plaintiffs to file a grievance instead except those cases in which the orders rendered by the people's courts to allow the lawsuits to be withdrawn;
- (6)If cases that are not permitted by law to be filed within a specified period of time are filed during the same period of time, they shall not be accepted by any courts; or
- (7)For those divorce cases in which the judgments did not grant divorce or both parties have become reconciled after mediation and for those adoption cases in which the judgments have been given to maintain the adoptive relationship or that have been mediated to maintain the adoptive relationship, if there is no new developments or reasons, the plaintiffs are bared from filing new lawsuits regarding the same cases in six months.

Article 112 When a people's court receives a motion of complaint or an oral complaint and finds the complaint meets the requirements of a civil lawsuit after reviewing the

complaint, the court shall accept the case within seven days and notify the parties involved; if the complaint does not meet the requirements of a civil lawsuit, the court shall, within seven days, make a ruling to reject the complaint. If the plaintiff does not agree with the ruling, he may appeal on the ruling.

## Section 2 Pretrial Preparation

Article 113 The people's court shall deliver a copy of a motion of complaint to the defendant within five days from its acceptance of a case, and the defendant shall file a motion of defense within 15 days after receiving the copy of the motion of complaint.

If the defendant files a motion of defense, the people's court shall deliver a copy of the motion of defense to the plaintiff within five days after receiving the motion of defense. If the defendant fails to file a motion of defense, it shall not prevent the case from being heard by the people's court.

Article 114 When a people's court decides to accept a case, the court shall inform the parties orally or in the notice of case acceptance or in the notice of litigation response, with their rights and obligations to the litigation.

Article 115 The parties shall be promptly notified after the members of a collegial bench are decided.

Article 116 The adjudicating personnel shall carefully examine the case materials and carry out investigation and collection of necessary evidence.

Article 117 The personnel sent by a people's court to conduct an investigation shall first show their credentials to the person being investigated. The written record of an investigation shall be checked by the person investigated and then signed or sealed by both the investigator and the investigated.

Article 118 A people's court may, when necessary, entrust a people's court in another locality to conduct an investigation.

The entrusting people's court shall clearly set out the matters and requirements of the entrusted investigation. The entrusted people's court may, on its own initiative, conduct further investigation.

The entrusted people's court shall complete the investigation within 30 days after receiving the letter to entrust the investigation. If for some reasons the entrusted court cannot complete the investigation, it shall notify the entrusting people's court in writing within the 30 days.

Article 119 When a party who must appear in a joint litigation but fails to do so, the people's court shall notify him to participate in the proceeding.



### Section 3 Courtroom Trial

Article 120 Civil cases adjudicated by people's courts shall usually be heard publicly, except for the cases that involve state secrets or the private affairs of individuals, or are otherwise provided by law.

A divorce case or a case involving trade secrets may not be heard publicly if a party so requests.

Article 121 When adjudicating civil cases, the people's courts may, whenever necessary and possible, send out circuit tribunals to hold trials on the spot.

Article 122 The people's court shall notify the parties and other participants in a civil case three days before the opening of a court session. If a case is to be heard publicly, the names of the parties, the cause of action, and the time and location of the court session shall be announced publicly.

Article 123 Before a court session is called to order, the court clerk shall find whether or not the parties and other participants of the case are present and announce the rules of court order.

At the beginning of a trial, the presiding judge shall check the identities of parties who appear in court, announce the cause of action and the names of the adjudicating personnel and court clerks, inform the parties of their relevant litigation rights and obligations, and ask the parties whether or not they wish to apply for the withdrawal of any court personnel.

Article 124 Courtroom investigation shall be conducted in the following order:

(1) Opening statements presented by both parties;

(2) Informing the witnesses of their rights and obligations, testimonies given by the witnesses, and reading the statements of absentee witnesses;

(3) Presenting documentary evidence, physical evidence, and audio and visual reference material;

(4) Reading the conclusions of expert witnesses; and

(5) Reading the transcripts of investigation and examination.

Article 125 The parties may present new evidence during a court session.

With the permission of the court, the parties may cross-examine witnesses, expert witnesses, and inspectors.

The parties may request a new investigation, expert evaluation, or inspection and such requests are subject to the approval of the people's court.

Article 126 The additional claims of a plaintiff, the counterclaims of a defendant, and the claims of any third-party related to the same case may be combined and tried together.

Article 127 Courtroom debates shall be conducted in the following order:

- (1) Opening statement presented by the plaintiff and his litigation representative;
- (2) Responding statement presented by the defendant and his litigation representative;
- (3) Statements or defending statements presented by third parties and their litigation representatives; and
- (4) Debate between the two sides.

At the end of a courtroom debate, the presiding judge shall ask each side to present his final opinions in the order of plaintiff going first, defendant second, and third party last.

Article 128 At the end of a courtroom debate, a judgment shall be made according to law. Where mediation is possible prior to the rendering of a judgment, a session of mediation may be conducted; if mediation proves to be unsuccessful, a judgment shall be made without delay.

Article 129 If a plaintiff who has been served with a legal subpoena from a people's court refuses to appear in court without proper reason, or if he walks out during a court session without the permission of the court, the court may consider the plaintiff has withdrawn his complaint; under these two circumstances, if the defendant files a counterclaim, the court may enter a default judgment.

Article 130 If a defendant who has been served with a legal subpoena from a people's court refuses to appear in court without proper reason, or if he walks out during a court session without the permission of the court, the court may enter a default judgment.

Article 131 If a plaintiff applies to withdraw his complaints before a judgment is pronounced, the people's court shall make a ruling regarding the application.

If a people's court decides to reject an application of withdrawing a complaint and the plaintiff who has been served with a subpoena refuses to appear in court without proper reason, the people's court may enter a default judgment.

Article 132 Under any of the following circumstances, their trials at courtroom may be postponed:

(1) Parties and other litigation participants who must appear in court fail to appear in court without proper reasons;

(2) A party requests the recusal of an adjudicating personnel without an advance notice;

(3) It is necessary to summon new witnesses to court, collect new evidence, make a new expert evaluation, hold another examination, or make a supplementary investigation; or

(4) Their circumstances that warrant the postponement.

Article 133 The court clerk shall record the entire court proceedings into a transcript and the transcript shall be signed by the adjudicating personnel and the court clerk.

The courtroom transcript shall be read out in court or the parties and other litigation participants may be notified to read the transcript while in court or come to court to read the transcript within five days. If a party or other litigation participants consider that there are omissions or errors in the transcript regarding their statements, they shall have the right to apply for additions or corrections. If such additions or corrections are not made, their application shall be recorded into the case file.

The courtroom transcript shall be signed or sealed by the parties and other litigation participants. If there is any refusal to do so, the refusal shall be recorded in a note to be attached to the file.

Article 134 People's courts shall publicly pronounce their judgments in all case regardless if the cases were tried publicly or privately.

If a judgment is pronounced in court, the written judgment shall be issued and delivered within ten days; if a judgment is pronounced later on a fixed date, the written judgment shall be issued immediately after the pronouncement.

Upon pronouncement of a judgment, the parties must be informed of their right of appeal, the time limit for appeal, and the court to which they may appeal.

Upon pronouncement of a divorce judgment, the parties must be informed that none of them can marry another person before the judgment takes legal effect.

Article 135 A people's court shall complete the adjudication of a case to which ordinary procedure is applied within six months after the case is accepted. Where an extension of the term is necessary for special circumstances, a six-month extension may be given upon the approval of the president of the court. Any further extension shall be reported to the people's court at a higher level for approval.

#### Section 4 Lawsuit Suspension and Conclusion

Article 136 A lawsuit shall be suspended if it involves any of the following circumstances:

(1)One of the parties dies and it is necessary to wait for his successor to express whether he would participate in the proceedings;

(2)One of the parties has lost the capacity to engage in litigation and his litigation representative has not been designated;

(3)The legal person or any other organization as one of the parties has terminated, and the person succeeding to its rights and obligations has not been determined;

(4)One of the parties is unable to participate in the proceedings for reasons of force majeure;

(5)The current case is dependent on the results of the trial of another case that has not yet been concluded; or

(6)Other circumstances warrant the suspension of the lawsuit.

The proceedings shall resume after the causation of suspension is eliminated.

Article 137 A lawsuit shall be ended, if it involves any of the following circumstances:

(1)The plaintiff dies without a successor, or the heir waives his right of litigation;

(2)The defendant dies without estate or anyone to assume his obligations;

(3)In a divorce case, one of the parties dies, or

(4)In a case involving claims for overdue alimony, support of children or elders, or a claim for the termination of adoptive relationship, one of the parties dies.

## Section 5 Judgments and Rulings

Article 138 A judgment shall clearly set forth the following:

(1) The cause of action, claims, and the facts and reasons of disputes;

(2) The facts and reasons on which the judgment is based and the laws to which are applied;

(3) The consequences of a judgment and the obligation of litigation costs; and

(4) The time limit for filing an appeal and the appellate court with which the appeal shall be filed.

The judgment shall be signed by the adjudicating personnel and the court clerk, and the seal of the people's court shall be affixed to it.

Article 139 If some of the facts in a case being adjudicated by a people's court have already been clear, the court may render judgments regarding these facts first.

Article 140 Rulings shall be applicable to the following:

- (1) Rejection of a lawsuit;
- (2) Objection to the jurisdiction of a court;
- (3) Rejection of a complaint;
- (4) Property preservation and advance enforcement;
- (5) Approval or disapproval of withdrawal of a lawsuit;
- (6) Suspension or ending of a lawsuit;
- (7) Correction of typos in a judgment;
- (8) Suspension or termination of enforcement;
- (9) Cancellation or refusal of enforcing an arbitration award;
- (10) Refusal of enforcing a document of creditor's rights issued by a notary office; or
- (11) Other matters to be decided by a ruling.

An appeal may be filed against a ruling against items 1, 2, or 3 of the preceding paragraph.

A written ruling shall be signed by the adjudicating personnel and the court clerk, and the seal of the people's court shall be affixed to it. If an order is issued orally, it shall be entered into the record.

Article 141 All judgments and rulings rendered by the Supreme People's Court, as well as judgments and rulings against which shall not be appealed according to law or have not been appealed within the prescribed time limit, shall be legally effective.

### Chapter 13 Summary Procedure

Article 142 When adjudicating simple civil cases in which facts are clear, the relations of rights and obligations are definite, and disputes are minor, the basic people's courts or their dispatched tribunals may apply the summary procedure stipulated in this Chapter.

Article 143 For simple civil cases, their plaintiffs may file their complaints orally.

Both parties may appear at the same time in a basic people's court or its dispatched tribunal for a solution of their dispute. The basic people's court or its dispatched tribunal may adjudicate the case immediately or set a date for the trial.

Article 144 When adjudicating a simple civil case, the basic people's court or its dispatched tribunal may, at any time, use simplified methods to summon the parties and witnesses.

Article 145 A simple civil case shall be tried by one judge alone and the trial of such cases shall not be restricted by the provisions of Articles 123, 125, and 128 of this Law.

Article 146 The people's court shall complete the adjudication of a case to which the summary procedure is applied within three months after the case is accepted.

## Chapter 14 Procedure of Second Instance

Article 147 If a party disagrees with a judgment rendered by a local people's court of first instance, he shall have the right to file an appeal with the people's court at the next higher level within 15 days from the date when the written judgment is served.

If a party disagrees with a ruling made by a local people's court of first instance, he shall have the right to file an appeal with a people's court at the next higher level within 10 days from the date when the written ruling is served.

Article 148 When filing an appeal, a motion of appeal shall be submitted. A motion of appeal shall include the names of all parties, the names of legal persons and their legal representatives, or the names of other organizations and their principal leading personnel; the name of the people's court where the case was originally tried, the docket number, and the cause of action; and the claims and reasons of appeal.

Article 149 A motion of appeal shall be submitted via the people's court that originally tried the case and the copies of the motion shall be prepared according to the number of people or representatives in the opposing party.

If a party appeals directly to a people's court of second instance, the court shall, within five days, transfer the motion of appeal to the people's court that originally tried the case.

Article 150 Within five days after receiving a motion of appeal, the people's court that originally tried the case shall deliver the copies of the motion of appeal to the appellee. After receiving the copies of the motion of appeal, the appellee shall submit its motion of defense within 15 days. The people's court shall, within five days from receiving the motion defense, deliver the copies of the motion of defense to the appellant. Failure by the appellee to submit a motion of defense shall not prevent the case from being adjudicated by the people's court.

After receiving the motion of appeal and the motion of defense, the people's court that originally tried the case shall, within five days, deliver them together with the entire case file and evidence to the people's court of second instance.

Article 151 A people's court of second instance shall review the facts and the law used in an appellate case.

Article 152 When handling an appellate case, the people's court of second instance shall form a collegial bench to adjudicate the case. After verifying the facts of the appellate case by consulting the files, making necessary investigations, and questioning the parties, if the collegial bench believes that it is not necessary to hold a trial, it may make a judgment or ruling without a trial.

A people's court of second instance may try an appellate case in its own courthouse or in the place where the case originated or where the people's court that originally tried the case is located.

Article 153 After hearing an appellate case, the people's court of second instance shall handle the case respectively according to the following circumstances:

(1) If the facts were clearly found and the law was correctly applied in the original judgment, the appeal shall be rejected by a judgment and the original judgment shall be sustained;

(2) If the law was incorrectly applied in the original judgment, the judgment shall be amended according to law;

(3) If in the original judgment the facts were incorrectly found or were not clearly found and the evidence was inconclusive, the judgment shall be rescinded and the case remanded by an order to the original people's court for a retrial, or the people's court of second instance may amend the judgment after investigating and clarifying the facts; or

(4) If in the original judgment a violation of the prescribed procedure may have affected the correctness of the judgment, the judgment shall be rescinded and the case remanded by an order to the original people's court for a retrial.

The parties may appeal against the judgment or ruling rendered in a retrial of their case.

Article 154 A people's court of second instance shall use rulings to rule on all appellate cases that appealed against the rulings made by the people's court of first instance.

Article 155 When adjudicating an appellate case, the people's court of second instance may offer mediation for the parties. If an agreement is reached through mediation, a mediation statement shall be made and signed by the adjudicating personnel and the court clerk, and the seal of the people's court shall be affixed to it. After the mediation statement has been delivered, the judgment rendered by the people's court that originally tried the case shall be considered rescinded.

Article 156 If an appellant requests to withdraw his appeal before the people's court of second instance pronounces its judgment, the court shall rule to approve or disapprove such a request.

Article 157 When a people's court of second instance adjudicates an appeal, it shall apply the ordinary procedure of first instance unless otherwise stipulated in this Chapter.

Article 158 The judgments and rulings of a people's court of second instance shall be final.

Article 159 When adjudicating an appeal from a judgment, the people's court shall make a final judgment within three months after the appeal was accepted for an adjudication of second instance. Any extension of the term necessitated by special circumstances shall be subject to the approval of the president of the court.

When adjudicating an appeal from a ruling, the people's court shall make a final ruling within 30 days after the case was accepted for an adjudication of second instance.

## Chapter 15 Special Procedure

### Section 1 General Stipulations

Article 160 When a people's court adjudicates cases concerning the credentials of voters, the declaration of a missing or dead person, the civil capacity of a citizen (incompetent or limited capacity in civil conduct), or the ownership of unclaimed property, the provisions of this Chapter shall be applicable. For matters not covered in this Chapter, the relevant provisions of this Law and other laws shall be applicable.

Article 161 For cases to be adjudicated according to the procedure stipulated in this Chapter, the system of one trial to conclude a case shall be applied. A collegial bench of judges shall be formed for the adjudication of any cases involving the credentials of voters, or any major, difficult, or complicated cases; and all the other kinds of cases shall be tried by one judge alone.

Article 162 If a people's court, while adjudicating a case according to the procedure stipulated in this Chapter, discovers that the case involves a dispute over civil rights and interests, it shall make a ruling to terminate the special procedure and inform the interested parties that they may bring a new lawsuit.

Article 163 When adjudicating a case to which special procedure is applied, the people's court shall conclude the adjudication within one month after the case is accepted or within one month from expiration of the term set forth in the public announcement. Any extension of the term necessitated by special circumstances shall be subject to the approval of the president of the court. However, this article does not apply to the adjudication of voters' credentials.

### Section 2 Cases Concerning the Credentials of Voters

Article 164 If citizens refuse to accept an election committee's decision on an appeal concerning the credentials of voters, they may, in five days before the election day, bring a lawsuit in the basic people's court located in their electoral districts.

Article 165 After a people's court has accepted a case concerning the credentials of voters, it must conclude the case before the election day.

The plaintiff, the representative of the election committee, and the relevant citizens shall participate in the proceedings.

The written judgment of the people's court shall be delivered to the election committee and the plaintiff before the election day, and the relevant citizens shall be notified of the judgment.



### Section 3 Cases Concerning the Declaration of Missing or Dead Persons

Article 166 Where a citizen whose whereabouts have been unknown for two years and the interested party pleads for the declaration of the person to be missing, the pleading shall be filed with the basic people's court in the locality where the missing person has his domicile.

The pleading shall clearly state the facts and time of the disappearance as well as the action requested, and documentary evidence from a public security organ or other relevant organs concerning the disappearance of the citizen shall be appended.

Article 167 Where a citizen whose whereabouts have been unknown for four years or whose whereabouts have been unknown for two years after an accident in which he was involved, or whose whereabouts have been unknown after an accident in which he was involved and whose surviving chance is impossible based on the evaluation of a relevant authority, and if the interested party pleads for the declaration of the citizen to be dead, the pleading shall be filed with the basic people's court in the locality where the missing person has his domicile.

The pleading shall clearly state the facts and time of the disappearance as well as the action requested, and documentary evidence from a public security organ or other relevant organs concerning the disappearance of this citizen shall be appended.

Article 168 After accepting a case concerning a declaration of a missing or dead person, the people's court shall issue a public announcement to search for the missing person. The time period to declare a person is missing shall last for three months, and the time period to declare a person is dead shall last for one year. Where a citizen's whereabouts have been unknown after an accident in which he was involved and his surviving chance is impossible based on the evaluation of a relevant authority, the time limit to declare such a person is dead shall be three months.

Upon the expiration of the time period for the public announcement, the people's court shall, depending on whether the facts about the missing or death of a person can be confirmed, make a judgment to declare the person is missing or dead, or make a judgment to reject such a pleading.

Article 169 Should a citizen who was declared as a missing or dead person by a people's court reappear, the people's court shall, upon the application of that person or an interested party, make a new judgment to nullify the previous one.

### Section 4 Cases Concerning the Determination of Citizens' Capacities in Civil Conducts

Article 170 A pleading for determining if a citizen has limited capacity or does not have capacity in civil conduct shall be filed by the citizen's close relatives or any other interested party with the basic people's court in the locality where the citizen has his domicile.

The pleading shall clearly state the facts and grounds on which the citizen's incompetence or limited capacity in civil conducts is claimed.

Article 171 After accepting such a pleading, the people's court shall, when necessary, appoint an expert to perform an evaluation on the citizen whom is pleaded to have incompetent or limited capacity in civil conducts; if the petitioner has already provided an evaluation conclusion, the people's court shall review the conclusion.

Article 172 When a people's court adjudicates a case to determine if a citizen has incompetent or with limited capacity in civil conduct, a close relative of the citizen shall be the litigation representative unless he is also the petitioner. If none of the close relatives are willing to assume the responsibility as the litigation representative, the people's court shall appoint one of them as a litigation representative for the citizen. If the citizen's state of health permits, the people's court may also question the citizen.

If the people's court is convinced, after adjudication, that the pleading is based on facts, it shall make a judgment to determine the citizen has incompetent or limited capacity in civil conduct; if the court finds that the pleading is not based on facts, it shall make a judgment to reject the plead.

Article 173 Based on a pleading filed by a person who was found to have incompetent or limited capacity in civil conduct or filed by his guardian, if the people's court finds that the causation that makes the person to have incompetent or limited capacity in civil conduct has disappeared, it shall make a new judgment to nullify the previous one.

#### Section 5 Cases Concerning the Determination of Ownerless Property

Article 174 A petition for determining a property to be ownerless shall be filed by a citizen, legal person, or an organization with the basic people's court located in the place where the property is located.

The petition shall clearly state the type and quantity of the property and the grounds on which the petition for determining the property to be ownerless is filed.

Article 175 After accepting such a petition, the people's court shall review and verify the petition and then issue a public announcement to see if anyone would claim the property. If no one claims the property for a year after the public announcement was issued, the people's court shall make a judgment to declare the property is ownerless and turn the property over to the treasury of the state or a collective unit.

Article 176 After a property was determined by a judgment to be ownerless, if the owner of the property or his successor emerges, he may claim the property within the statutory limitation proscribed in the General Principle of Civil Law, the people's court shall, after examination and verification, make a new judgment to nullify the previous one.

## Chapter 16 Procedure of Adjudication Supervision

Article 177 If the president of a people's court at any level finds some definite errors in a legally effective judgment or ruling rendered by his court and deems it is necessary to have the case re-adjudicated, he shall refer the case to the adjudication committee for discussion and decision.

If the Supreme People's Court finds some definite errors in a legally effective judgment or rulings rendered by a local people's court at any level, or if a people's court at a higher level finds some definite errors in a legally effective judgment or ruling of a people's court at a lower level, the Supreme People's Court or the people's court at the higher level shall have the power to bring the case up to be re-adjudicated by itself or direct the people's court at a lower level to conduct a re-adjudication.

Article 178 If a party considers that a legally effective judgment or ruling has some errors, he may petition the people's court at the next higher level for retrial; however, the enforcement of the judgment or ruling shall not be suspended.

Article 179 If a petition for retrial made by a party involves any of the following circumstances, the people's court shall retry the case:

- (1) There is new evidence which is conclusive enough to overrule the original judgment or ruling;
- (2) The main evidence used in the original judgment or ruling to find the facts was insufficient;
- (3) The main evidence used in the original judgment or ruling to find the facts was forged;
- (4) The main evidence used in the original judgment or ruling to find the facts was not cross-examined;
- (5) Any party to a lawsuit is unable to obtain the evidence necessary for adjudicating the case because of some realistic reasons and has applied to the people's court for investigation and collection of such evidence in writing, but the people's court fails to investigate and collect such evidence;
- (6) There was an error in the application of the law in the original judgment or ruling;
- (7) The jurisdiction was in violation of legal provisions and was improper;
- (8) The trial organization was unlawfully formed or the adjudicators that should withdraw have not done so;
- (9) The person incapable of action is not represented by a legal agent, or the party that should participate in the litigation failed to do so because of the reasons not attributable to himself or his legal agent;
- (10) The party's right to debate was deprived of in violation of the law;
- (11) The default judgment in the absence of the party was made whereas that party was not served with summons;
- (12) Some claims were omitted or exceeded in the original judgment or ruling; or
- (13) The legal document on which the original judgment or ruling was made is cancelled or revised.

With respect to a violation of the legal procedure by a people's court that may have affected the correctness of the judgment or ruling in the case or the situation that adjudicating personnel involved themselves in any conduct of embezzlement, bribery, practicing favoritism for himself or relatives, or twisting the law in rendering judgment, the people's court shall retry the case.

Article 180 A party that applies for retrial shall submit a retrial petition and other materials. The people's court shall, within five days after receiving the retrial petition, serve the duplicate of the retrial petition on the opposing party. The opposing party shall submit written opinions within 15 days after receiving the duplicate of the retrial petition; and the failure to submit written opinions will not affect the review by the people's court. The people's court may require the applicant and the opposing party to supplement relevant matters and may inquire about relevant matters.

Article 181 The people's court shall review a retrial petition within three months after receiving it, and rule to retry the case if the retrial petition is under any of the circumstances specified in Article 179 of this Law; or rule to reject the petition if the retrial petition is not under any of the circumstances specified in Article 179 of this Law. Where an extension of the term is necessary for special circumstances, it shall be subject to the approval of the president of the court.

If a case is ruled to be retried upon application of a party involved, the case shall be retried by an intermediate people's court or a people's court at a higher level. If a case is ruled to be retried by the Supreme People's Court or a higher people's court, the case shall be retried by the court that ruled the retrial or any other people's court, or may be retried by the people's court that originally tried the case.

Article 182 For a legally effective mediation statement, if evidence provided by a party proves that the mediation violates the principle of voluntariness and the content of the mediation statement is in violation of the law, the party may plead for a re-adjudication. The people's court shall, upon examination and verification, re-adjudicate the case.

Article 183 For a legally effective judgment on dissolution of marriage, no party shall apply for a re-adjudication.

Article 184 Any retrial petition by a party shall be made within two years after the judgment or ruling becomes legally effective; or be made within three months after the party has known or should know that the legal document on which the original judgment or ruling was made is cancelled or revised or that the adjudicating personnel were involved in any conduct of embezzlement, bribery, practicing favoritism for himself or relatives, or twisting the law in rendering judgment after two years.

Article 185 When a decision is made to retry a case according to the procedure of adjudication supervision, the enforcement of the original judgment shall be ordered to be suspended. The order shall be signed by the president of the court, and the seal of the people's court shall be affixed to it.

Article 186 For a case to be retried by a people's court according to the procedure of adjudication supervision, if the legally effective judgment or ruling was made by a court of first instance, the case shall be retried according to the procedure of first instance, and the parties may appeal against the new judgment or ruling; if the legally effective judgment or ruling was made by a court of second instance, it shall be retried according to the procedure of second instance, and the new judgment or ruling shall be legally effective; if it is a case that was brought up for a retrial by a people's court at a higher level, it shall be retried according to the procedure of second instance, and the new judgment or ruling shall be legally effective.

The people's court shall, in retrying a case, form a new collegial bench.

Article 187 If the Supreme People's Procuratorate discovers that a legally effective judgment or ruling made by a people's court at any level, or if a people's procuratorate at a higher level discovers that a legally effective judgment or ruling made by a people's court at a lower level, involves any of the circumstances specified in Article 179 of this Law, the Supreme People's Procuratorate or the people's procuratorate at a higher level shall respectively file a protest.

If a local people's procuratorate at any level discovers that a legally effective judgment or ruling made by a people's court at the same level involves any of the circumstances specified in Article 179 of this Law, the people's procuratorate shall ask the people's procuratorate at a higher level to file a protest with the people's court at the same level.

Article 188 With respect to a case protested by a people's procuratorate, the people's court that has accepted the protest shall render a ruling for retrial within 30 days after receiving the protest; and a case under any of the circumstances specified in Items (1) up to (5) of Paragraph 1 of Article 179 of this Law may be retried by the people's court at the next lower level.

Article 189 When the people's procuratorate decides to file a protest against a judgment or ruling made by a people's court, it shall produce a motion of protest.

Article 190 When a people's court hears a case protested by a people's procuratorate, the court shall notify the people's procuratorate to send personnel to the court.

## Chapter 17 Procedure for Hastening Debt Recovery

Article 191 When a creditor requests his debtor to repay money or negotiable instrument, he may plead the basic people's court that has jurisdiction to issue a warrant for payment if the following requirements are met:

- (1) The creditor and the debtor are not involved in other debt disputes; and
- (2) The warrant for payment can be served on the debtor.

The pleading shall clearly state the requested amount of money or quantity of negotiable instrument and the facts and evidence on the basis of which the request is made.

Article 192 After a creditor files his pleading, the people's court shall, within five days, inform the creditor whether his pleading is accepted.

Article 193 After accepting such a pleading, the people's court shall, upon examination of the facts and evidence provided by the creditor, if the relationship of the creditor's rights and the debtor's obligations is definite and legitimate, issue a warrant for payment to the debtor within 15 days from accepting the pleading. If the pleading is untenable, the people's court shall make a ruling to dismiss it.

The debtor shall, within 15 days from the receipt of the warrant for payment, pay off his debts or submit a written objection to the people's court.

If the debtor has neither submitted an objection nor complied with the warrant for payment within the time limit specified in the preceding paragraph, the creditor may ask the people's court to enforce the warrant.

Article 194 The people's court shall, upon receiving the written objection submitted by the debtor, make a ruling to stop the procedure for supervising debt collection and the warrant for payment shall be invalidated automatically. However, the creditor may then file a lawsuit.

## Chapter 18 Procedure of Public Summon

Article 195 An owner of a transferable negotiable instrument according to regulations may, if the instrument is stolen, lost, or missing, plead the basic people's court located in the place where the instrument to be paid to issue a public summon. The provisions of this Chapter shall also be applicable to other matters related to public summon according to legal provisions.

Anyone who applies for a public summon shall submit to the people's court an application which shall clearly state the main contents of the bill such as the face value, the issuer, the holder, the endorser, and the grounds and facts on which the application is made.

Article 196 The people's court shall, upon deciding to accept the pleading, notify the payer to suspend the payment, and within three days, issue a public summon to invite the interested parties to claim their rights or interests. The time limit of the public summon shall be at the discretion of the people's court, however, it shall not be less than sixty days.

Article 197 The payer shall, upon receiving the notification of payment suspension issued by a people's court, suspend the payment till the conclusion of the procedure of public summon.

Within the time limit of a public summon, any act to transfer the rights of the disputed instrument shall have no legal effects.

Article 198 Any interested parties shall plead the people's court for asserting their claims within the time limit of a public summon.

After receiving a pleading of an interested party for asserting his claims, the people's court shall make a ruling to conclude the procedure of the public summon to invite the interested parties to assert their claims and notify the applicant and the payer.

The applicant or the claimant may institute a lawsuit in the people's court.

Article 199 If no one asserts a claim, the people's court shall make a judgment on the basis of the petition to declare the negotiable instrument null and void. The judgment shall be announced in a public notice, and the payer of the bill shall be notified of the judgment. As of the date of the public notice, the applicant shall be entitled to claim payment from the payer.

Article 200 If an interested party for a legitimate reason was unable to plead the people's court for asserting his claim before the judgment was made, he may, within one year from the day he knew or should have known of the public notice of the judgment, file a lawsuit in the people's court that made the judgment.

### Part Three Procedure of Enforcement

#### Chapter 19 General Stipulations

Article 201 Legally effective judgments or rulings of civil cases and the parts of judgments or rulings related to property in criminal cases shall be enforced by the people's court of first instance or the people's court at the same level where the property that is to be enforced is located.

Other legal documents that are to be enforced by a people's court as prescribed by law shall be enforced by the people's court located in the place where the person to be enforced has his domicile or where the property that is subject to the enforcement is located.

Article 202 If a party or any interested party considers that the enforcement is in violation of legal provisions, it may raise a written objection to the people's court in charge of the enforcement. If a party or any interested party raises a written objection, the people's court shall review the written objection within 15 days after receiving it. If the objection is tenable, the people's court shall rule to cancel or correct the enforcement; and if the objection is untenable, the people's court shall rule to reject the objection. If a party or any interested party is not satisfied with the ruling, it may apply for reconsideration to the people's court at the next higher level within 10 days after the ruling is served.

Article 203 If the people's court fails to make enforcement within six months after receiving the application for enforcement, the person who has applied for the enforcement may apply for enforcement to the people's court at the next higher level. Upon review, the people's court at the next higher level may order the original people's court to make enforcement within a specified period of time, or may decide to make enforcement by itself or direct any other people's court to make enforcement.

Article 204 If, during the course of enforcement, a person who is not involved in the case raises a written objection to the subject matter of the enforcement, the people's court shall review the written objection within 15 days after receiving it. If the objection is tenable, the people's court shall rule to suspend the enforcement on the subject matter; and if the objection is untenable, it shall be rejected. If a person who is not involved in the case or a party involved is not satisfied with the ruling and considers that there is an error in the original judgment or ruling, it shall be dealt with according to the procedure of adjudication supervision; and if a written objection is irrelevant to the original judgment or ruling, the relevant party may file a lawsuit with the people's court within 15 days after the ruling is served.

Article 205 The enforcement shall be carried out by the enforcement officer.

In carrying out a compulsory enforcement measure, the enforcement officer shall show his credentials. After the enforcement is completed, the enforcement officer shall make a written record for the particulars of the enforcement, and have it signed or sealed by the persons concerned on the scene.

The people's court may, when necessary, establish executive organs.

Article 206 If a person or property to be subject to enforcement is in another locality, the people's court in that locality may be entrusted to enforce the enforcement. The entrusted people's court shall begin the enforcement within 15 days after receiving a power of attorney and shall not refuse to do so. After the enforcement has been completed, the entrusted people's court shall promptly inform the entrusting people's court with the result of the enforcement by writing. If the enforcement has not been completed within 30 days, the entrusted people's court shall also inform the entrusting people's court with the particulars of the enforcement by writing.

If the entrusted people's court fails to enforce the enforcement within 15 days after receiving the power of attorney, the entrusting people's court may request the people's court at a higher level of the entrusted people's court to instruct the entrusted people's court to enforce the enforcement.

Article 207 If, during the course of enforcement, both disputing parties reconcile themselves and reach a settlement agreement on their own initiative, the enforcement officer shall make a written record of the terms of the settlement and have both parties affix their signatures or seals onto the record.



If one party fails to fulfill the settlement agreement, the people's court may, at the request of the other party, resume the enforcement according to the original and effective legal document.

Article 208 During the course of enforcement, if the person to be enforced provides a surety, the people's court may, with the consent of the person who has applied for the enforcement, decide to postpone the enforcement or defer the time limit for the enforcement. If the person to be enforced fails again to perform his duty within the new time limit, the people's court shall have the power to enforce the guaranteed property of the person to be enforced or the property of the guarantor.

Article 209 If the citizen to be enforced dies, his debts shall be paid off from his estate; if a legal person or any other organization to be subject to enforcement is terminated, the party that succeeds to its rights and obligations shall fulfill the obligations.

Article 210 After an enforcement has been enforced according to a judgment, ruling, or legal document, if a definite error is discovered in such a judgment, ruling, or legal document and therefore such a judgment, ruling, or legal document has been revoked by a people's court, the people's court shall, with respect to the property which has been enforcement, make a ruling to order the person who has received the enforcement property to return the property. If he refuses to return the property, a compulsory enforcement shall be enforced on him.

Article 211 The provisions of this Part shall be applicable to the enforcement of a mediation agreement drawn up by a people's court.

## Chapter 20 Application and Referral of Enforcement

Article 212 All the parties shall comply with a legally effective judgment or ruling in a civil case. If a party refuses to comply, the other party may apply to the people's court for enforcement, or the judge may refer the matter to an enforcement officer for enforcement.

All the parties shall also comply with a mediation agreement or other legal documents that are to be enforced by a people's court. If a party refuses to comply, the other party may apply to the people's court for enforcement.

Article 213 If a party fails to comply with an award made by an arbitration institution that was established according to law, the other party may apply for enforcement to the people's court which has jurisdiction over the case. The applied people's court shall enforce the award.

If the party whom the application of enforcement is filed against provides evidence to prove that the arbitration award involves any of the following circumstances, the people's court shall, after examination and verification by a collegial bench, rule to revoke the enforcement of the arbitration award:

(1) Where the parties have not stipulated an arbitration clause in the contract or have not

subsequently reached a written agreement on arbitration;

- (2) Where the matters being arbitrated exceed the scope of the arbitration agreement or the authority of the arbitration agency;
- (3) Where the formation of an arbitration tribunal or the procedure of arbitration is not in conformity with the legal procedure;
- (4) Where the main evidence for finding the facts is insufficient;
- (5) Where there is an error in the application of the law; or
- (6) Where the arbitrators involved in any of conducts of embezzlement, bribery, practicing favoritism for himself or relatives, twisting the law in rendering arbitration award.

If a people's court determines that the enforcement of an arbitration award would contradict the social and public interest, it shall make a ruling of not to enforce the award.

The above-mentioned order shall be served on both parties and the arbitration agency.

Where an arbitration award is ruled by a people's court not to be enforced, the parties may, according to the written arbitration agreement reached by them, apply to the arbitration agency for a new arbitration or bring a lawsuit to a people's court.

Article 214 If a party fails to comply with a certificate of obligation enforcement by a notary office according to law, the other party may apply to the people's court that has the jurisdiction over the case for the enforcement of the obligation and the applied people's court shall enforce such an obligation.

If a people's court discovers a definite error in a notarized certificate of obligation, the people's court shall make a ruling not to enforce the obligation and serve the letter of the ruling to the both parties and the notary office.

Article 215 The time limit for the submission of an application for enforcement shall be two years. The suspension or termination of the time limit for the submission of an application for enforcement shall be governed by the provisions on the suspension or termination of the statute of limitation.

The time limit prescribed in the preceding paragraph shall be calculated from the last day of the period specified by a legal document for its performance. If a legal document specifies an installment performance, the time limit shall be calculated from the last day of the period specified for each installment of performance. If a legal document does not specify the period of performance, the time limit shall be calculated from the day when the legal document takes effects.

Article 216 An enforcement officer shall, after receiving the application for enforcement or the writ of referral of enforcement, send an enforcement notice to the person to be enforced, instructing him to comply with the enforcement within the specified time limit. If the person fails to comply with the enforcement within the time limit, a compulsory enforcement shall be enforced.

If a person to be enforced fails to fulfill the obligations specified in a legal document and may hide or transfer his property, the enforcement officers may take the compulsory enforcement measure immediately.

## Chapter 21 Enforcement Measures

Article 217 If a person to be enforced fails to fulfill the obligations specified in a legal document as instructed by the enforcement notice, he shall report his property situation for the time being and one year before he has received the enforcement notice. If a person to be enforced refuses to report his property situation or makes a false report, the people's court may, based on the circumstances, impose a fine or detention on the person to be enforced, his legal representative or the principal leading personnel of the unit or the person directly responsible.

Article 218 If a person to be enforced fails to fulfill the obligations specified in a legal document as instructed by the enforcement notice, the people's court shall have the power to make inquiries to the banks, credit unions or other units that deal with saving deposits about the savings deposited by the person subject to the enforcement, and shall also have the power to freeze and appropriate the savings deposited by the person subject to the enforcement, however, the inquiry, freeze, or appropriation of the deposits shall not exceed the scope of the obligation that the person subject to the enforcement should fulfill.

A people's court shall make a ruling to freeze or appropriate a deposit and issue a notice for assisting the enforcement. The banks, credit unions, or other units that deal with saving deposits shall comply with the notice.

Article 219 If a person to be enforced fails to fulfill the obligations specified in a legal documents instructed by an enforcement notice, the people's court shall have the power to withhold or withdraw the portion of his income to fulfill his obligation. However, the court shall leave the necessary living expenses for the person and his dependent family members.

A people's court shall make a ruling to withhold or withdraw a person's income and issue a notice for assisting the enforcement. The unit for which the person to be enforced works, banks, credit unions, or other units that deal with savings deposits shall comply with the notice.

Article 220 If a person to be enforced fails to fulfill his obligation specified in a legal document instructed by the enforcement notice, the people's court shall have the power to seize, detain, freeze, auction, or sell the portion of his property in order to fulfill his obligations. However, the court shall leave the articles of daily necessity used by the person and his dependent family members.

The people's court shall make a ruling in order to take the measures specified in the preceding paragraph.

Article 221 When a people's court seizes or detains a property, if the person to be enforced is a citizen, the court shall notify the person or an adult member of his family to appear on the scene; if the person to be enforced is a legal person or another organization, the court shall notify its legal representatives or the principal leading personnel to appear on the scene. Their refusal to appear on the scene shall not prevent the enforcement. If a person to be enforced is a citizen, his unit or the basic-level organization in the place where his property is located shall send someone to the scene.

An inventory of the seized or detained property shall be made by the enforcement officer and, after the inventory has been signed or sealed by the persons on the scene, a copy of the inventory shall be given to the person subject to the enforcement. If the person subject to the enforcement is a citizen, a copy of the inventory may also be given to an adult member of his family.

Article 222 The enforcement officer may ask the person to be enforced to safeguard the seized property. The person who is subject to enforcement shall be held responsible for any losses incurred due to his fault.

Article 223 After a property has been seized or detained, the enforcement officer shall order the person to be enforced to fulfill, within the prescribed time limit, the obligations specified in a legal document. If the person fails to fulfill his obligations within the prescribed time limit, the people's court may, according to relevant regulations, ask the relevant units to auction or sell the seized or detained property. The articles that are prohibited from free trading by the state shall be purchased by the relevant units at the price fixed by the state.

Article 224 If a person to be enforced fails to fulfill his obligations specified in a legal document and conceals his property, the people's court shall have the power to issue a search warrant and search his domicile or the place where the property may be concealed.

The adoption of the measures mentioned in the preceding paragraph shall be subject to a search warrant signed by the president of the people's court.

Article 225 The delivery of property or negotiable instrument specified in a legal document shall be conducted in the presence of both parties summoned by the enforcement officer or the enforcement officer may deliver the property or the negotiable instrument to the recipient. The recipient of the property or the negotiable instrument shall sign a receipt.

Any unit that holds the property or negotiable instruments to be enforced shall pass it on according to the enforcement assistance notice issued by the people's court and the recipient shall sign a receipt.

If any citizen holds the property or negotiable instruments to be enforced, the people's court shall notify him to relinquish them. If he refuses to do so, a compulsory enforcement may be enforced.

Article 226 For a compulsory eviction from a building or a plot of land, the president of a people's court shall sign and issue a public announcement to order the person to be enforced to perform his obligations within a designated period of time. If the person fails to do so within the designated time, a compulsory enforcement may be enforced by the enforcement officer.

When a compulsory enforcement is being enforced, if the person subject to the enforcement is a citizen, the person or an adult member of his family shall be notified to be present on the scene; if the person subject to the enforcement is a legal person or any other organization, its legal representatives or principal leading personnel shall be notified to be present on the scene; their refusal to be present shall not stop the enforcement. If the person to be enforced is a citizen, his work unit or the basic-level organization in the locality of the building or the plot of land to be enforcement shall send people to participate in the enforcement. The enforcement officer shall make a written record of the particulars of the compulsory enforcement, and the people on the scene shall affix their signatures or seals to the record.

The people's court shall assign personnel to transport the properties involved in a compulsory eviction from a building to a designated location and deliver them to the person to be enforced or to an adult member of his family; if any loss is incurred due to the person's refusal to accept the properties, he shall be liable for the loss.

Article 227 During the course of enforcement, if some formalities to transfer the certificates of titles need to be done, the people's court may issue an enforcement assistance notice to relevant units and these units shall comply with the notice.

Article 228 If a person to be enforced fails to fulfill his obligations prescribed in a judgment, ruling, or any other legal document as instructed by the notice of enforcement, the people's court may conduct a compulsory enforcement or entrust a relevant unit or other persons to carry out the enforcement and the person subject to the enforcement shall bear the expenses thus incurred.

Article 229 If a person to be enforced fails to fulfill his obligations of paying money within the time limit specified by a judgment, ruling, or any other legal documents, he shall pay a multiplied interest for the debt based on the default time. If the person subject to the enforcement fails to fulfill his other obligations within the time limit specified by a judgment, ruling, or any other legal documents, he shall pay a surcharge for the deferred performance.

Article 230 After a people's court adopts an enforcement measure stipulated in Articles 118, 119, and 120 of this Law, if the person subject to the enforcement is still unable to pay debts, he shall continue to fulfill his obligations. Once the creditor discovers that the person subject to the enforcement has other properties, the creditor may at any time apply to the people's court for an enforcement of these properties.

Article 231 If a person to be enforced fails to fulfill the obligations specified in a legal document, the people's court may adopt or notify relevant units to assist to adopt the measure of restricting the exit, making records on the credit system, making public the information about nonperformance of duty through public media or any other measure stipulated by law.

## Chapter 22 Suspension and Termination of Enforcement

Article 232 Under any of the following circumstances, the people's court shall make a ruling to suspend the enforcement:

- (1) The applicant indicates that the enforcement may be postponed;
- (2) A person not involved in the case raises a justified objection to the subject matter of the enforcement;
- (3) A citizen as one of the parties dies and it is necessary to wait for an heir to inherit the rights of the deceased or to succeed his obligations;
- (4) A legal person or any other organization as one of the parties ceases its existence, and the person succeeding to its rights and obligations has not been determined; or
- (5) Other circumstances that the people's court deems the enforcement should be suspended.

Enforcement shall be resumed when the circumstances that caused the suspension of enforcement have disappeared.

Article 233 Under any of the following circumstances, the people's court shall make a ruling to terminate the enforcement:

- (1) The applicant has withdrawn his application of enforcement;
- (2) The legal document on which the enforcement is based has been repealed;
- (3) The citizen to be enforced dies and there is no estate to be enforced and no one to succeed his obligations;
- (4) The person who is entitled to alimony or supports for children or elders dies;
- (5) The citizen to be enforced is too poor to repay his debts, has no source of income, and loses his ability to work; or
- (6) Other circumstances that the people's court deems the enforcement should be concluded.

Article 234 A ruling to suspend or terminate the enforcement shall become effective immediately after being served on the parties concerned.

## Part Four Special Provisions of the Civil Procedures Involving Foreign Elements

### Chapter 23 General Principles

Article 235 The provisions of this Part shall be applicable to any civil litigation involving foreign elements within the territory of the People's Republic of China. Where it is not covered by the provisions of this Part, other relevant provisions of this Law shall apply.

Article 236 If an international treaty concluded or acceded to by the People's Republic of China contains provisions differing from those found in this Law, the provisions of the international treaty shall apply, unless the provisions are the ones on which China has announced reservations.

Article 237 Any civil lawsuits brought against a foreign national, a foreign organization, or an international organization that enjoys diplomatic privileges or immunities shall be dealt with according to the relevant laws of the People's Republic of China and with the international treaties concluded or acceded to by the People's Republic of China.

Article 238 A people's court shall use the spoken and written languages commonly used in the People's Republic of China to adjudicate civil cases involving foreign elements. Translation may be provided at the request of the parties concerned and the expenses of the translation shall be borne by the requesting parties.

Article 239 When foreign nationals, stateless persons, or foreign enterprises or organizations need to appoint lawyers for filing or respond to a lawsuit in a people's court, they shall appoint the lawyers of the People's Republic of China only.

Article 240 Any power of attorney mailed or forwarded from outside the territory of the People's Republic of China by a foreign national, stateless person, or a foreign enterprise or organization that has no domicile in the People's Republic of China to appoint a lawyer or any other person of the People's Republic of China as an litigation representative must be authenticated by a notary office in the country where that person, enterprise, or organization has domicile and confirmed by the Chinese embassy or consulate stationed in that country or shall go through the notary formalities stipulated in the relevant bilateral treaties between China and that country before the power of attorney becomes effective.

## Chapter 24 Jurisdiction

Article 241 A lawsuit brought against a defendant who has no domicile in the People's Republic of China concerning a contract dispute or other disputes over property rights and interests, if the contract is signed or performed within the territory of the People's Republic of China, or the object of the action is within the territory of the People's Republic of China, or the defendant has detainable property within the territory of the People's Republic of China, or the defendant has its representative agency, branch, or business agent within the territory of the People's Republic of China, may be under the jurisdiction of the people's court located in the place where the contract is signed or performed, the subject of the action is located, the defendant's detainable property is located, the infringing act takes place, or the representative agency, branch or business agent is located.

Article 242 The parties to a disputed contract involving foreign elements or the parties having disputes over property rights and interests involving foreign elements may reach a

written agreement to choose the people's court located in the place that has actual connections with their disputes as the court to adjudicate their disputes. If a people's court of the People's Republic of China is chosen as the court having the jurisdiction, such a jurisdiction shall not contravene with the stipulations on the jurisdictions by level or the exclusive jurisdiction proscribed in this Law.

Article 243 If the defendant in a civil litigation involving foreign elements raises no objection to the jurisdiction of a people's court and files his defense with the court, he shall be deemed to have accepted that this people's court has jurisdiction over the case.

Article 244 Lawsuits brought for disputes arising from the performance of contracts for Chinese-foreign equity joint ventures, Chinese-foreign contractual joint ventures, or Chinese-foreign cooperative exploration and development of the natural resources in the People's Republic of China shall be under the jurisdiction of the people's courts of the People's Republic of China.

## Chapter 25 Service and Time Periods

Article 245 A people's court may serve litigation documents to a party who has no domicile within the territory of the People's Republic of China by the following methods:

- (1) By the method specified in the international treaties concluded or acceded to by both the People's Republic of China and the country where the recipient of service resides;
- (2) Through diplomatic channels;
- (3) By entrusting the service to the embassy or consulate of the People's Republic of China stationed in the country where the recipient of service resides;
- (4) Through the litigation representative who is empowered by the recipient of service to receive the service for it;
- (5) Through the party's representative agency, branch, or business agent whom are authorized to receive the service within the territory of the People's Republic of China;
- (6) Via postal service if the law of the country where the recipient of service resides permits serving litigation documents via postal service; in the event that no receipt is returned in six months after the date on which the document was posted, but various circumstances justify the assumption that it has been served, the service shall be deemed completed upon the expiration of the time limit; or
- (7) By public announcement if none of the above-mentioned methods can be employed and the service shall be considered completed in six months after the date when the public announcement was issued.

Article 246 If a defendant has no domicile in the People's Republic of China, the people's court shall serve a copy of the motion of complaint on the defendant and notify him to file his motion of defense within 30 days after he receives the copy of the motion of complaint. Any extension of the time requested by the defendant shall be at the discretion of the people's court.

Article 247 If any party who has no domicile in the People's Republic of China is dissatisfied with a judgment or ruling made by a people's court of first instance, he shall



have the right to file an appeal within 30 days from the date the written judgment or ruling is served. The appellee shall forward his motion of defense within 30 days after he has received a copy of the motion of appeal. If a party is unable to file an appeal or forward a motion of defense within the period of time prescribed by law and therefore requests an extension of the period, the people's court shall decide to approve or disapprove the request.

Article 248 The time period for handling a civil case involving foreign elements by the people's court shall not be limited by the provisions of Article 135 and 159 of this Law.

## Chapter 26 Property Preservation

Article 249 The parties may, according to the provisions of Article 92 of this Law, apply to the people's court for property preservation.

The interested parties may, according to the provisions of Article 94 of this Law, apply to the people's court for property preservation before a lawsuit is brought.

Article 250 After a people's court rules to grant a request for property preservation before litigation, the applicant shall bring a lawsuit within 30 days. If he fails to bring a lawsuit within the time limit, the people's court shall cancel the property preservation.

Article 251 After a people's court rules to grant a request for property preservation, if a surety is provided by the person against whom application for the property preservation is made, the people's court shall cancel the property preservation.

Article 252 If an application is wrongfully made, the applicant shall compensate the person against whom the application is made for losses incurred by the property preservation.

Article 253 If a property preserved by a people's court needs to be kept under surveillance, it shall notify the unit concerned to be responsible for the surveillance, and the person against whom the application is made shall bear the expenses thus incurred.

Article 254 A ruling to cancel the preservation issued by a people's court shall be carried out by an enforcement officer.

## Chapter 27 Arbitration

Article 255 For disputes involving foreign economic, trade, transport, or maritime activities, if the parties have stipulated clauses on arbitration in their contracts or have subsequently reached written agreements on arbitration, they shall submit such disputes for arbitration to the foreign-affair arbitration institutions of the People's Republic of China and shall not bring lawsuits in a people's court.

If the parties have not stipulated clauses on arbitration in the contract or have not subsequently reached a written agreement on arbitration, they may file a lawsuit in a people's court.

Article 256 If a party applies for the adoption of property preservation measure, the foreign-affair arbitration institution of the People's Republic of China shall submit the party's application to the intermediate people's court located in the place where the person against whom the application for the property preservation is filed has his domicile or where the person's property is located.

Article 257 If one party fails to comply with the award made by a foreign-affair arbitration institution of the People's Republic of China, the other party may apply for the enforcement of the award to the intermediate people's court located in the place where the person against whom the application for the enforcement is made has his domicile or where the property of the person is located.

Article 258 If a defendant provides evidence to prove that the arbitration award made by a foreign-affair arbitration institution of the People's Republic of China involves any of the following circumstances, the people's court shall, after examination and verification by a collegial bench, rule to disallow the enforcement of the award:

- (1) The parties have not stipulated any clause regarding arbitration in their contract or have not subsequently reached a written agreement on arbitration;
- (2) The defendant is not duly notified of the appointment of the arbitrators or the arbitration proceeding, or the defendant fails to express his defense due to the reasons for which he is not held responsible;
- (3) The formation of the arbitration panel or the arbitration procedure is not in conformity with rules of arbitration; or
- (4) The matters decided by arbitration exceed the scope of the arbitration agreement or the authority of the arbitration institution.

If a people's court determines that the enforcement of an award will violate the social and public interest, the court shall make a ruling to disallow the enforcement of the arbitration award.

Article 259 If the enforcement of an arbitration award is disallowed, the parties may reach a written agreement on arbitration to re-submit their dispute for a new arbitration or file a lawsuit in a people's court.

## Chapter 28 Judicial Assistance

Article 260 According to the international treaties concluded or acceded to by the People's Republic of China or the principle of reciprocity, the people's courts of China and foreign courts may request each other's assistance in the service of legal documents, the investigation and collection of evidence, or other litigation actions.

If any matter requested by a foreign court for assistance would impair the sovereignty, security, or social and public interests of the People's Republic of China, the people's court shall refuse the request.

Article 261 A request for providing of judicial assistance shall be conducted through channels stipulated in the international treaties concluded or acceded to by the People's Republic of China; if there is no treaty regarding judicial assistance between China and the foreign country, such a request may be made through diplomatic channels.

A foreign embassy or consulate to the People's Republic of China may serve legal documents to its citizens or conduct the investigation and collection of evidence on its citizens with the conditions of no laws of the People's Republic of China to be violated and no compulsory measures to be taken.

Except for the circumstances proscribed in the preceding paragraph, no foreign organ or individual may, without obtaining an approval from the relevant authorities of the People's Republic of China, serve documents or conduct any investigation and collection of evidence within the territory of the People's Republic of China.

Article 262 A letter of request for judicial assistance and its annexes submitted by a foreign court to a people's court shall be appended with Chinese translations or the texts in the language specified in the relevant international treaty.

A letter of request and its annexes submitted to a foreign court by a people's court for judicial assistance shall also be appended with the translations in the language of the country or the texts in the language specified in the relevant international treaty.

Article 263 The judicial assistance provided by the people's courts shall be carried out according to the procedure stipulated by the laws of the People's Republic of China. If a foreign court request for judicial assistance to be conducted in a special method, it may be conducted as requested as long as the special method does not violate any laws of the People's Republic of China.

Article 264 If a party applies for enforcement of a legally effective judgment or ruling made by a people's court and the party subject to the enforcement or its property is not within the territory of the People's Republic of China, the applicant may directly apply for the recognition and enforcement of the judgment or ruling to the foreign court that has jurisdiction over the case, or have the people's court request a foreign court to recognize and enforce the judgment or ruling according to the relevant provisions of the international treaties concluded or acceded to by China or on the principle of reciprocity.

If a party applies for the enforcement of a legally effective arbitration award made by a foreign-affair arbitration institution of the People's Republic of China and the party subject to the enforcement or its property is not within the territory of the People's Republic of China, the applicant may directly apply for the recognition and enforcement of the arbitration award to the foreign court that has jurisdiction over the case.

Article 265 If a legally effective judgment or ruling made by a foreign court seeks the recognition and enforcement of a people's court of the People's Republic of China, the party may directly apply to the intermediate people's court of the People's Republic of China that has the jurisdiction over the case for the recognition and enforcement, or the foreign court may, according to the provisions of the international treaties concluded or acceded to by the People's Republic of China or based on the principle of reciprocity, request the recognition and enforcement of a people's court.

Article 266 After a people's court of the People's Republic of China reviews an application or pleading for the recognition and enforcement of a legally effective judgment or ruling rendered by a foreign court according to the international treaties concluded or acceded to by the People's Republic of China or based on the principle of reciprocity, if the court considers that such a judgment or ruling does not contradict the basic principles of the laws of the People's Republic of China nor violates the national, social, and public interest of China, the court may render a ruling to recognize its force. Where the enforcement is necessary, the court may issue an order to enforce a foreign judgment according to the relevant provisions of this Law. If a legally effective judgment or ruling rendered by a foreign court contradicts the basic principles of the law of the People's Republic of China or the national, social, and public interest of China, the people's court shall reject the application of recognition and enforcement.

Article 267 If an award made by a foreign arbitration institution needs the recognition and enforcement of a people's court of the People's Republic of China, the party shall directly apply to the intermediate people's court located in the place where the party subject to the enforcement has its domicile or where its property is located. The people's court shall deal with the matter according to the relevant provisions of the international treaties concluded or acceded to by the People's Republic of China or on the principle of reciprocity.

Article 268 This Law shall become effective as of the date of promulgation, and the Civil Procedure Law of the People's Republic of China (for Trial Implementation) shall be annulled as of the same date.