

Regulations on Administration of Business Premises for Internet Access Services

Full text

Chapter I General Provisions

Article 1

These Regulations are formulated for the purposes of strengthening the administration of business premises for Internet access services, standardizing business conducts of operators, protecting the lawful rights and interests of the general public and operators, maintaining a healthy development of business activities providing Internet access services, and promoting socialistic ideological and ethical progress.

Article 2

As used in these Regulations, the term "business premises for Internet access services" refers to business premises such as Internet bars or computer lounges where Internet access services are provided to the general public by means of computers or other devices.

Premises affiliated to schools, libraries or other units where Internet access services are provided to particular persons for acquiring information and data shall comply with the relevant laws and regulations, and these Regulations are not applicable thereto.

Article 3

Units operating business premises for Internet access services shall comply with the relevant provisions of laws and regulations, strengthen industry self-discipline, self-consciously accept the inspection and administration by government departments concerned in accordance with the law, and provide consumers of Internet access services with desirable services.

Consumers of Internet access services in business premises for Internet access services shall comply with the relevant provisions of laws and regulations as well as social ethics, and conduct Internet-surfing activities in a civilized and healthy way.

Article 4

The culture administration departments of the people's governments at or above the county level shall be responsible for examining and approving the establishment of units operating business premises for Internet access services, and be responsible for supervising and administering the business activities of the legally established units operating business premises for Internet access services; the public security organs shall be responsible for supervising and administering the security of information networks, public security and fire control; the administrative departments for industry and commerce shall be responsible for

the registration of the units operating business premises for Internet access services, and the administration of their business licenses, and for investigating and punishing unlicensed business activities; the telecommunications administration departments and other departments concerned shall conduct supervision and administration of the units operating business premises for Internet access services within their respective responsibilities and duties according to the relevant provisions of these Regulations, laws and administrative regulations.

Article 5

The culture administration departments, the public security organs, the administrative departments for industry and commerce, as well as other relevant departments and their staff shall not engage in, or engage in in a disguised form, any business activities providing Internet access services, nor participate in, or participate in in a disguised form, any business activities conducted by the units operating business premises for Internet access services.

Article 6

The State encourages citizens, legal persons and other organizations to supervise the business activities conducted by the units operating business premises for Internet access services, and rewards those who have made outstanding contributions.

Chapter II Establishment

Article 7

The State adopts the license system for the business activities conducted by the units operating business premises for Internet access services. Without being licensed, no organization or individual may set up any business premises for Internet access services, or engage in any business activities providing Internet access services.

Article 8

A unit operating business premises for Internet access services shall be incorporated as an enterprise, and shall satisfy the following conditions:

- (1) possessing a title, domicile, organizational structure and articles of association;
- (2) possessing appropriate capital for business activities;
- (3) possessing business premises that are commensurate with its business activities and meet the requirements set by the State for fire control;
- (4) possessing sound and complete management systems for the security of information networks as well as technological security measures;

(5) possessing a permanent website address and such equipment as computers and their attached devices that are commensurate with the business activities;

(6) possessing security administration staff, managerial staff and technical professionals who are commensurate with its business activities and obtain the qualifications for practicing the business; and

(7) other conditions set forth by laws and administrative regulations as well as by the relevant departments of the State Council.

The minimum business area of the business premises for Internet access services, the number of such equipment as computers and their attached devices, and the standard of the area for each computer shall be determined by the culture administration department of the State Council.

In addition to the conditions provided in paragraphs (1) and (2) of this Article, the examination and approval of the units operating business premises for Internet access services shall also be subject to the requirements set forth by the culture administration department of the State Council and the culture administration departments of the people's governments of provinces, autonomous regions and municipalities directly under the Central Government for the total number and layout of the units operating business premises for Internet access services.

Article 9

No business premises for Internet access services may be established at a distance not more than 200 meters from high schools and primary schools or within residential buildings (compounds).

Article 10

To establish a unit operating business premises for Internet access services, an application therefore shall, accompanied by the following documents, be submitted to the culture administration department of the local people's government at or above the country level:

(1) a notice of advance approval of its title and its articles of association;

(2) materials certifying the identity of its legal representative or its principal responsible person;

(3) certification of capital and creditworthiness;

(4) property right certification, or a letter of intent on lease of, the business premises; and

(5) other documents needed to be submitted according to law.

Article 11

The culture administration department shall make a decision within 20 workdays from the

date of receipt of the establishment application, and issue the approval document that permits the preparations for the establishment to those proved to be in conformity to the conditions after examination.

After the completion of preparations for the establishment, the applicant shall apply for the examination of information network security and fire control security to the public security organ at the same level on the basis of the approval document that permits the preparations for the establishment. The public security organ shall make a decision thereon within 20 workdays from the date of receipt of the application, and issue an approval document to those passing the examination after field inspection.

The applicant shall apply to the culture administration department for final examination on the basis of the approval document issued by the public security organ. The culture administration department shall make a decision within 15 workdays from the date of receipt of the application according to the provisions of Article 8 of these Regulations, and issue a Permit for Cyber-Culture Business to those passing the examination after field inspection.

Where the culture administration department believes upon examination that an application does not meet the conditions, or where the public security organ believes that an application does not comply with the requirements, it shall give the reasons therefore to the applicant in writing.

Before putting into operation, the applicant shall apply to the administrative department for industry and commerce for registration on the basis of the Permit for Cyber-Culture Business and draw the business license according to law.

Article 12

A unit operating business premises for Internet access services shall not alter, lease or lend its Permit for Cyber-Culture Business or transfer it in any other forms.

Article 13

Where a unit operating business premises for Internet access services changes the address of its premises, or rebuilds or expands its premises, or changes the number of computers or other important items, it shall obtain approval from the original examining departments.

Where a unit operating business premises for Internet access services changes its title, domicile, legal representative or principal responsible person, registered capital, or website address, or terminates its business activities, it shall go through alteration registration or cancellation registration according to law with the administrative department for industry and commerce, and undertake the relevant procedures or put on a record with the culture administration department and the public security organ.

Chapter III Operations

Article 14

All units operating business premises for Internet access services and consumers of Internet access services shall not make use of the business premises for Internet access services to create, download, reproduce, search, release, spread or employ in other means the information involving the following contents:

- (1) opposing the basic principles set forth by the Constitution;
- (2) harming the unity, sovereignty or territorial integrity of the State;
- (3) divulging State secrets, harming State security or harming State honor and interests;
- (4) inciting national enmity or discrimination, undermining the unity of the nationalities, or infringing upon national customs and habits;
- (5) undermining the State's policy on religion, or advocating a heresy or superstition;
- (6) spreading rumors, disturbing the social order or undermining social stability;
- (7) advocating obscenity, gambling, violence or instigating a crime;
- (8) insulting or slandering another person, or infringing upon another person's lawful rights and interests;
- (9) harming social ethics or excellent national cultural traditions; or
- (10) involving other contents prohibited by laws or administrative regulations.

Article 15

All units operating business premises for Internet access services and consumers of Internet access services shall not conduct any of the following activities that harm the security of information networks:

- (1) intentionally creating or spreading computer viruses or other destructive programs;
- (2) illegally invading a computer information system or destroying the functions, data or application programs of a computer information system; or
- (3) conducting other activities prohibited by laws or administrative regulations.

Article 16

A unit operating business premises for Internet access services shall be connected to the Internet through an Internet access service provider who has obtained an operation permit

according to law, and shall not be connected to the Internet by other means.

The computers provided to consumers of Internet access services by a unit operating business premises for Internet access services shall be linked to the Internet through LAN, and shall not be directly linked to the Internet.

Article 17

No unit operating business premises for Internet access services may operate non-network games.

Article 18

All units operating business premises for Internet access services and consumers of Internet access services shall not make use of online games or take other means to gamble or conduct any gambling activities in a disguised form.

Article 19

A unit operating business premises for Internet access services shall implement technical management measures, establish an onsite inspection system for the premises, and upon discovery of any activities listed in Article 14, 15 or 18 of these Regulations or any other illegal activities conducted by consumers of Internet access services, stop them right away and report the case to the culture administration department and the public security organ.

Article 20

A unit operating business premises for Internet access services shall hang its Permit for Cyber-Culture Business and business license in a prominent position in the premises.

Article 21

A unit operating business premises for Internet access services shall not admit minors to its premises.

A unit operating business premises for Internet access services shall hang a no-minors-in sign in a prominent position at the entrance to the premises.

Article 22

The business hours of each day for the business premises for Internet access services shall be limited between 0800 hours and 2400 hours.

Article 23

A unit operating business premises for Internet access services shall check and register the identity cards or other valid credentials of consumers of Internet access services, and make a record on relevant log-on information. The registered contents and copies of the record shall

be kept for a period not less than 60 days, and shall be provided to the culture administration department and the public security organ when they conduct inquiry according to law. All the registered contents and copies of the record shall not be modified or deleted within the save period.

Article 24

A unit operating business premises for Internet access services shall fulfill the responsibilities of maintaining the security of information networks, public security and fire control security according to law, and comply with the following provisions:

- (1) prohibiting lighting by flaming and smoking, and hanging the no-smoking sign;
- (2) prohibiting bringing in or storing any inflammable or explosive goods;
- (3) not allowing fitting any fixed bars sealing up doors or windows;
- (4) prohibiting blocking or locking up doors, windows, the safe evacuation passage or emergency exit during business hours; and
- (5) not allowing stopping the implementation of technical safety measures without authorization.

Chapter IV Penalty Provisions

Article 25

Where the culture administration department, the public security organ, the administrative department for industry and commerce or other relevant departments and their staff members take advantage of their office to accept other persons' money, property or other benefits, or illegally approve the establishment of a unit operating business premises for Internet access services that does not meet the statutory requirements for establishment, or fail to fulfill the duty of supervision according to law, or fail to investigate and deal with the illegal acts that they discover according to law, thereby violating the criminal law, the person directly in charge and other directly responsible persons shall be investigated for criminal liability in accordance with the provisions of the criminal law on the crime of acceptance of bribes, the crime of power abuse, the crime of neglect of duty or other crimes; those whose acts are not serious enough for criminal punishment shall be given an administrative sanction of demotion, dismissal from the post or discharge from public employment according to law.

Article 26

Where any staff member of the culture administration department, the public security organ, the administrative department for industry and commerce or other relevant departments is engaged in business activities providing Internet access services or does so in a disguised

form, or participates in business activities of a unit operating business premises for Internet access services or does so in a disguised form, he shall be given an administrative sanction of demotion, dismissal from the post or discharge from public employment according to law.

Where the culture administration department, the public security organ, the administrative department for industry and commerce or other relevant department commits any of the acts specified in the preceding paragraph, the person directly in charge and other directly responsible persons shall be given administrative sanctions in accordance with the provisions of the preceding paragraph.

Article 27

Where anyone, in violation of the provisions of these Regulations, establishes business premises for Internet access services without authorization or engages in business activities providing Internet access services without authorization, the administrative department for industry and commerce shall, solely or jointly with the public security organ, ban such acts according to law, seal up the premises for the illegal business activities, and impound the special instruments and equipment for the illegal business activities; if the acts violate the criminal law, he shall be investigated for criminal liability in accordance with the provisions of the criminal law on the crime of illegal operation; if the acts are not serious enough for criminal punishment, the administrative department for industry and commerce shall confiscate his illegal income and the special instruments and equipment for illegal business activities; if the illegal turnover is not less than 10,000 yuan, a fine of not less than five times but not more than ten times of the illegal turnover shall be imposed concurrently; if the illegal turnover is less than 10,000 yuan, a fine of not less than 10,000 yuan but not more than 50,000 yuan shall be imposed concurrently.

Article 28

Where a unit operating business premises for Internet access services, in violation of the provisions of these Regulations, alters, rents out, lends or transfers in any other form its Permit for Cyber-Culture Business, thereby violating the criminal law, it shall be investigated for criminal liability in accordance with the provisions of the criminal law on the crime of forging, altering, buying or selling official documents, certificates or seals of a State organ; if its acts are not serious enough for criminal punishment, the culture administration department shall revoke its Permit for Cyber-Culture Business and confiscate the illegal income; if the illegal turnover is not less than 5,000 yuan, a fine of not less than two times but not more than five times of the illegal turnover shall be imposed concurrently; if the illegal turnover is less than 5,000 yuan, a fine of not less than 5,000 yuan but not more than 10,000 yuan shall be imposed concurrently.

Article 29

Where a unit operating business premises for Internet access services, in violation of the provisions of these Regulations, takes advantage of its premises to create, download, reproduce, search, release, spread or use in any other form any information involving the

contents prohibited by the provisions of Article 14 of these Regulations, thereby violating the criminal law, it shall be investigated for criminal liability according to law; if its acts are not serious enough for criminal punishment, the public security organ shall give it a warning and confiscate the illegal income; if the illegal turnover is not less than 10,000 yuan, a fine of not less than two times but not more than five times of the illegal turnover shall be imposed concurrently; if the illegal turnover is less than 10,000 yuan, a fine of not less than 10,000 yuan but not more than 20,000 yuan shall be imposed concurrently; if the circumstances are serious, it shall be ordered to suspend its business for rectification, or even have its Permit for Cyber-Culture Business revoked by the culture administration department.

An consumer of Internet access services who commits any of the illegal acts specified in the preceding paragraph and thereby violates the criminal law shall be investigated for criminal liability according to law; if his acts are not serious enough for criminal punishment, he shall be punished by the public security organ in accordance with the provisions of the Regulations on Administrative Penalties for Public Security.

Article 30

Where a unit operating business premises for Internet access services, in violation of the provisions of these Regulations, commits any of the following acts, the culture administration department shall give it a warning, and may concurrently impose a fine of not more than 15,000 yuan; if the circumstances are serious, it shall be ordered to suspend its business for rectification, or even have its Permit for Cyber-Culture Business revoked by the culture administration department:

- (1) operating beyond the business hours;
- (2) admitting minors to its premises;
- (3) operating non-network games;
- (4) stopping the implementation of technical management measures without authorization; or
- (5) failing to hang its Permit for Cyber-Culture Business or a no-minors-in sign.

Article 31

Where a unit operating business premises for Internet access services, in violation of the provisions of these Regulations, commits any of the following acts, the culture administration department or the public security organ shall, in accordance with their respective functions and powers, give it a warning, and may concurrently impose a fine of not more than 15,000 yuan; if the circumstances are serious, it shall be ordered to suspend its business for rectification, or even have its Permit for Cyber-Culture Business revoked by the culture administration department:

- (1) failing to link the computers provided to consumers of Internet access services to Internet

through LAN;

(2) failing to establish an onsite inspection system for the premises, or failing to stop illegal acts committed by consumers of Internet access services upon discovery and report such acts to the culture administration department or the public security organ;

(3) failing to verify and record the valid credentials of consumers of Internet access services as required or failing to record relevant log-on information;

(4) failing to keep the registered contents or copies of the record within the required period, or modifying or deleting the registered contents or copies of the record within the save period; or

(5) failing to go through the relevant procedures or put on a record with the culture administration department and the public security organ when changing its title, domicile, legal representative or principal responsible person, registered capital, or website address, or terminating business activities.

Article 32

Where a unit operating business premises for Internet access services, in violation of the provisions of these Regulations, commits any of the following acts, the public security organ shall give it a warning, and may concurrently impose a fine of not more than 15,000 yuan; if the circumstances are serious, it shall be ordered to suspend its business for rectification, or even have its Permit for Cyber-Culture Business revoked by the culture administration department:

(1) lighting by flaming or failing to stop smoking upon discovery, or failing to hang the no-smoking sign;

(2) allowing bringing in or storing any inflammable or explosive goods;

(3) fitting fixed bars sealing up doors or windows on the premises;

(4) blocking or locking up doors, windows, the safe evacuation passage or emergency exit during business hours; or

(5) stopping the implementation of technical safety measures without authorization.

Article 33

Where anyone violates the provisions of the State on security of information networks, public security administration, fire control administration, administration for industry and commerce or telecommunication administration, and thereby violating the criminal law, he shall be investigated for criminal liability according to law; if his acts are not serious enough for criminal punishment, he shall be punished by the public security organ, the administrative department for industry and commerce or the telecommunication administration department according to law; if the circumstances are serious, his permit or license shall be revoked by

the original certificate-issuing department.

Article 34

Where a unit operating business premises for Internet access services has its Permit for Cyber-Culture Business revoked as an administrative penalty for violation of the provisions of these Regulations, it shall register the alteration or cancellation with the administrative department for industry and commerce according to law; if it fails to do so after the time limit expires, the administrative department for industry and commerce shall revoke its business license.

Article 35

Where a unit operating business premises for Internet access services violates the provisions of these Regulations and thereby has its Permit for Cyber-Culture Business revoked, its legal representative or principal responsible person shall not take the post of the legal representative or principal responsible person of any unit operating business premises for Internet access services within five years from the day when the Permit for Cyber-Culture Business is revoked.

Where a unit operating business premises for Internet access services established without authorization is banned according to law, its principal responsible person shall not take the post of the legal representative or principal responsible person of any unit operating business premises for Internet access services within five years from the day when it is banned.

Article 36

Where a fine is imposed as an administrative penalty according to the provisions of these Regulations, the separation of fine decisions from fine collections shall be implemented in accordance with the relevant provisions of laws and administrative regulations; all fines collected and illegal income confiscated shall be turned over to the State Treasury.

Chapter V Supplementary Provisions

Article 37

These Regulations shall be effective as of November 15, 2002. The Measures for Administration of Business Premises for Internet Access Services promulgated on April 3, 2001 by the Ministry of Information Industry, the Ministry of Public Security, the Ministry of Culture and the State Administration for Industry and Commerce shall be repealed simultaneously.

