

# **Provisions on Reference of Suspected Criminal Cases by Administrative Law-enforcement Organs**

## **Full text**

Article 1 These Provisions are formulated for the purposes of ensuring timely reference of suspected criminal cases by administrative law-enforcement organs to public security organs, punishing crimes of disrupting the order of the socialist market economy, crimes of obstructing the administration of public order and other crimes according to law, and safeguarding the smooth progress of socialist construction.

Article 2 Administrative law-enforcement organs as referred to in these Provisions mean the administrative organs which, according to the provisions of laws, regulations or rules, have powers to administratively punish acts of disrupting the order of the socialist market economy, acts of obstructing the administration of public order and other illegal acts, etc., and the organizations that are authorized by laws and regulations to exercise the power to administer public affairs and impose administrative penalties within the scope of power as authorized by laws and regulations.

Article 3 Where, in the course of legal investigation into and punishment of illegal acts, discovering that the amount of money involved, the circumstances or the consequences of illegal acts, in accordance with the provisions of the Criminal Law on crimes of disrupting the order of the socialist market economy, crimes of obstructing the administration of public order and other crimes, the judicial interpretations of the Supreme People's Court and the Supreme People's Procuratorate on crimes of disrupting the order of the socialist market economy, crimes of obstructing the administration of public order and other crimes, the provisions of the Supreme People's Procuratorate and the Ministry of Public Security on criteria of prosecution of economic criminal cases, are suspected to constitute crimes and shall be investigated for criminal liabilities according to law, administrative law-enforcement organs must refer the cases to public security organs according to these Provisions.

Article 4 In the course of investigating into and punishing illegal acts, administrative law-enforcement organs must well preserve evidences related to illegal acts they collect.

Administrative law-enforcement organs shall truthfully make out lists of case-related articles they collect and dispose of these articles in accordance with the provisions of the State. For perishable articles, deteriorative articles and other articles that are inappropriate or uneasy to be preserved, necessary measures for keeping evidences shall be taken. The inspection or verification over case-related articles, if necessary, shall be carried out by the official inspecting or verifying institutions that shall issue reports of inspection or conclusions of verification.

Article 5 For a suspected crime case which shall be referred to a public security organ, an administrative law-enforcement organ shall promptly designate two or more than two administrative law-enforcement officers to form a group specially responsible for the case, which shall, after ascertaining the facts, prepare a written report of reference of the suspected criminal case and submit it to the highest

responsible person or the responsible person in charge of the work of the administrative law-enforcement organ for examination and approval.

The highest responsible person or the responsible person in charge of the work of the administrative law-enforcement organ shall, within three days from the date of receiving the report, make a decision to approve or disapprove the reference. If approved, the reference to the public security organ at the same level shall be made within 24 hours; if disapproved, the reasons thereof shall be placed on record.

Article 6 An administrative law-enforcement organ shall, in referring a suspected criminal case to the public security organ, attach the following documents:

- (1) The report of reference of the suspected criminal case;
- (2) The report of investigation into the suspected criminal case;
- (3) The list of case-related articles;
- (4) The report of related inspection or conclusions of related verification; and
- (5) Other documents related to the suspected criminal case.

Article 7 The public security organ shall put its signature on receipt of the report of reference of the suspected crime case by the administrative law-enforcement organ. If the case does not belong to the jurisdiction of the public security organ, it shall, within 24 hours, refer the case to the organ having the jurisdiction, and notify, in writing, the administrative law-enforcement organ that refers the case.

Article 8 The public security organ shall, within three days from the date of receiving the suspected crime case referred by the administrative law-enforcement organ, examine the case in accordance with the Criminal Law, the Criminal Procedure Law, the criteria of the People's Court and the People's Procuratorate for filing cases and the provisions of the Ministry of Public Security on procedures for handling criminal cases by public security organs. If it is believed that there are facts of crime, criminal responsibility shall be investigated and the case shall be filed according to law, it shall, in writing, notify the administrative law-enforcement organ that refers the case. If it is believed that there are no facts of crime or facts of crime are obviously minor, criminal responsibility is not demanded and the case is not filed according to law, it shall give reasons therefore and notify, in writing, the administrative law-enforcement organ that refers the case, and return the case-related documents.

Article 9 The administrative law-enforcement organ which, after receiving the written notice of the public security organ for not filing the case, deems that the public security organ shall file the case according to law, may, within three days from the date of receiving the said notice, request the public security organ which has decided not to file the case for reconsideration, or suggest the people's procuratorate for supervision over the case-filing according to law.

The public security organ which has decided not to file the case shall, within three days from the date of receiving the request of the administrative law-enforcement organ for reconsideration, make a decision to file or not to file the case, and notify, in writing, the administrative law-enforcement organ that refers the case. If the administrative law-enforcement organ that refers the case still disagrees with the reconsideration decision of the public security organ for not filing the case, it shall, within three days from the date of receiving the written notice of reconsideration decision, suggest the people's procuratorate for supervision over the case-filing according to law.

The public security organ shall accept the case-filing supervision conducted by the people's procuratorate according to law.

Article 10 The administrative law-enforcement organ shall handle the case which is not filed by the decision of the public security organ according to law. Where laws, regulations or rules provide that the case shall be subject to administrative penalties, such penalties shall be given according to law.

Article 11 If a suspected crime case shall be referred to the public security organ, the administrative law-enforcement organ shall not substitute administrative penalties for reference.

The enforcement of an administrative penalty such as warning, ordering to suspend production or business, suspension or revocation of a permit, or suspension or revocation of a business license made by the administrative law-enforcement organ before it refers the suspected criminal case to the public security organ shall not be ceased.

Where the administrative law-enforcement organ has already imposed a fine on the party concerned in accordance with the provisions of the Law on Administrative Penalty before it refers the suspected criminal case to the public security organ, the people's court shall, when it sentences the party concerned to fine, deduct the amount already imposed according to law.

Article 12 When a case is filed by the public security organ, the administrative law-enforcement organ shall, within three days from the date of receiving the written notice of filing the case, refer case-related articles and other documents to the public security organ, and accomplish the delivery formalities. Where laws and administrative regulations provide otherwise, such provisions shall prevail.

Article 13 The public security organ shall, if believing that, through examination over the illegal act, there is no facts of crime or believing that, through investigation after filing the case, the facts of crime are obviously minor and criminal responsibility is not demanded but administrative responsibility shall be investigated according to law, immediately refer the case to the administrative law-enforcement organ at the same level. The administrative law-enforcement organ concerned shall handle the case according to law.

Article 14 In referring suspected criminal cases, administrative law-enforcement organs shall accept supervision conducted according to law by people's procuratorates and supervisory organs. Where an administrative law-enforcement organ, in violation of these Provisions, fails to refer a suspected criminal case which shall be referred to the public security organ, any units and individuals shall have the right to report it to the people's procuratorate, supervisory organ or administrative law-enforcement organ at the higher level.

Article 15 Where an administrative law-enforcement organ, in violation of these Provisions, conceals, privately divides or destroys any case-related articles, the people's government at the same or higher level or the administrative law-enforcement organ at the higher level that has the vertical leadership power implemented shall, in the light of the seriousness of the circumstances, give administrative sanctions above demotion to the highest responsible person of the administrative law-enforcement organ; and if a crime is constituted, criminal responsibility shall be investigated according to law.

The persons who are directly in charge and the other persons who are directly responsible for the act listed in the preceding paragraph shall be given administrative sanctions by applying mutatis mutandis the provisions of the preceding paragraph; and if a crime is constituted, criminal responsibility shall be investigated according to law.

Article 16 Where an administrative law-enforcement organ, in violation of these Provisions, fails to refer a case to the public security organ within the specified period of time, the people's government at the same or higher level or the administrative law-enforcement organ at the higher level that has the vertical leadership power shall order it to make reference within a given period of time, and in the light of the seriousness of the circumstances, give administrative sanctions above demerit to the highest responsible person or the responsible person in charge of the work of the administrative law-enforcement organ and if a crime is constituted, criminal responsibility shall be investigated according to law.

Where an administrative law-enforcement organ, in violation of these Provisions, fails to refer a case that shall be referred to the public security organ or substitute administrative penalties for reference, the people's government at the same or higher level or the administrative law-enforcement organ at the higher level that has the vertical leadership power shall order it to make corrections and circulate a notice of criticism; if it refuses to make corrections, the highest responsible person or the responsible person in charge of the work of the administrative law-enforcement organ shall be given administrative sanctions above demerit; and if a crime is constituted, criminal responsibility shall be investigated according to law.

The persons who are directly in charge and the other persons who are directly responsible for the acts listed in the paragraphs 1 and 2 of this Article shall be given administrative sanctions respectively by applying mutatis mutandis the provisions of the preceding two paragraphs; and if a crime is constituted, criminal responsibility shall be investigated according to law.

Article 17 Where a public security organ, in violation of these Provisions, refuses to accept a suspected criminal case referred by an administrative law-enforcement organ or fails to make a decision of filing or not filing the case within the specified period of time, the people's procuratorate shall conduct the case-filing supervision and in addition, the people's government at the same or higher level shall order the public security organ to make corrections and in the light of the seriousness of the circumstances, give administrative sanctions above demerit to the highest responsible person of the organ; and if a crime is constituted, criminal responsibility shall be investigated according to law.

The persons who are directly in charge and the other persons who are directly responsible for the acts listed in the preceding paragraph shall be given administrative sanctions by applying mutatis mutandis the provisions of the preceding paragraph; and if a crime is constituted, criminal responsibility shall be investigated according to law.

Article 18 An administrative law-enforcement organ that, in the course of investigation into and punishment on an illegal act according to law, discovers any embezzlement or bribery, any dereliction of duty by a functionary of the State or any infringement upon the right of person and democratic rights of a citizen by a functionary of the State organ, thus being suspected to constitute a crime, shall immediately

refer the case to the people's procuratorate by applying mutatis mutandis these Provisions.  
Article 19 These Provisions shall be effective as of the date of promulgation.