

# The Legislation Law of The People's Republic of China

(Adopted by the 3rd Session of the Ninth  
National People's Congress  
on March 15, 2000)

## Chapter I General Provisions

Article 1 This Law is enacted in accordance with the Constitution in order to standardize lawmaking activities, to perfect state legislative institution, to establish and perfect our socialist legal system with Chinese characteristics, to safeguard and develop socialist democracy, to promote the governance of the country through legal mechanism, and to build a socialist country under the rule of law.

Article 2 The enactment, amendment and repeal of any national law, administrative regulation, local decree, autonomous decree and special decree shall be governed by this Law. The enactment, amendment and repeal of administrative rules promulgated by agencies under the State Council and local rules promulgated by local governments shall be carried out in accordance with the relevant provisions of this Law.

Article 3 Lawmaking shall adhere to the basic principles of the Constitution, and shall be centered around economic development, and shall adhere to the socialist road, adhere to the democratic dictatorship by the people, adhere to the leadership by the Chinese Communist Party, and adhere to the theory of Marxism, Leninism and Mao Zedong thoughts and Dengxiaoping theory, and adhere to the reform and opening to the outside world.

Article 4 Lawmaking shall comply with legally prescribed scope of authority and procedure, and shall serve the national interests and safeguard the uniformity and dignity of our socialist legal system.

Article 5 Lawmaking shall reflect the will of the people, promote socialist democracy, and ensure that people are able to participate in the lawmaking process through various channels.

Article 6 Lawmaking shall be based on actual circumstances, and shall, in a scientific and reasonable manner, prescribe the rights and obligations of citizens, legal persons and other organizations, and the powers and duties of state organs.

## Chapter II National law

### Section 1 Scope of Lawmaking Authority

Article 7 The National People's Congress and Standing Committee thereof shall exercise state legislative power. The National People's Congress enacts and amends criminal, civil, and state organic laws and other basic laws. The Standing Committee of National People's Congress enacts and amends laws other than those to be enacted by the National People's Congress; while the National People's Congress is not in session, the Standing Committee thereof partially amends and supplements national law enacted by the National People's Congress, provided that any amendment or supplement may not contravene the basic principles of such national law.

Article 8 Only national law may be enacted in respect of matters relating to:

- (i) state sovereignty;
- (ii) the establishment, organization and authority of various people's congresses, people's governments, people's courts and people's procuratorates;
- (iii) autonomy system of ethnic regions, system of special administrative region, and system of autonomy at the grass-root level;
- (iv) crimes and criminal sanctions;
- (v) the deprivation of the political rights of a citizen, or compulsory measures and penalties involving restriction of personal freedom;
- (vi) expropriation of non-state assets;
- (vii) fundamental civil institutions;
- (viii) fundamental economic system and basic fiscal, tax, customs, financial and foreign trade systems;
- (ix) litigation and arbitration system;
- (x) other matters the regulation of which must be carried out through enactment of national law by the National People's Congress or the Standing Committee thereof.

Article 9 In the event that no national law has been enacted in respect of a matter enumerated in Article 8 hereof, the National People's Congress and the Standing Committee thereof have the power to make a decision to enable the State Council to enact administrative regulations in respect of part of the matters concerned for the time being, except where the matter relates to crime and criminal sanctions, the deprivation of a citizen's political rights, compulsory measure and penalty restricting the personal freedom of a citizen, and the judicial system.

Article 10 An enabling decision shall specify the objective and scope of the authorization. The enabled body shall exercise such power in strict compliance with the objectives and

scope of authorization. The enabled body may not re-delegate its authority to any other body.

Article 11 For a matter covered by an enabling decision, if the conditions are ripe for the enactment of a national law, the National People's Congress or the Standing Committee thereof shall enact a national law in a timely manner. Upon enactment of the national law, the relevant authority for lawmaking in respect of the matter shall be terminated.

## Section 2 The Legislative Process of the National People's Congress

Article 12 The presidium of the National People's Congress may introduce a bill to the National People's Congress for deliberation in its current session.

The State Council, the Central Military Committee, the Supreme People's Court, the Supreme People's Procuratorate, and the various special committees of the National People's Congress may introduce a bill to the National People's Congress, which shall be put onto the agenda of the current session by a decision of the presidium.

Article 13 A delegation, or delegates of at least 30 people acting jointly, may introduce a bill to the National People's Congress, and the presidium shall decide whether to put such bill onto the agenda of the current session, or whether to refer such bill to the relevant special committee for deliberation, and such special committee shall make a recommendation as to whether such bill shall be put onto the agenda of the current session, whereupon the presidium shall decide whether to do so. In the course of deliberation of the bill, the special committee may invite the bill sponsor to the deliberation session to give comments.

Article 14 While the National People's Congress is in recess, a bill to be introduced to it may first be submitted to the Standing Committee thereof, which shall submit such bill to the National People's Congress by way of a decision after it has deliberated on it in accordance with the relevant procedures set forth in Section 3 of Chapter 2 hereof, and the Standing Committee or the bill sponsor shall brief the plenary session.

Article 15 For a bill which the Standing Committee has decided to submit to the upcoming session of the National People's Congress for deliberation, the draft law shall be distributed to the delegates one month prior to the commencement of the session.

Article 16 For a bill which has been put on the agenda of the current session of the National People's Congress, the plenary session shall be briefed by the bill sponsor, whereupon the delegations shall begin deliberation.

In the course of deliberation of the bill by the delegations, the bill sponsor shall send representatives to hear comments and answer questions.

In the course of deliberation of the bill by the delegations, upon request by a delegation, the relevant agency or organization shall send representatives to brief the delegation.

Article 17 A bill which has been put on the agenda of the current session of the National People's Congress shall be deliberated by the relevant special committee, which shall submit its deliberation opinions to the presidium, and such opinions shall be printed and distributed to the delegates attending the session.

Article 18 For a bill which has been put on the agenda of the current session of the National People's Congress, after gathering the deliberation opinions delivered by the delegations and the relevant special committee, the Legislative Committee shall conduct a uniform deliberation, and afterwards shall deliver to the presidium a deliberation report and the amended draft law, and the deliberation report shall contain explanations of the major differences of opinions, and after the presidium has deliberated and passed the deliberation report and the amended draft law, they shall be printed and circulated to the delegates attending the session.

Article 19 For a bill which has been put on the agenda of the current session of the National People's Congress, where necessary, the executive chairman of the presidium may call a session of the delegation leaders to hear the deliberation opinions of the various delegations on major matters covered by the bill and conduct discussions, and shall report to the presidium the status of the discussion and the opinions expressed. The executive chairman of the presidium may also call a session of the relevant delegates elected by various delegations to discuss major special issues involved in the bill, and shall report to the presidium the status of the discussion and the opinions expressed.

Article 20 If before a bill which has been put on the agenda of the current session of the National People's Congress is brought to a vote, its sponsor requests for its withdrawal, the bill sponsor shall explain the reason for the withdrawal, and subject to consent by the presidium, a report shall be made to the plenary session, whereupon deliberation on the bill shall terminate.

Article 21 Where in the course of deliberating a bill, major issues are encountered, upon motion brought by the presidium and decided upon by the plenary session, the Standing Committee may be authorized to conduction further deliberation based on the opinions of the delegates, and the Standing Committee shall report its decision to the next session of the National People's Congress; the Standing Committee may also be authorized to conduct further deliberation and prepare an amendment plan, to be submitted to the next session of the National People's Congress for deliberation and decision.

Article 22 After deliberation by the delegations, the amended draft law shall be further amended by the Legislative Committee based on the deliberating opinions of the delegations, and the Legislative Committee shall present a voting version of the draft law to be submitted by the presidium to the plenary session for voting, and such version shall be adopted if it receives affirmative votes from more than half of all delegates.

Article 23 A national law enacted by the National People's Congress shall be promulgated by way of a presidential order signed by the state president.

### Section 3 The Legislative Process of the Standing Committee of the National People's Congress

Article 24 The Chairman's Committee may introduce a bill to the Standing Committee for deliberation during its current session. The State Council, the Central Military Committee, the Supreme People's Court, the Supreme People's Procuratorate, the various special committees of the Standing Committee may introduce a bill to the Standing Committee, and the Chairman's Committee shall make a decision to put the bill on the agenda of the upcoming session of the Standing Committee, or first refer it to the relevant special committee for deliberation, and a report on it shall be submitted by the special committee, whereupon the Chairman's Committee will decide to put it on the agenda of the upcoming session of the Standing Committee. If the Chairman's Committee is of the opinion that there are material issues outstanding in respect of the bill which require further study, it may advise that the bill sponsor revise and improve the bill before it is introduced to the Standing Committee.

Article 25 Ten or more members of the Standing Committee acting jointly, may introduce a bill to the Standing Committee, and the Chairman's Committee shall decide whether to put it on the agenda of the Standing Committee's session, or whether to refer it to the relevant special committee for deliberation and recommendation before deciding to put it on the agenda. Where such bill is not put on the agenda of the Standing Committee session, the Chairman's Committee shall make a report to the Standing Committee session or give an explanation to the bill sponsor. In the course of deliberation, the special committee may invite the bill sponsor to the session to give comments.

Article 26 For a bill which has been put on the agenda of the session of the Standing Committee, unless special circumstances arise, the draft law shall be distributed to the members of the Standing Committee seven days prior to commencement of the session.

Article 27 A bill which has been put on the agenda of the Standing Committee session shall in general be deliberated three times in the current session of the Standing Committee before being voted on.

During the first deliberation of the bill at the current Standing Committee session, the bill sponsor shall brief the plenary session, whereupon preliminary deliberation shall be conducted by divided group sessions.

During the second deliberation of the bill at the current Standing Committee session, the Legislative Committee shall brief the plenary session on the status of amendment and major issues in respect of the draft law, whereupon further deliberation shall be conducted by divided group sessions.

During the third deliberation of the bill at the current Standing Committee session, the Legislative Committee shall give a report to the plenary session on the result of the deliberation on the draft law, whereupon deliberation on the amended draft law shall be conducted by divided group sessions.

In the course of deliberation, if necessary, the Standing Committee may convene a joint group session or a plenary session to discuss the major issues of the draft law.

Article 28 For a bill which has been put on the agenda of the session of the Standing Committee, if a preponderant consensus is formed, it may be brought to a vote after two deliberations by the session of the Standing Committee; for a bill which partially amends a national law, if a preponderant consensus is formed, it may be brought to a vote after one deliberation by the session of the Standing Committee.

Article 29 In the course of deliberation by the subgroups of the Standing Committee, the bill sponsor shall send representatives to the deliberating sessions to hear comments and answer questions. In the course of deliberation by the subgroups of the Standing Committee, if requested by a subgroup, the relevant agency or organization shall send representatives to brief the subgroup.

Article 30 A bill which has been put on the agenda of the Standing Committee session shall be deliberated by the relevant special committee, which shall present its deliberation opinions, which shall be printed and distributed to members attending the Standing Committee session.

In the course of deliberation, the relevant special committee may invite members of other special committees to the session to give comments.

Article 31 For a bill which has been put on the agenda of the session of the Standing Committee, the Legislative Committee shall conduct uniform deliberation based on the opinions expressed by the members of the Standing Committee, the deliberation opinions delivered by the relevant special committee and concerned constituents, and thereafter it shall give a report on the status of amendment or deliver a deliberation result report and the amended draft law, and the status report or deliberation result report shall contain notes on the major difference of opinions. Where a major deliberation opinion by a relevant special committee has not been adopted, the Legislative Committee shall give an explanation in its status report or deliberation result report. If a major deliberation opinion expressed by a relevant special committee is not adopted, the Legislative Committee shall also report back to the special committee.

In the course of deliberation, the Legislative Committee may invite members of the relevant special committee to the session to give comments.

Article 32 In the course of deliberation, a special committee shall convene a plenary session to conduct the deliberation, and where necessary, it may request that the relevant agency or organization send its relevant person in charge to brief the session.

Article 33 Where there is a difference of opinion among the special committees on a major matter covered by the draft law, they shall report such difference to the Chairman's Committee.

Article 34 For a bill which has been put on the agenda of the session of the Standing Committee, the relevant special committee and the office of operation of the Standing Committee shall hear the opinions of the concerned constituents. In gathering opinions, various methods may be adopted, such as panel discussion, feasibility study meeting, hearing, etc.

The Standing Committee's office of operation shall distribute the draft law to the relevant agency, organization and experts for comments, and shall compile such comments and present them to the Legislative Committee and the relevant special committee, and where necessary, it shall distribute them to the current session of the Standing Committee.

Article 35 For a major bill which has been put on the agenda of the session of the Standing Committee, upon decision by the Chairman's Committee, the draft law may be presented to the public for comments. The comments presented by the various agencies, organizations and citizens shall be submitted to the office of operation of the Standing Committee.

Article 36 For a bill which has been put on the agenda of the session of the Standing Committee, the office of operation of the Standing Committee shall collect and compile the comments made by the subgroups during deliberation, as well as comments made by concerned constituents, and where necessary, it shall distribute them to the current session of the Standing Committee.

Article 37 If the sponsor of a bill which has been put on the agenda of the session of the Standing Committee requests for withdrawal of such bill before it is brought to a vote, the bill sponsor shall give an explanation, and subject to consent by the Chairman's Committee, a report shall be made to the Standing Committee, whereupon the deliberation on the bill shall terminate.

Article 38 If, after three deliberations by the Standing Committee session, a bill still has major issues which require further study, upon a motion brought by the Chairman's Committee, and upon approval by the joint group session or the plenary session, voting on the bill may be postponed, whereupon the bill shall be submitted to the Legislative Committee and the relevant special committee for further deliberation.

Article 39 For a bill which has been put on the agenda of the session of the Standing Committee, if deliberation on the bill has been postponed for two years due to major differences among the concerned constituents on major issues such as the necessity or feasibility of enacting such bill, or voting was postponed and the bill has not been put on the agenda of the session of the Standing Committee for two years, the Chairman's Committee shall make a report to the Standing Committee, whereupon deliberation on the bill shall terminate.

Article 40 Upon deliberation of the draft law by the Standing Committee session, the Legislative Committee shall make further amendment based on the comments made during deliberation by members of the Standing Committee, and shall present a voting

version of the draft law, and the Chairman's Committee shall bring the draft law for a vote by the plenary session of the Standing Committee, whereupon such bill shall be enacted if more than half of the votes cast by the members of the Standing Committee are affirmative.

Article 41 A national law passed by the National People's Congress shall be promulgated by way of a presidential order signed by the state president.

#### Section 4 Interpretations of National law

Article 42 The power to interpret a national law shall vest in the Standing Committee of National People's Congress.

The Standing Committee of National People's Congress shall give interpretation to a national law in any of the following circumstances:

- (i) the specific meaning of a provision of such legislation requires further clarification;
- (ii) a new situation arises after enactment of such legislation, thereby requiring clarification of the basis of its application.

Article 43 The State Council, the Central Military Committee, the Supreme People's Court, the Supreme People's Procuratorate, the various special committees of the Standing Committee and the Standing Committee of the People's Congress of various provinces, autonomous regions and municipality directly under the central government may make a request for legislative interpretation to the Standing Committee of National People's Congress.

Article 44 The office of operation of the Standing Committee shall research and prepare draft legislative interpretation, and shall be put on the agenda of the upcoming session of the Standing Committee upon decision by the Chairman's Committee.

Article 45 After deliberation by the session of the Standing Committee, the draft legislative interpretation shall be deliberated and amended by the Legislative Committee based on comments made by members of the Standing Committee, and it shall submit a voting version of the draft legislative interpretation.

Article 46 The voting version of the draft legislative interpretation shall be adopted if affirmed by more than half of all members of the Standing Committee, and shall be promulgated by the Standing Committee by way of a public announcement.

Article 47 Legislative interpretations issued by the Standing Committee of National People's Congress shall have the same force as national law.

#### Section 5 Other Provisions



Article 48 In introducing a bill, the bill sponsor shall at the same time submit the draft law and the accompanying commentaries, and shall also provide the necessary materials. Commentaries to the draft law shall also explain the necessity for its enactment and its main content.

Article 49 For a bill introduced to the National People's Congress and its Standing Committee, the bill sponsor is entitled to withdraw the bill before it is put on the agenda.

Article 50 Where a bill introduced to the National People's Congress and its Standing Committee has been voted on by the plenary session and fails to pass, if the bill sponsor deems it necessary to enact such legislation, he may re-introduce it in accordance with legally prescribed procedures, and the presidium or the Chairman's Committee shall decide whether it shall be put on the agenda; specifically, if a bill fails to be adopted by the National People's Congress, it shall be re-introduced to the National People's Congress for deliberation and decision.

Article 51 A law shall specify a date for its implementation.

Article 52 The presidential order for promulgation of the law shall set forth the enactment organ, the date of adoption and the date of implementation.

Upon signing and promulgation, the law shall be published on the Bulletin of the Standing Committee of National People's Congress and nationally circulated newspapers in a timely manner.

The version of the law printed on the Bulletin of the Standing Committee of National People's Congress shall be the standard version.

Article 53 The procedure for amendment and repeal of national law shall be governed by the provisions of this Chapter.

Where a law is partially amended or repealed, a new version shall be published.

Article 54 Where necessary as required by its content, a law may adopt a structure consisting of Parts, Chapters, Sections, Articles, Paragraphs, Items, and Sub-items.

The number for a Part, Chapter, Section, or Article shall be in Chinese character in numerical order, and Paragraphs shall not be numbered, the number for an item shall be a Chinese number in parenthesis in numerical order, and the number for a sub-item shall be an Arabic number in numerical order.

The subtitle of a law shall set forth the enacting organ and the date of promulgation.

Article 55 The office of operation of the Standing Committee of National People's Congress may study questions raised regarding specific aspects of a law and give a response, which shall also be submitted to the Standing Committee for filing.

## Chapter Three Administrative Regulations

Article 56 The State Council enacts administrative regulations in accordance with the Constitution and national law.

Administrative regulations may provide for the following:

- (i) matters for which enactment of administrative regulations is required in order to implement a national law;
- (ii) matters subject to the administrative regulation of the State Council under Article 89 of the Constitution.

If a matter which ought to be regulated by national law enacted by the National People's Congress and its Standing Committee, and pursuant to a enabling decision issued by the National People's Congress and its Standing Committee, the State Council has enacted an administrative regulation for the time being, and after trial by practice, the conditions for enactment of the relevant national law has matured, the State Council shall timely submit a request to the National People's Congress and its Standing Committee for enactment of the relevant national law.

Article 57 An administrative regulation shall be drafted by the State Council, where the relevant agency of the State Council deems it necessary to enact an administrative regulation, it shall apply to the State Council for preliminary approval.

Article 58 In the process of drafting an administrative regulation, the drafting body shall gather opinions from a wide circle of constituents such as the relevant agencies, organizations and citizens. The gathering of opinions may be in various forms such as panel discussion, feasibility study meeting, hearing etc.

Article 59 Upon completion of a draft administrative regulation, the drafting body shall submit the following to the State Council's legislative affairs office for review: the draft administrative regulation, commentaries, the major difference of opinions on major issues covered by the draft expressed by the various constituencies, and other relevant materials. The legislative affairs office of the State Council shall submit to the State Council a review report and the amended version of the draft, and the review report shall explain the major matters covered by the draft.

Article 60 The enactment procedure for an administrative regulation shall comply with the relevant provisions of the State Council Organic Law of the People's Republic of China.

Article 61 An administrative regulation shall be promulgated by way of a State Council order signed by the premier.

Article 62 Upon signing and promulgation, an administrative regulation shall be published in the State Council Bulletin and nationally circulated newspapers in a timely manner. The version appearing on the State Council Bulletin shall be the standard version.

#### Chapter IV Local Decrees, Autonomous Decrees and Special Decrees, and Rules

##### Section 1 Local Decrees, Autonomous Decrees and Special Decrees

Article 63 In light of the specific situations and actual needs of the jurisdiction, the People's Congress of a province, autonomous region, municipality directly under the central government and the Standing Committee thereof may enact local decrees provided that they shall not contravene any provision of the Constitution, national law and administrative regulations.

In light of the specific situations and actual needs of the jurisdiction, the People's Congress and its Standing Committee in a major city may enact local decrees provided that they shall not contravene any provision of the Constitution, national law, administrative regulations and the local decrees in force in the province or autonomous region in which the city is located, and such local decrees shall be implemented after they are reviewed and approved by the Standing Committee of the People's Congress of the province or autonomous region. The Standing Committee of the People's Congress of the province or autonomous region shall review the legality of a decrees submitted to it for approval, and shall grant approval within four months if such decree does not contravene any provision of the Constitution, national law, administrative regulations, and the local decrees in force in the province or autonomous region in which the city is located.

In the course of reviewing a local decree submitted to it by a major city, if the Standing Committee of the People's Congress of the province or autonomous region finds that it contravenes a local rule issued by the People's Government of the province or autonomous region, it shall decide on how to handle such situation.

For purposes of this Law, a major city refers to a city where the People's Government of the province or autonomous region is seated, the city where a special economic zone is located, and any other major city approved by the State Council.

Article 64 A local decree may provide for the following:

- (i) matters for which enactment of a local decree is required in order to implement a national law or administrative regulation in light of the actual situation of the jurisdiction;
- (ii) matters which are local in nature and require the enactment of a local decree.

Except for matters enumerated in Article 8 hereof, in respect of any other matter for which the state has not enacted national law or administrative regulation, the People's Congress of a province, autonomous region, or municipality directly under the central government and the Standing Committee thereof may enact local decrees for the time

being in light of its specific situations and actual needs. Where a national law or administrative regulation enacted by the state has come into force, any provision in the local decree which contravenes it shall be invalid, and the enacting body shall amend or repeal such provision on a timely basis.

Article 65 The People's Congress of a province or city where a special economic zone is located and the its Standing Committee shall, pursuant to an enabling decision issued by the National People's Congress, enact decrees for implementation within the special economic zone.

Article 66 The People's Congress of an autonomous ethnic area has the power to enact autonomous decree and special decree in light of its ethnic political, economic and cultural characteristics. An autonomous decree or special decree enacted by an autonomous region shall come into force after it is reviewed and approved by the Standing Committee of National People's Congress. An autonomous decree or special decree enacted by an autonomous prefecture or autonomous county shall come into force after it is reviewed and approved by the Standing Committee of the People's Congress of the province, autonomous region, or municipality directly under the central government.

An autonomous decree or special decree may vary the provisions of a law or administrative regulation, provided that any such variance may not violate the basic principles thereof, and no variance is allowed in respect of any provision of the Constitution or the Law on Ethnic Area Autonomy and provisions of any other law or administrative regulations which are dedicated to matters concerning ethnic autonomous areas.

Article 67 Any local decree dealing with special major matters of the jurisdiction shall be passed by the People's Congress of the jurisdiction.

Article 68 The procedure for introducing, deliberating and voting on a local decree bill, autonomous decree bill and special decree bill shall be formulated by the local People's Congress in accordance with the Local People's Congress and People's Government Organic Law of the People's Republic of China, as well as by reference to the provisions of Sections Two, Three and Five of Chapter Two hereof.

The agency in charge of uniformly deliberating the draft of a local decree shall present a deliberation result report and the amended draft.

Article 69 A local decree enacted by the People's Congress of a province, autonomous region, or municipality directly under the central government shall be promulgated by the presidium of the current session by way of a public announcement.

A local decree enacted by the Standing Committee of the People's Congress of a province, autonomous region, or municipality directly under the central government shall be promulgated by the Standing Committee by way of a public announcement.

Upon approval, a local decree enacted by the People's Congress of a major city and the Standing Committee thereof shall be promulgated by the Standing Committee of the People's Congress of such major city by way of a public announcement.

Upon approval, an autonomous decree or special decree shall be promulgated by the Standing Committee of the People's Congress of such autonomous region, autonomous prefecture or autonomous county respectively by way of a public announcement.

Article 70 Upon promulgation, a local decree, or an autonomous decree or special decree shall be published in the Bulletin of the Standing Committee of the People's Congress of the region and the newspapers circulated within such jurisdiction in a timely manner.

The version of the local decree, or autonomous decree or special decree appearing on the Standing Committee Bulletin shall be the standard version.

## Section 2 Administrative and Local Rules

Article 71 The various ministries, commissions, the People's Bank of China, the Auditing Agency, and a body directly under the State Council exercising regulatory function, may enact administrative rules within the scope of its authority in accordance with national law, administrative regulations, as well as decisions and orders of the State Council.

A matter on which an administrative rule is enacted shall be a matter which is within the scope of implementing national law, administrative regulations, and decisions or orders issued by the State Council.

Article 72 If a matter falls within the scope of authority of two or more agencies under the State Council, the relevant agencies shall request the State Council to enact an administrative regulation or the relevant agencies under the State Council shall jointly enact an administrative rule.

Article 73 The People's Government of a province, autonomous region, municipality directly under the central government or a major city may enact local rules in accordance with national law, administrative regulations and local decrees of the province, autonomous region, or municipality directly under the central government.

A local rule may provide for the following:

- (i) matters for which enactment of local rules is required in order to implement a national law, administrative regulation or local decree;
- (ii) matters which are within the regulatory scope of the local jurisdiction.

Article 74 The procedures for enacting State Council administrative rules and local government rules shall be formulated by the State Council by reference to Chapter Three hereof.

Article 75 An administrative rule shall be decided upon by ministerial affairs meeting or commission affairs meeting.

A local rule shall be decided upon by government regular affairs meeting or plenary meeting.

Article 76 Administrative rules shall be promulgated by way of an order signed by the person in charge of the agency. Local rules shall be promulgated by way of an order signed by the provincial governor, the chairman of the autonomous region, or the mayor of the city.

Article 77 Upon signing and promulgation, administrative rules shall be published on the State Council Bulletin or agency bulletin and nationally circulated newspapers in a timely manner.

Upon signing and promulgation, local rules shall be published on the bulletin of the local People's Government and newspapers circulated in the local jurisdiction in a timely manner.

The version of the administrative or local rules appearing on the State Council Bulletin or agency bulletin and the bulletin of the local People's Government shall be the standard version.

#### Chapter Five Scope of Application and Filing

Article 78 The Constitution has the highest legal authority, and no national law, administrative regulation, local decree, autonomous decree and special decree, or administrative or local rule may contravene the Constitution.

Article 79 National law has higher legal authority than administrative regulations, local decrees and administrative or local rules. Administrative regulations has higher legal authority than local decrees and administrative or local rules.

Article 80 A local decree has higher legal authority than local rules issued by governments at the same level and lower level.÷÷÷ Local rules enacted by the People's Government of a province or autonomous region have higher legal authority than local rules enacted by the People's Government of a major city located in its jurisdiction.

Article 81 Where an autonomous decree or special decree varies the provision of national law, administrative regulations or local decrees, the provisions of the autonomous decree or special decree shall prevail in the said autonomous area.

Where a decree of a special economic zone varies the provision of national law, administrative regulations or local decrees pursuant to an enabling decision, the provisions of the decree of the special economic zone shall prevail in the said special economic zone.

Article 82 Administrative rules and local rules have the same legal authority and are implemented within their respective scope of authority.

Article 83 In the case of national law, administrative regulations, local decrees, autonomous decrees and special decrees, and administrative or local rules enacted by the same body, if a special provision differs from a general provision, the special provision shall prevail; if a new provision differs from an old provision, the new provision shall prevail.

Article 84 National law, administrative regulations, local decrees, autonomous decrees and special decrees, and administrative or local rules do not have retroactive force, except where a special provision is made in order to better protect the rights and interests of citizens, legal persons and other organizations.

Article 85 If there is a difference between a new general provision and an old special provision in respect of the same matter among two national laws, and the applicable provision can not be decided, a ruling shall be made by the Standing Committee of National People's Congress. If there is a difference between a new general provision and an old special provision in respect of the same matter among two administrative regulations, and the applicable provision can not be decided, a ruling shall be made by the State Council.

Article 86 If there is a difference between local decrees and rules in respect of the same matter, a ruling shall be made by the relevant agency in accordance with the following provisions:

(i) In the case of difference between the new general provision and an old special provision enacted by the same agency, the enacting agency shall make the ruling;

(ii) In the case of difference between local decree and administrative rule in respect of the same matter, and applicable provision can not be decided, the State Council shall give its opinion, and where the State Council deems that the local decree should apply, then the local decree shall be applied in the local jurisdiction; where the State Council deems that the administrative rule should apply, it shall request the Standing Committee of National People's Congress to make a ruling;

(ii) In the case of difference between administrative rules, or between local rules and administrative rules in respect of the same matter, and the applicable provision can not be decided, the State Council shall make a ruling; where there is a difference between administrative regulations enacted pursuant to an enabling and a national law and the applicable provision cannot be decided, the Standing Committee of National People's Congress shall make a ruling.

Article 87 If a national law, administrative regulation, local decree, autonomous decree and special decree, or administrative or local rule falls into any of the following

categories, the relevant body shall amend or cancel it pursuant to the authority granted in Article 88 hereof:

- (i) It exceeds the scope of its authority;
- (ii) A lower level law contravenes a higher level law;
- (iii) Different provisions exist in respect of the same matter among administrative or local rules, and pursuant to a ruling made by the relevant body, one of the provisions should be amended or canceled.
- (iv) The provision of an administrative or local rule is deemed inappropriate and should be amended or canceled;
- (v) It violates legally prescribed procedure.

Article 88 The authorities for amending or canceling a national law, administrative regulation, local decree, autonomous decree or special decree, and administrative or local rule are as follows:

- (i) The National People's Congress has the authority to amend or cancel any inappropriate national law enacted by its Standing Committee, and to cancel any autonomous decree or special decree approved by its Standing Committee in violation of the Constitution or the provision of Paragraph 2 of Article 66 hereof;
- (ii) The Standing Committee of National People's Congress has the authority to cancel any administrative regulation which contravenes the Constitution or any national law, and to cancel any local decree which contravenes the Constitution or any national law or administrative regulation, and to or cancel any autonomous decree or special decree approved by the Standing Committee of the People's Congress of any province, autonomous region, or municipality directly under the central government in violation of the Constitution or the provision of Paragraph 2 of Article 66 hereof;
- (iii) The National People's Congress has the authority to amend or cancel any inappropriate administrative rule or local rule;
- (iv) The People's Congress of a province, autonomous region, or municipality directly under the central government and the Standing Committee thereof has the authority to amend or cancel any inappropriate local decree enacted by its Standing Committee or any inappropriate local rule approved by its Standing Committee;
- (v) The Standing Committee of a local People's Congress has the authority to cancel any inappropriate rule enacted by the local government;



(vi) The People's Government of a province, autonomous region, or municipality directly under the central government has the authority to amend or cancel any inappropriate local rule enacted by a lower level People's Government;

(vii) The enabling body has the authority to cancel the administrative regulation or local decree which has been enacted by the enabled organ acting beyond its scope of authority or in violation of the objective of the enabling decision, and where necessary, the enabling body may revoke the authorization.

Article 89 Within 30 days of its promulgation, an administrative regulation, local decree, autonomous decree or special decree, or any administrative or local rule shall be submitted to the relevant body for filing in accordance with the following provisions:

(i) An administrative regulation shall be submitted to the Standing Committee of National People's Congress for filing;

(ii) A local decree enacted by the People's Congress of a province, autonomous region, or municipality directly under the central government and the Standing Committee thereof shall be submitted to the Standing Committee of National People's Congress and the State Council for filing; a local decree enacted by the People's Congress of a major city and the Standing Committee thereof shall be submitted to the Standing Committee of National People's Congress and the State Council for filing through the Standing Committee of the People's Congress of the province or autonomous region in which the city is located;

(iii) An autonomous or special decree enacted by an autonomous prefecture or autonomous county shall be submitted to the Standing Committee of National People's Congress and the State Council for filing through the Standing Committee of the People's Congress of the province or autonomous region in which the prefecture or county is located;

(iv) An administrative or local rule shall be submitted to the State Council for filing; a local rule shall be concurrently submitted to the Standing Committee of the local People's Congress for filing; local rules enacted by a major city shall also be concurrently submitted to the Standing Committee of the People's Congress and the People's Government of the province or autonomous region for filing;

(v) An administrative regulation or local decree enacted pursuant to an enabling decision shall be submitted to the body specified therein for filing.

Article 90 Where the State Council, the Central Military Committee, the Supreme People's Court, the Supreme People's Procuratorate, the various special committees of the Standing Committee and the Standing Committee of the People's Congress of various provinces, autonomous regions and municipalities directly under the central government deems that an administrative regulation, local decree, autonomous decree or special decree contravenes the Constitution or a national law, it may make a written request to the Standing Committee of National People's Congress for review, and the office of

operation of the Standing Committee shall distribute such request to the relevant special committees for review and comments.

Where any state organ and social group, enterprise or non-enterprise institution or citizen other than the bodies enumerated above, deems that an administrative regulation, local decree, autonomous decree or special decree contravenes the Constitution or a national law, it may make a written proposal to the Standing Committee of National People's Congress for review, and the office of operation of the Standing Committee shall study such proposal, and where necessary, it shall distribute such proposal to the relevant special committees for review and comments.

Article 91 Where a special committee of the National People's Congress deems that an administrative regulation, local decree, autonomous decree and special decree contravenes the Constitution or a national law during its review thereof, it may present a written review comment to the enacting body; and a joint review session may also be convened between the Legislative Committee and the relevant special committee, and the enacting body shall be summoned to the session to give explanation, and thereafter a subsequent written review comment shall be sent to the enacting body. The enacting body shall conduct deliberation and present its opinion on whether an amendment shall be made, and shall report back to the Legislative Committee and the relevant special committee.

Where a special committee of the National People's Congress deems that an administrative regulation, local decree, autonomous decree or special decree contravenes the Constitution or a national law during its review thereof and the enacting body refuses to make any amendment, it may submit to the Chairman's Committee a written review comment and a bill for its cancellation, and the Chairman's Committee shall decide whether to bring it to the Standing Committee session for deliberation and decision.

Article 92 In respect of the local decrees, autonomous decrees or special decrees, and administrative or local rules which are submitted to other bodies for filing, the body receiving them shall formulate the relevant review procedures consistent with the principle of safeguarding uniformity of law.

## Chapter VI Supplementary Provisions

Article 93 The Central Military Commission shall enact military decrees in accordance with the Constitution and national laws.

The various headquarters, divisions, military regions of the Central Military Commission may enact military rules consistent with its scope of authority in accordance with the relevant national laws and military decrees, decisions and orders.

Military decrees and military rules shall be implemented within the armed forces.

The measures for the enactment, amendment or repeal of military decrees and military rules shall be enacted by the Central Military Committee based on the principles set forth herein.

Article 94 This Law shall become operative as of July 1, 2000.