

## **Regulations on Administration of Commercial Performances**

*(Adopted at the 61<sup>st</sup> Executive Meeting of the State Council on August 1, 1997, promulgated by Decree No.229 of the State Council of the People's Republic of China on August 11, 1997 and effective as of October 1,1997)*

### Chapter I General Provisions

Article 1 These Regulations are formulated for the purposes of enhancing administration of commercial performances, invigorating socialist literature and art, satisfying the requirements of the people in cultural life and promoting the construction of socialist cultural and ethical progress.

Article 2 Commercial performance activities and supervision and control over them within the territory of the People's Republic of China shall conform to these Regulations.

Performing organizations of literature and art, sites for performances and brokerage agencies for performances (hereinafter referred to as commercial performing units) as well as individual performers may engage in various commercial performance activities only after obtaining the commercial performance license pursuant to the provisions of these Regulations.

Article 3 Commercial performances must be directed toward serving the people and the socialism, be steadfast in putting social benefits first, promote the best in national culture, and enrich and improve the people's cultural and ethical life.

Article 4 The State encourages and supports performance of national fine arts, and encourages and supports performances catering to rural areas, teenagers and children.

Article 5 The State prohibits and bans illegal performance activities, and safeguards the lawful rights and interests of performing units and performers.

Article 6 The department for culture administration of the State Council shall be responsible for the administration of the commercial performance work throughout the country. The department for public security and the department for industry and commerce administration of the State Council shall, according to their respective functions and duties, administer commercial performance activities according to law.

The departments for culture administration of local people's governments at or above the county level shall be responsible for the administration of the commercial performance work within their respective administrative areas. The departments for public security and the departments for industry and commerce administration of local people's governments at or above the county level shall, according to their respective functions and duties, administer commercial performance activities within their respective administrative areas according to law.

Article 7 The State gives rewards to units and individuals that have made outstanding

contributions to literary and artistic performances.

## Chapter II Examination and Approval of Performing Units and Individual Performers

Article 8 The department for culture administration of the State Council shall be responsible for the formulation of the overall plan for performing units throughout the country; and the departments for culture administration of people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall, according to the State's overall plan, determine the total number, distribution and structure of performing units within their respective administrative areas.

Article 9 In establishing a commercial performing organization of literature and art, the following conditions shall be met:

- have a name, organizational structures and articles of association for the unit;
- have performers and staff with performance skills;
- have a fixed place and props and equipment suitable for performances;
- have funds suitable for its size.

In examining and approving the establishment of a commercial performing organization of literature and art, the plan of the total number, distribution and structure for performing organizations of literature and art shall be complied with, in addition to the conditions prescribed in the preceding paragraph.

Article 10 In applying for establishing a commercial performing organization of literature and art, an application shall, in accordance with the authority of examination and approval prescribed by the State, be filed with the department for culture administration of the people's government at or above the county level; and if approved, a Commercial Performance License shall be obtained.

After obtaining the Commercial Performance License, an application for registration shall, by presenting the License, be filed with the department for industry and commerce administration, and only after obtaining a business license, may the commercial performance activities be engaged in; however, performing organizations of literature and art whose funds are allocated by the State are exceptions.

Article 11 In establishing a site for commercial performances, the following conditions shall be met:

- have a name, organizational structures and articles of association for the unit;
- have a building suitable for performances, necessary props and equipment and

appropriate professional managers;

have safety facilities and hygiene conditions conforming to the standards prescribed by the State;

have necessary funds.

Article 12 When applying for establishing a site for commercial performances, an application shall, in accordance with the authority of examination and approval prescribed by the State, be filed with the department for culture administration of the people's government at or above the county level; and if approved, a Commercial Performance License shall be obtained.

After obtaining the Commercial Performance License, an application for safety examination and approval shall, by presenting the License, be filed with the public security organ, an application for a Hygiene License shall be filed with the department for health administration, and an application for Registration shall, by presenting the License, be filed with the department for industry and commerce administration, and only after obtaining a business license, may the commercial performance activities be engaged in at the site;

Article 13 In establishing a brokerage agency for performances, the following conditions shall be met:

have a name, organizational structures and articles of association for the unit;

have a competent management department;

have employees with corresponding professional levels;

have a fixed place and business scope; and

have funds suitable to its size.

Article 14 When applying for establishing a brokerage agency for performances an application shall, in accordance with the authority of examination and approval prescribed by the State, be filed with the department for culture administration of the people's government at or above the provincial level; and if approved, a Commercial Performance License shall be obtained.

After obtaining the Commercial Performance License, an application for Registration shall, by presenting the License, be filed with the department for Industry and commerce administration, and only after obtaining a business license, may the business be engaged in.

Article 15 A commercial performing units shall meet the requirements of a juristic person

and acquire the status of a juristic person upon Registration after verification and approval according to law and independently bear civil liability with all its corporate property.

Article 16 The State prohibits establishment of Chinese-foreign equity joint or Chinese-foreign contractual joint cooperative organizations and foreign-capital organizations for literary and artistic performances, sites for performances and brokerage agencies for performances.

The State permits the reconstruction or new construction of sites for commercial performances by using foreign funds; however, foreign contributors may not take part in operations and management, Specific measures shall be formulated separately.

Article 17 An individual performer engaging in commercial performance activities shall, by presenting the identity certificate and the certificate issued by the neighborhood office or the town or township people's government of the place of domicile, apply to the department for culture administration of the people's government at or above the county level of the place of domicile according to the authority of examination and approval prescribed by the State, and if approved, may obtain a Commercial Performance License.

Article 18 The department for culture administration of the people's government at or above the county level shall make a decision on approval or disapproval within 60 days from the date of receipt of an application for the establishment of a performing unit.

Article 19 A commercial performing organization of literature and art, a site for commercial performances or a brokerage agency for performances shall, if changing its name, address, leading person-in-charge or legal representative, or if there is any change in the business scope of a brokerage agency for performance, apply for a change of Registration to the original organ which issued the License.

If, without any justifiable reason, a commercial performing unit or an individual performer fails to engage in performance activities within one year, the Commercial Performance License shall be canceled by the original organ which issued it.

### Chapter III Administration of Commercial Performance Activities

Article 20 The State encourages and supports commercial performing organizations of literature and art and individual performers to go into the midst of the masses and strive to create and perform highly rated programs with integrity of ideological content and artistic content which are highly attractive and have strong mass appeal.

Article 21 The State encourages and supports commercial performing units and individual performers to provide free performances to the masses in rural areas and Industrial and mining enterprises at regular intervals.

Article 22 The State prohibits the performances containing the following contents:

endangering the security, or honor of the state or social stability;

inciting ethnic separation, infringing on minority nationality customs and habits or disrupting ethnic solidarity;

propagating obscenity, pornography or superstition or playing up violence;

performing in a way that is frightening, cruel or ruinous to performers' health;

attracting audiences by using physical defects or by displaying physical deformities;

other contents prohibited by laws or administrative regulations.

Article 23 A commercial performing organizations of literature and art may itself organize commercial performance activities of its own, or may organize commercial performance activities jointly with other performing organizations of literature and art.

A unit shall, if inviting a member of a performing organization of literature and art to take part in its performance, obtain the consent of the organization to which the member belongs.

Article 24 Combined commercial performances shall be undertaken by brokerage agencies for performances.

Combined commercial performances referred to in the preceding paragraph mean temporarily combined commercial performances other than independent or joint performances by performing organizations of literature and art.

Article 25 A brokerage agency for performances shall, in undertaking a combined performance, report to the department which issued the Commercial Performance License for examination and approval 20 days prior to the date of performance; if the performance to be held in a province, autonomous region or municipality directly under the Central Government other than the locality wherein the brokerage agency for performances is located, shall also report for examination and approval to the department for culture administration of the local people's government at or above the county level of the locality wherein the performance is to be held.

Article 26 Individual performers may take part in commercial performance activities held by commercial performing organizations of literature and art or by brokerage agencies for performances, and may not hold commercial performance activities by themselves.

Article 27 National commercial performance activities or commercial performance activities entitled with such words as China or Chinese or National shall be reported to the department for culture administration of the State Council for examination and

approval.

Article 28 The decision-making activities for awards for literature and artistic performances shall be undertaken according to the relevant provisions of the State.

Article 29 Invitations to organizations or individuals for literature and artistic performances from the Hong Kong Special Administrative Regions of Macau and Taiwan as well as foreign countries for commercial performances shall be undertaken by brokerage agencies for performances that undertake foreign-related commercial performances; the undertaking unit shall apply for examination and approval to the department for culture administration of the State Council 30 days prior to the date of performance, and a formal contract may be concluded only after being approved; unless the State provides otherwise.

A commercial performing organization of literature and art or an individual performer leaving the country for a commercial performance shall be subject to approval of the department for culture administration of the State Council in accordance with the relevant provisions of the State.

Article 30 A commercial performing organization of literature and art or a brokerage agency for performances sponsoring a commercial performance shall conclude a performance contract with the site for the performance, and units and individuals participating in a combined performance shall conclude performance contracts contract with the brokerage agency for the performance. A performance contract shall specify the following particulars:

time and number of performances;

place of performance;

leading performers and program contents;

ticketing arrangement for the performance;

method of settlement of income and expenditures for the performance;

other particulars required to be specified.

Article 31 Parties to a performance contract shall strictly fulfill the performance contract. A party violating the performance contract shall be liable for breach of the contract according to law.

If any losses are caused to the audience due to breach of the performance contract, compensation shall be made according to law.

Article 32 The occupancy and use of a park, square, street, guest house, hotel, stadium

(gymnasium) or any other non-commercial performances site for commercial performance activity shall be reported for approval to the department for culture administration, the public security organ and other departments concerned of the local people's government at or above the county level.

Article 33 Performers of commercial performing organizations of literature and art or teachers and students of professional art colleges and schools shall, if participating in performance activities not sponsored by their own units, be subject to the consent of the units they belong to. Specific measures shall be formulated by the department for culture administration of the State Council.

Article 34 After the approval of a commercial performance activity, any necessary changes in the sponsor or the undertaking unit, the performing organization of literature and art or leading performer, time, place or number of performances or main contents of the performance program shall be reported for separate approval in accordance with the provisions of this Chapter.

Article 35 No commercial performance site may provide site services to any commercial performing or any unapproved commercial performance activities without a Commercial Performance License.

When giving a commercial performance, the number of audience in a performance site may not exceed the prescribed maximum number of persons. The performance site shall be responsible for maintaining the performance order to ensure the safety of the audience.

Article 36 In performing, no commercial performing organization of literature and art or individual performer may suspend the performance without reason or deceive the audience with such falsities as feigned singing or passing oneself off as others.

Contents of advertisements for commercial performances must be true and lawful, and may not mislead or deceive the audience.

Contents of advertisements for commercial performances shall be subject to examination and approval of the department approving the performance.

Article 37 The ticket price of commercial performances and the rate for rent of the site for commercial performances shall be governed by the provisions of the State concerning price controls.

Article 38 Performers shall pay taxes for their income from performances according to law.

Article 39 The income from benefit performances collecting donations must, excluding necessary costs and expenditures, be handed over in full to the unit accepting the donations, the sponsor unit and performers (staff) may not take remuneration out of it. The organization of a social welfare performance collecting donations shall, after being

consented to by the civil affairs department of the local people's government at or above the county level, be reported to the department for culture administration at the same level for examination and approval.

#### Chapter IV Penalty Provisions

Article 40 Where, in violation of the provisions of these Regulations, a commercial performing unit is established without approval or a commercial performance is conducted without obtaining a Commercial Performance License, the department for culture administration shall ban it, confiscate the illegal gains and concurrently impose a fine of not less than three times nor more than five times the illegal gains; or if there are no illegal gains, may concurrently impose a fine of not more than 5,000 yuan.

Article 41 Where, in violation of the provisions of these Regulations, a performance contains any contents prohibited by Article 22 of these Regulations, the department for culture administration shall order the performance to stop, and confiscate the illegal gains; if the circumstances are serious, the original agency which issued the License shall order operations to suspend for rectification or revoke the Commercial Performance License; if the performance violates the provisions on public security administration, the public security organ shall give penalties for public security violations according to law; or if a crime is constituted, criminal liability shall be investigated according to law.

Article 42 Where, in violation of the provisions of these Regulations, a combined performance is sponsored without approval or a performing organization of literature and or individual from the Hong Kong Special Administrative Region, or the region of Macau or Taiwan, or a foreign country is invited for a commercial performance without approval, the department for culture administration shall order the performance to stop, confiscate the illegal gains of the units or individuals participating in the performance; confiscate the illegal gains of the organizer and concurrently impose a fine of not less than five times nor more than ten times the illegal gains; if there are no illegal gains, it shall impose a fine of not less than 5,000 yuan nor more than 20,000 yuan; and if the circumstances are serious, the original agency which issued the License shall order it to suspend operations for rectification or revoke the Commercial Performance License.

Article 43 Where, in violation of the provisions of these Regulations, a performance is cancelled without reasons or a deceptive performance is conducted by such means as feigned singing or passing oneself off as somebody else, the department for culture administration shall criticize the performer by circulating a notice, confiscate the illegal gains and concurrently impose a fine of not less than twice nor more than five times the illegal gains; if there are no illegal gains, it may impose a fine of not more than 5,000 yuan; and if the circumstances are serious, shall prohibit the performer from taking part in commercial performance activities for one year.

Article 44 Where a site for commercial performances, in violation of the provisions of these Regulations, offers a place, without approval, for a performance organized by a commercial performing organization of literature and art or by a brokerage agency for

performances without a Commercial Performance License or for an unapproved commercial performance activity, the department for culture administration shall order the performance to stop, confiscate the illegal gains, and concurrently impose a fine of not less than three times nor more than times the illegal gains; and if the circumstances are serious, the original agency which issued the License shall order operations to suspend for rectification or revoke the Commercial Performance License.

Article 45 Where, due to the violation of the provisions of these Regulations, a site for commercial performances causes disorder or an accident during the performance, the department for culture administration shall order corrections and give a warning; if the circumstances are serious, the original agency which issued the License shall order operations to suspend for rectification or revoke the Commercial Performance License; License; if a performance violates the provision on public security administration, the public security organ shall give penalties for public security violations according to law; or if constituting a crime, criminal liability shall be investigated according to law.

Article 46 Where, in violation of the provisions of these Regulation, income from benefit performance collecting donations is embezzled, the department for culture administration shall, jointly with the civil affairs department, order the sponsor unit to hand over the illegal gains to the unit accepting the donations and impose a fine of not less than three times nor more than five times the illegal gains; if the circumstances are serious, the original agency which issued the License shall order operations to suspend for rectification or revoke the Commercial Performance License; and if a crime is constituted, criminal liability shall be investigated according to law.

Article 47 Where a commercial performing organization of literature and art or a brokerage agency for performances, in violation of the provisions of these Regulations, employs, without approval, a member without obtaining in advance consent of the unit to which he belongs or an individual without a Commercial Performance License to participate in a commercial performance activity, the department for culture administration shall give a warning, and concurrently impose a fine of not less than 500 yuan nor more then 5,000 yuan; and if cumulative administrative are imposed penalties more than three times, the original agency which issued the License shall revoke the Commercial Performance License.

Article 48 Where an individual, in violation of the provisions of these Regulations, participates in a commercial performance without the consent of the unit to which he belongs, the department for culture administration shall order him to stop the performance activity, confiscate the illegal gains, impose a fine of not less than one times nor more than three times the illegal gains and concurrently give administrative sanctions according to law.

Article 49 Where an individual performer, in violation of the provisions of these Regulations, holds a commercial performance without approval, the department for culture administration shall order him to stop the performance activity, confiscate the illegal gains, and concurrently impose a fine of not less than 5,000 yuan nor more than

10,000 yuan; and if the circumstances are serious, the original agency which issued the License shall revoke the Commercial Performance License.

Article 50 Where, in violation of the provisions of these Regulations, a Commercial Performance License is leased or transferred, the department for culture administration shall order the illegal activity to stop, confiscate the illegal gains, and impose a fine of not less than three times nor more than five times the illegal gains; if there are no illegal gains, it may concurrently impose a fine of not more than 5,000 yuan; and if the circumstances are serious, the original agency which issued the License shall revoke the Commercial Performance License.

Article 51 Performances infringing on the copyright of others shall be handled according to the provisions of the Copyright Law of the People's Republic of China.

Violations of the State's laws and regulations governing industry and commerce, taxation and public health administration shall be penalized by the administrative departments concerned according to law.

Article 52 Departments for culture administration or their staff members who, in violation of the provisions of laws or regulations, infringe on the legitimate rights and interests of a performing organization of literature and art or an individual performer, a site for performance or a brokerage agency for performances, or in the work of administration of commercial performances, abuse their powers, neglect their duties, commit illegalities for personnel interests or by fraudulent means, take part in or cover up an illegal performance activity, shall be investigated for criminal liabilities according to law where a crime is constituted; or be given administrative sanctions according to law where no crime is constituted.

## Chapter V Supplementary Provisions

Article 53 Commercial performing units established upon approval and individual performers already registered prior to the entry into force of these Regulations shall, within three months from the date of the entry into force of these Regulations, re-accomplish the formalities according to the relevant provisions of these Regulations.

Article 54 Provinces, autonomous regions and municipalities directly under the Central Government may formulate specific measures for administration of performance activities of roving folk artists by reference of the provisions of these Regulations.

Article 55 These Regulations shall enter into force as of October 1, 1997.