

The Administration's response to questions
raised by Hon James TO on 4 December 2002 (Third Batch)

Introduction

Further to our notes of 19 December 2002 and 7 January 2003, this note sets out the Administration's response to a number of questions raised by the Hon James TO on 4 December 2002.

Replies to questions

General Questions

- 1.5 Does the Government regard all the offences under BL 23 as crimes of a political character? If not, which offences are regarded as offences of a political character? Please provide reasons for the Government's views.

Administration's reply to 1.5

The expression "crimes of a political character" has various different meanings. In so far as the expression refers to offences that suppress political criticism of government, none of the BL 23 offences are of a political character. The proposed offences aim to prohibit conduct that is illegal in most common law jurisdictions.

Treason

2.9

- 7.1 What is the definition of the "entire territory" of the state?

Administration's reply to 7.1

This would be defined in accordance with the relevant National laws which are applicable to Hong Kong by virtue of Article 18 and Annex III of the Basic Law and Declarations made by the PRC Government (see e.g.

Declaration of the Government of the PRC on the Baselines of the Territorial Sea of the PRC issued on 15 May 1996).

Theft of State Secret

6.10-6.11, 6.23

20.2 What is the meaning of “without lawful authority”?

Administration’s reply to 20.2

The meaning of the phrase “without lawful authority” should be construed in the light of section 21 of the Official Secrets Ordinance, which defines the circumstances in which the disclosure of information to which the Ordinance applies may be made with lawful authority.

20.6 Is “the information did not actually cause damage” a possible defense?

Administration’s reply to 20.6

According to section 18(3) of the Official Secrets Ordinance, in so far as a person who is not a public servant or government contractor is concerned, he does not commit an offence unless:

- (a) the disclosure by him is damaging; and
- (b) he makes it knowing, or having reasonable cause to believe, that it would be damaging.

20.7 Can public interest trump or outweigh the harm from disclosure as a defense?

Administration’s reply to 20.7

No such defence is provided under the Official Secrets Ordinance. However, according to the decision in *R v Shayler* [2002] 2 WLR 754, the restriction on disclosure imposed by the Ordinance is not absolute and is confined to disclosure without lawful authority. In the limited situations where a person is prohibited by the Ordinance to disclose protected information, he may apply for official authorization pursuant to section

21. Any executive decision to decline an official authorization will be subject to judicial review. This mechanism of judicial control will enable the courts to take into account and give proper weight to the public interests considerations that are in favour of disclosure.

6.19

22.1 Is it an offence if the receiver or transmitter is unaware the information is protected?

Administration's reply to 22.1

An offence of unlawful disclosure is only committed if a person makes an unauthorized disclosure knowing or having reasonable cause to believe that the information to be disclosed belongs to a specifically protected category under the Ordinance.

Foreign Organizations

7.15

26.1 What is the national law(s), including the relevant regulations and/or guidelines, to proscribe an organization in the Mainland on the grounds of endangering national security?

26.2 Please provide the relevant part(s) of the national law(s) in question.

Administration's reply to 26.1 and 26.2

- (a) Regulations on Registration Administration of Associations (社會團體登記管理條例) (Regulations); and
- (b) Interim Regulations on Registration Administration of Private Non-enterprise Units (民辦非企業單位登記管理暫行條例) (Interim Regulations).
- (c) National Security Regulation of the People's Republic of China (中華人民共和國國家安全法)

Articles 4, 34 and 35 of the *Regulations for the Registration Administration of Associations*, Articles 4, 26 and 27 of the *Interim Regulations on Registration Administration of Private Non-enterprise Units* and Article 4 of the *National Security Regulation of the People's*

Republic of China (Chinese version only) are attached as **Annexes I, II and III** for reference.

Security Bureau
January 2003

III-06-04-202

Regulations on Registration Administration of Associations

(Adopted at the Eighth Executive Meeting of the State Council
on September 25, 1998, promulgated by Decree No. 250 of
the State Council of the People's Republic of China
on October 25, 1998, and effective as of the date of promulgation)

CHAPTER I GENERAL PROVISIONS

Article 1

These Regulations are formulated for the purposes of safeguarding the freedom of association of citizens, maintaining the lawful rights and interests of associations, strengthening registration administration of associations and facilitating socialist material as well as cultural and ethical progress.

Article 2

Associations referred to in these Regulations are defined as non-profit-making social organizations voluntarily composed of Chinese citizens that perform activities in accordance with the articles of association for the realization of the common desires of the membership.

Organizations, with the exception of State organs, may, as unit members, be members of associations.

Article 3

The establishment of an association shall be subject to the review and consent of its relevant governing unit, and shall be registered in accordance with the provisions of these Regulations.

Associations shall be qualified as juristic persons.

The following organizations do not fall within the scope of registration under these Regulations.

- (1) people's organizations which have participated in the Chinese People's Political Consultative Conference;
- (2) organizations which have been confirmed by the administrative department for institutional organization of the State Council and are exempt from registration as approved by the State Council;
- (3) organizations which are established within organs, organizations,

Annex I

enterprises and institutions with the approval of their own units, and perform activities therein.

Article 4

Associations shall abide by the Constitution, laws, regulations and policies of the State, may not oppose the basic principles enshrined in the Constitution, may not endanger the reunification and security of the country or the unity of the nationalities, may not infringe upon State, public or social interests or the lawful rights and interests of other organizations and citizens, and may not breach social ethics and morality.

No associations may conduct profit-making business activities.

Article 5

The State shall protect associations in performing activities in accordance with the laws, regulations and their articles of association, and no organizations and individuals may unlawfully interfere with them.

Article 6

The civil affairs department of the State Council and the civil affairs departments of the local people's governments at or above the county level are the registration administration organs of the people's governments at their corresponding levels (hereinafter referred to as the registration administration organs) for associations.

The relevant departments of the State Council and those of the local people's governments at or above the county level as well as organizations authorized by the State Council or the local people's governments at or above the county level are the relevant governing units over associations of trades, academic disciplines or professions (hereinafter referred to as the governing units).

Where the laws and administrative regulations stipulate otherwise with regard to the supervision and administration of associations, the provisions of the relevant laws and administrative regulations shall be applied.

CHAPTER II
JURISDICTION

Article 7

Nationwide associations shall be registered and administered by the registration administration organ of the State Council; local associations shall be registered and administered by registration administration organs of the people's governments in places where they are located. Trans-administrative-region associations shall be registered and administered by the common registration administration organs of the people's governments at the next higher level over the administrative regions that these associations straddle

Article 8

Where the domiciles of the registration administration organs and the governing units are not in the same places as those of the associations, the registration administration organs and the governing units in places where these associations are domiciled may be delegated with the work of supervision and administration within the scope of the entrustment.

CHAPTER III

ESTABLISHMENT AND REGISTRATION

Article 9

In applying for the establishment of an association, the matter shall be subject to the review and consent of the governing unit, and the sponsor shall apply for the approval of preparations to the registration administration organ.

Article 10

To be established, an association shall meet the following requirements:

- (1) possesses more than 50 individual members or 30 unit members; a total of more than 50 members are required where an association consists of both individual and unit members.
- (2) possesses standard name and corresponding organizational structure;
- (3) possesses a fixed domicile;
- (4) possesses full-time staff suitable for its activities;
- (5) possesses lawful assets and sources of funding; a nationwide association shall have an operational fund of not less than 100,000 yuan while a local association and a trans-administrative-region association shall have an operational fund of not more than 30,000 yuan;
- (6) possesses the ability to bear civil liabilities independently.

The name of an association shall be in conformity with the provisions of the laws and regulations, and may not go against social ethics and morality. The name of an association shall correspond to its operational scope, location of members and areas of activities and shall precisely reflect its characteristics. The use of such words as "China", "National" or "Chinese" in the name of a national association shall be subject to approval in accordance with the relevant provisions of the State. No local associations may use such words as "China", "National" or "Chinese" in their names.

Article 11

In applying for making preparations for the establishment of an association, the sponsor shall submit the following documents to the registration administration organ:

- (1) an application letter for making preparations;
- (2) approval documents of the governing unit;
- (3) a capital verification report and the certificate for the site use right;
- (4) basic facts and identity certification of the sponsor and the proposed responsible person;

(5) the draft articles of association.

Article 12

Registration administration organs shall make their decisions to approve or disapprove the making of preparations for the establishment within 60 days of receipt of all valid documents specified in Article 11 of these Regulations; where the application for making preparations is not approved, the registration administration organ shall give reasons therefor to the sponsor.

Article 13

Registration administration organs shall not approve the making of preparations under any one of the following circumstances:

- (1) where there is evidence to indicate that the purposes and operational scope of the association being applied for making preparations are not in conformity with the provisions of Article 4 of these Regulations;
- (2) where there is no need for establishing such an association as there already exists an association whose operational scope is either identical or similar to that of the proposed association in the same administrative region;
- (3) where the sponsor and the proposed responsible person are still or were once under the criminal penalty depriving them of political rights, or do not possess full capacity for civil conduct;
- (4) where fraud and falsification are resorted to in applying for making preparations;
- (5) where other circumstances prohibited by laws and administrative regulations are involved.

Article 14

An association whose establishment is in preparation shall convene a members' assembly or a members' congress within 6 months from the date of approval of the application for making preparation to adopt its articles of association, and create its executive body, responsible persons and legal representative, and shall apply for establishment registration to the registration administration organ. No activities other than those directly related to making preparations may be performed during the preparatory period.

The legal representative of an association shall not concurrently act as the legal representative of another association.

Article 15

The articles of association of an association shall contain the following items:

- (1) its name and domicile;
- (2) its purposes, operational scope and areas of activities;
- (3) qualifications of its members and their rights and obligations;
- (4) a democratic organizational and managerial system, and procedures for the creation of its executive body;
- (5) qualifications for its responsible persons and procedures for the election and dismissal thereof;

- (6) principles on the management and use of assets
- (7) procedures for revising the articles of association;
- (8) procedures for termination and disposition of assets thereafter;
- (9) other matters that shall be stipulated in the articles of association.

Article 16

The registration administration organs shall complete the review within 30 days from the date of receipt of the application for registration and relevant documents of the association which has accomplished the preparatory work. Registration shall be granted and a Registration Certificate for Association as Juristic Person shall be issued to an association that is free from the circumstances provided in Article 13 of these Regulations and whose preparations are in conformity with all the requirements and the contents of its articles of association are complete. The registration items include:

- (1) the name;
- (2) the domicile;
- (3) the purposes, operational scope and areas of activities;
- (4) the legal representative;
- (5) the funds for its activities;
- (6) the governing unit.

Where registration is not granted, the applicants concerned shall be notified of the decision not granting registration.

Article 17

An association qualified as a juristic person on the day its establishment was approved according to the provisions of law shall, within 60 days after the date of approval of its establishment, file to the registration administration organ for the record. The registration administration organ shall, within 30 days from the date of receipt of the documents for the record, issue a Registration Certificate for Association as Juristic Person.

The items for the record of an association shall include, in addition to the items specified in Article 16 of these Regulations, the approval document issued by the governing unit according to law.

Article 18

An association shall, on the basis of the Registration Certificate for Association as Juristic Person, apply for engraving its seal and opening a bank account. The association shall submit the design of its seal and the number of its bank account to the registration administration organ for the record.

Article 19

An established association that intends to establish a branch or representative office shall, upon the review and consent of the governing unit, submit to the registration administration organ for registration with such documents as the name, operational scope, domicile and the chief responsible person of the branch or representative office.

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The branch or representative office of an association is an integral component thereof, and as such, it shall not be qualified as a juristic person. It shall, according to the purposes and within the operational scope specified in the articles of association of the association to which it is affiliated, perform activities, admit members within the scope of authorities by the association. The branch of an association shall not establish its own sub-branch.

An association shall not establish any regional branch.

CHAPTER IV

CHANGES IN REGISTRATION AND CANCELLATION OF REGISTRATION

Article 20

Where it is necessary to make changes in the items of registration or record of an association, it shall, within 30 days from the date of consent upon review by the governing unit, apply to the registration administration organ for making changes in its registration or record (hereinafter referred to as changes in registration).

To revise its articles of association, an association shall, with 30 days from the date of consent upon review by the governing unit, submit the revised articles of association to the registration administration organ for examination and approval.

Article 21

An association shall, after the review and consent by the governing unit, apply to the registration administration organ for cancellation of its registration or record (hereinafter referred to as cancellation of registration) under any one of the following circumstances:

- (1) where it has achieved the purposes set forth in its articles of association;
- (2) where it has been dissolved of its own accord;
- (3) where it has split or merged with another organization;
- (4) where it has been terminated for other reasons.

Article 22

Before an association is to cancel its registration, it shall set up a liquidating group to complete the work of liquidation under the guidance of the governing unit and other relevant departments. The association shall not perform any activities other than the liquidation during the liquidation process.

Article 23

The association shall go through the procedures for cancellation of its registration with the registration administration organ within 15 days after the date of completion of the liquidation. For the cancellation of registration, the association must submit an application signed by its legal representative, a document of approval issued by the governing unit and the liquidation report.

Where the registration administration organ approves the cancellation of

registration, it shall issue a certificate of cancellation, and withdraw the registration certificate, seal and financial vouchers of the association.

Article 24

Where an association dissolves its branch or representative office, it shall go through the procedures for cancellation after the review and consent by the governing unit.

Where an association is canceled, its sub-organization or representative office shall be canceled simultaneously.

Article 25

The remnant assets of a canceled association shall be disposed of in accordance with the relevant provisions of the State.

Article 26

The establishment, cancellation or changes of its name, domicile and the legal representative of an association shall be publicly announced by the registration administration organ.

CHAPTER V

SUPERVISION AND ADMINISTRATION

Article 27

The registration administration organs shall perform the following functions of supervision and administration:

- (1) being responsible for the registration and record of the establishment, changes and cancellation of associations;
- (2) conducting annual verification of associations;
- (3) supervising and verifying cases related to the violation of these Regulations by associations, and imposing administrative punishments on associations whose conducts violate these Regulations.

Article 28

The governing units shall perform the following functions of supervision and administration:

- (1) being responsible for pre-review prior to the preparation application, establishment registration, changes in registration and cancellation of registration of associations.
- (2) supervising and guiding associations to abide by the Constitution, laws, regulations and policies of the State, and to perform activities in accordance with their articles of association;
- (3) being responsible for the preliminary examination of the annual verification of associations;
- (4) assisting the registration administration organs and other relevant departments in investigating and punishing violations of law by associations;

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- (5) guiding jointly with relevant organs the issues related to liquidation of associations.

The governing units may not charge any fees on associations for performing their functions specified in the preceding paragraph.

Article 29

The assets of an association must come from lawful resources. No units and individuals may usurp, divide up in secret or misappropriate the assets of an association.

The funds of an association, and the lawful income obtained in accordance with the relevant provisions of the State from the performance of activities specified in its articles of association shall be used for activities specified in its articles of association, and shall not be divided among its members.

The acceptance of donations and grants by an association shall conform to the purposes and operational scope specified in its articles of association, and the association shall use them in accordance with the time limits, models and lawful purposes as agreed with the donors and grantors. The association shall report to its governing unit matters related to the acceptance and use of donations and grants, and shall make them public in a proper way.

The salaries and insurance and welfare benefits for full-time staff of an association shall be determined by reference to the relevant provisions of the State governing institutions.

Article 30

Associations shall follow the relevant rules of the State on financial management, and shall be subject to the supervision of the financial departments. Where the assets of an association come from the appropriation of the State, or from civic donations and grants, it shall, in addition, be subject to the supervision of the auditing organ.

Before the end of the term or the replacement of the legal representative of an association, the registration administration organ and the governing unit shall organize an audit of its finance.

Article 31

Associations shall submit to the governing units their work reports of the previous year prior to March 31 each year, and after the preliminary examination and consent of the governing units, submit them to the registration administration organs prior to May 31 for annual verification. The contents of the work reports shall include: the observance of laws, regulations and policies of the State, the registration undergone in line with these Regulations, activities performed in line with the articles of association, changes in personnel and organizational structure as well as financial management.

The registration administration organs shall simplify the contents of the annual verification of the associations which are granted the Certificate of Registration for Association as Juristic Person in accordance with the provisions of Article 17 of these Regulations.

CHAPTER VI
PENALTY PROVISIONS

Article 32

Where an association has resorted to fraud and falsification in acquiring its registration, or has not performed any activities for one year since the acquisition of the Certificate of Registration for Association as Juristic Person, the registration administration organ shall revoke its registration.

Article 33

Where an association has been involved in any one of the following circumstances, the registration administration organ may give it a warning, order it to make amends, or suspend its activities within a given time limit, or order it to remove and replace the person-in-charge who is directly responsible, or, where the circumstances are serious, revoke its registration; where a crime is constituted, criminal liability shall be investigated according to law:

- (1) altering, leasing or lending the Registration Certificate for Association as Juristic Person, or leasing, or lending the seal of the association;
- (2) performing activities beyond the purposes and operational scope specified in the articles of association;
- (3) refusing to accept supervision and inspections or failing to accept supervision and inspections according to provisions;
- (4) failing to go through procedures for making changes in registration according to provisions;
- (5) establishing without authorization a branch or representative office, or causing serious consequences due to its lax control over its branch or representative office;
- (6) engaging in profit-making activities;
- (7) usurping, dividing in secret or misappropriating the assets of the association or the accepted donations and grants;
- (8) charging fees, raising funds, accepting and using donations and grants in violation of relevant provisions of the State.

Illegal operational volumes or illegal gains coming from the acts as stipulated in the preceding paragraph shall be confiscated, and a fine of not less than one time but not more than three times the illegal operational volumes, or of not less than three times but not more than five times the illegal gains may be imposed simultaneously.

Article 34

Where the activities of an association violate other laws and regulations, they shall be dealt with by the relevant State organs according to law; where the relevant State organs consider that its registration should be revoked, the registration administration organ shall revoke its registration.

Article 35

Where an organization makes preparations without approval for establishing an association, or an organization without registration performs activities in the name of an association, or an association whose registration has been revoked continues to perform activities in the name of the association, it shall be banned by the registration administration organ, its illegal properties shall be confiscated, and criminal liabilities shall be investigated according to law where a crime is constituted; where a crime is not constituted, administrative penalties for public security shall be imposed according to law.

Article 36

Where an association is ordered to suspend its activities within a given time limit, the registration administration organ shall seal up its registration certificate, seal and financial vouchers.

Where the registration of an association has been revoked, the registration administration organ shall withdraw its registration certificate and seal.

Article 37

Any staff member of the registration administration organs and the governing units who abuses his powers, commits illegalities for personal interests or by fraudulent means, or neglects his duties shall be investigated for criminal liabilities according to law where a crime is constituted; those whose acts do not constitute crimes shall be subject to administrative sanctions according to law.

CHAPTER VII
SUPPLEMENTARY PROVISIONS

Article 38

The format of the Registration Certificate for Association as Juristic Person shall be determined by the civil affairs department of the State Council.

No fees may be charged for the annual verification of associations.

Article 39

Associations established before the effectiveness of these Regulations shall, within one year of their effectiveness, apply for re-registration in accordance with the relevant provisions of these Regulations.

Article 40

These Regulations take effect as of the date of promulgation. The Regulations on the Registration Administration of Associations promulgated by the State Council on October 25, 1989 shall be repealed simultaneously.

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Interim Regulations on Registration Administration of Private Non-enterprise Units

(Adopted at the Eighth Executive Meeting of the State Council
on September 25, 1998, promulgated by Decree No. 251
of the State Council of the People's Republic of China on
October 25, 1998, and effective as of the date of promulgation)

CHAPTER I GENERAL PROVISIONS

Article 1

These Regulations are formulated for the purposes of standardizing registration administration of private non-enterprise units, protecting their lawful rights and interests, and facilitating the socialist material as well as cultural and ethical progress.

Article 2

Private non-enterprise units referred to in these Regulations are defined as social organizations which are established by enterprises, institutions, associations or other civic entities as well as individual citizens using non-state assets and conduct not-for-profit social service activities.

Article 3

The establishment of a private non-enterprise unit shall be subject to the review and approval of its relevant governing unit, and shall be registered in accordance with the provisions of these Regulations.

Article 4

Private non-enterprise units shall abide by the Constitution, laws, regulations and policies of the State, may not oppose the basic principles enshrined in the Constitution, may not endanger the reunification and security of the country or the unity of the nationalities, may not infringe upon the State interests, public and social interests as well as the lawful rights and interests of other organizations and citizens, and may not go against social ethics and morality. No private non-enterprise unit may conduct business activities for profit.

Annex II

Article 5

The civil affairs department of the State Council and the civil affairs departments of the local people's governments at or above the county level are the registration administration organs of the people's governments at their corresponding level (hereinafter referred to as the registration administration organs) for private non-enterprise units.

The relevant departments of the State Council and those of the local people's governments at or above the county level as well as organizations authorized by the State Council or the local people's governments at or above the county level are the relevant governing units over private non-enterprise units within the relevant trades, and professions (hereinafter referred to as the governing units).

Where the laws and administrative regulations stipulate otherwise with regard to the supervision and administration of private non-enterprise units, these provisions of the relevant laws and administrative regulations shall be applied.

CHAPTER II
JURISDICTION

Article 6

The registration administration organs shall be responsible for the registration administration of the private non-enterprise units whose establishment has been reviewed and approved by the governing units at the corresponding level.

Article 7

Where the domiciles of the registration administration organs and the governing units are not in the same places as those of the private non-enterprise units, they may delegate to the registration administration organs and the governing units in places where these private non-enterprise units are domiciled the work of supervision and administration within the scope of the delegation.

CHAPTER III
REGISTRATION

Article 8

The application for the registration of a private non-enterprise unit shall meet the following requirements:

- (1) has obtained approval from the governing unit after review;
- (2) possesses a standard name and requisite organizational structure;
- (3) possesses professional staff suitable for its business activities;
- (4) possesses lawful properties as required for its business activities;
- (5) possesses a necessary site.

The name of a private non-enterprise unit shall be in conformity with the provisions of the civil affairs department of the State Council, and may not be headed with such words as "China", "National" or "Chinese".

Article 9

In applying for the registration of a private non-enterprise unit, the sponsor shall submit the following documents to the registration administration organ:

- (1) an application letter for registration;
- (2) approval documents of the governing unit;
- (3) a certificate for site use right;
- (4) a capital verification report;
- (5) basic facts and identity certification of the proposed responsible person;
- (6) the draft articles of association.

Article 10

The articles of association of a private non-enterprise unit shall contain the following items:

- (1) its name and domicile;
- (2) its purposes and operational scope;
- (3) its organizational and managerial system;
- (4) procedures for the election and dismissal of the legal representative or the responsible person;
- (5) principles on the management and use of assets;
- (6) procedures for revising the articles of association;
- (7) procedures for termination and disposal of the assets thereafter;
- (8) other matters that shall be stipulated in the articles of association.

Article 11

The registration administration organs shall make decisions to grant or not to grant registration within 60 days from the date of receipt of all valid documents of the application for establishment registration.

The registration administration organs shall not grant registration under any one of the following circumstances, and shall give reasons therefor to the applicant:

- (1) where there is evidence to indicate that the purposes and operational scope of the private non-enterprise unit being applied for registration are not in conformity with the provisions of Article 4 of these Regulations;
- (2) where fraud and falsification are resorted to in applying for establishment;
- (3) where there is no need for establishing such a private non-enterprise unit as there already exists a private non-enterprise unit whose operational scope is either identical or similar to that of the proposed private non-enterprise unit in the same administrative region;
- (4) where the proposed responsible person is still or was once under criminal penalty depriving himself political rights, or does not possess full capacity for civil conduct;
- (5) where other circumstances prohibited by laws and administrative regulations are involved.

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Article 12

Where a private non-enterprise unit is approved for registration, the registration administration organ shall register the name, domicile, purposes and operational scope, the legal representative or the responsible person, the start-up fund, the governing unit, and respectively issue a Certificate of Registration for Private Non-enterprise Unit (Legal Person), Certificate of Registration for Private Non-enterprise Unit (Partnership) or Certificate of Registration for Private Non-enterprise Unit (Individual) in accordance with the different modes of bearing civil liabilities.

Where a private non-enterprise unit has, according to the provisions of relevant laws and other administrative regulations, upon review or registration by the relevant competent department, obtained a corresponding profession licensing certificate, the registration administration organ shall simplify the registration procedures and issue the corresponding certificate for registration of private non-enterprise unit on the basis of certifying documents on profession licensing produced by the competent department.

Article 13

No private non-enterprise unit may establish any branch.

Article 14

A private non-enterprise unit shall, on the basis of the registration certificate, apply for engraving its seal and opening a bank account. The private non-enterprise unit shall submit the design of its seal and the number of its bank account to the registration administration organ for the record.

Article 15

Where it is necessary to make changes in the items of registration of a private non-enterprise unit, it shall, within 30 days from the date of consent after review by the governing unit, apply to the registration administration organ to make changes in its registration.

Where a private non-enterprise unit intends to revise its articles of association, it shall, with 30 days from the date of consent after review by the governing unit, submit the revised articles of association to the registration administration organ for examination and approval.

Article 16

Where a private non-enterprise unit dissolves of its own accord, splits up or merges, or needs to have its registration canceled for other reasons, it shall undertake the procedures for cancellation of registration with the registration administration organ.

Before a private non-enterprise unit may cancel its registration, it shall set up a liquidating group to complete the work of liquidation thereof under the guidance of the governing unit and other relevant departments. The private non-enterprise unit may not perform any activities other than liquidation during the liquidation period.

Article 17

The legal representative or responsible person of a private non-enterprise unit shall undertake the procedures for the cancellation of registration with the registration administration organ within 15 days after the completion of the liquidation. For the cancellation of registration, the private non-enterprise unit must submit an application for the cancellation, a document of approval issued by the governing unit and the liquidation report.

Where the registration administration organ approves the cancellation of registration, it shall issue a certificate of cancellation, and withdraw the registration certificate, seal and financial vouchers.

Article 18

The establishment, cancellation and change of name, domicile and legal representative or responsible person of a private non-enterprise unit shall be publicly announced by the registration administration organ.

CHAPTER IV

SUPERVISION AND ADMINISTRATION

Article 19

The registration administration organs shall perform the following functions of supervision and administration:

- (1) being responsible for the registration of the establishment, change and cancellation of private non-enterprise units;
- (2) conducting annual verification of private non-enterprise units;
- (3) supervising and inspecting cases related to the violation of these Regulations by private non-enterprise units, and imposing administrative punishments on private non-enterprise units whose conducts violate these Regulations.

Article 20

The governing units shall perform the following functions of supervision and administration:

- (1) being responsible for pre-review prior to the registration of establishment, changes and cancellation of private non-enterprise units.
- (2) supervising and guiding private non-enterprise units to abide by the Constitution, laws, regulations and policies of the State, and to perform activities in accordance with their articles of association;
- (3) being responsible for the preliminary examination of the annual verification of private non-enterprise units;
- (4) assisting the registration administration organs and other relevant departments in investigating and punishing violations of law by private non-enterprise units;
- (5) guiding jointly with the relevant organs issues related to liquidation of private non-enterprise units.

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The governing units may not charge any fees to private non-enterprise units for the performance of the functions specified in the preceding paragraph.

Article 21

The assets of a private non-enterprise unit must come from lawful resources. No units and individuals may usurp, divide in secret or misappropriate the assets of a private non-enterprise unit.

The lawful income of a private non-enterprise unit obtained in accordance with the relevant provisions of the State from performing activities specified in its articles of association shall be used for the activities specified in its articles of association.

The acceptance of donations and grants by a private non-enterprise unit shall conform to the purposes and operational scope specified in its articles of association, and private non-enterprise unit shall use them in accordance with the time limits, ways and lawful purposes as agreed with the donors and grantors. The private non-enterprise unit shall report to its governing unit matters related to the acceptance and use of donations and grants, and shall make them known to the public in a proper way.

Article 22

The private non-enterprise unit shall follow the relevant rules of the State on financial management, and be subject to the supervision of the financial departments. Where the assets of a private non-enterprise unit come from the appropriation of the State, or from civic donations and grants, it shall, in addition, be subject to the supervision of the auditing organ.

Before the replacement of the legal representative of a private non-enterprise unit, the registration administration organ and the governing unit shall organize an audit of its finance.

Article 23

The private non-enterprise unit shall submit to the governing units their work reports of the previous year prior to March 31 each year, and after the preliminary examination and consent of the governing units, submit them to the registration administration organs prior to May 31 for annual verification. The contents of the work reports shall include: the observance of laws, regulations and policies of the State, the registration undergone in accordance with these Regulations, activities performed in accordance with the articles of association, changes in personnel and organizational structure as well as financial management.

The registration administration organs shall simplify the contents of the annual verification of the private non-enterprise units which are granted the certificate of registration in accordance with the provisions of the Paragraph 2, Article 12 of these Regulations.

CHAPTER V

PENALTY PROVISIONS

Article 24

Where a private non-enterprise unit is resorted to fraud and falsification in acquiring its registration, or where the approval of its establishment has been revoked by the governing unit, the registration administration organ shall revoke its registration.

Article 25

Where a private non-enterprise unit is involved in any one of the following circumstances, the registration administration organ may give it a warning, order it to make amends, or suspend its activities within a given time limit, or, where the circumstances are serious, revoke its registration; where a crime is constituted, criminal liability shall be investigated according to law:

- (1) altering, leasing or lending the registration certificate for private non-enterprise unit, or leasing, lending the seal of the private non-enterprise unit;
- (2) performing activities beyond the purposes and operational scope specified in its articles of association;
- (3) refusing to accept supervision and inspections or failing to accept supervision and inspections according to provisions;
- (4) failing to undertake procedures for making changes in registration according to provisions;
- (5) establishing a branch;
- (6) engaging in for-profit activities;
- (7) usurping, dividing in secret or misappropriating assets of the private non-enterprise unit or accepted donations and grants;
- (8) charging fees, raising funds or accepting and using donations and grants in violation of the relevant provisions of the State.

Illegal operational volumes or illegal gains coming from the acts as set forth in the preceding paragraph shall be confiscated, and a fine of not less than one time but not more than three times the illegal operational volumes, or of not less than three times but not more than five times the illegal gains may be imposed simultaneously.

Article 26

Where the activities of a private non-enterprise unit violate other laws and regulations, they shall be dealt with by the relevant State organs according to law; where the relevant State organs consider that its registration should be revoked, the registration administration organ shall revoke its registration.

Article 27

Where a private non-enterprise unit without registration performs activities in the name of a private non-enterprise unit, or a private non-enterprise unit whose registration has been revoked continues to perform activities in the

name of the private non-enterprise unit, it shall be banned by the registration administration organ, its illegal properties shall be confiscated; and criminal liabilities shall be investigated according to law where a crime is constituted; where a crime is not constituted, administrative penalties for public security shall be imposed according to law.

Article 28

Where a private non-enterprise unit is ordered to suspend its activities within a given time limit, the registration administration organ shall seal up its registration certificate, seal and financial vouchers.

Where the registration of a private non-enterprise unit has been revoked, the registration administration organ shall withdraw its registration certificate and seal.

Article 29

Any staff members of the registration administration organs and the governing units who abuse their powers, commit illegalities for personal interests or by fraudulent means, or neglect their duties shall be investigated for their criminal liabilities according to law where crimes are constituted; those whose acts do not constitute crimes shall be subject to administrative sanctions according to law.

CHAPTER VI

SUPPLEMENTARY PROVISIONS

Article 30

The format of the registration certificate for private non-enterprise unit shall be determined by the civil affairs department of the State Council.

No fees may be charged for the annual verification of private non-enterprise unit.

Article 31

The private non-enterprise units established before the effectiveness of these Regulations shall, within one year of their effectiveness, apply for registration in accordance with the relevant provisions of these Regulations.

Article 32

These Regulations take effect as of the date of promulgation.

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Annex III

【分类号】 111605199311

【标题】 中华人民共和国国家安全法

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【内容分类】 民政内务法

【文号】 主席令第六十八号

【名称】 中华人民共和国国家安全法

【题注】 1993年2月22日第七届全国人民代表大会常务委员
会第三十次会议通过

【章名】 目 录

第一章 总 则

第二章 国家安全机关在国家安全工作中的职权

第三章 公民和组织维护国家安全的义务和权利

第四章 法律责任

第五章 附 则

【章名】 第一章 总 则

第一条 为了维护国家安全，保卫中华人民共和国人民民主专政的政权和社会主义制度，保障改革开放和社会主义现代化建设的顺利进行，根据宪法，制定本法。

第二条 国家安全机关是本法规定的国家安全工作的主管机关。

国家安全机关和公安机关按照国家规定的职权划分，各司其职，密切配合，维护国家安全。

第三条 中华人民共和国公民有维护国家的安全、荣誉和利益的义务，不得有危害国家的安全、荣誉和利益的行为。

一切国家机关和武装力量、各政党和各社会团体及各企业事业组织，都有维护国家安全的义务。

国家安全机关在国家安全工作中必须依靠人民的支持，动员、组织人民防范、制止危害国家安全的行为。

第四条 任何组织和个人进行危害中华人民共和国国家安全的行为都必须受到法律追究。

本法所称危害国家安全的行为，是指境外机构、组织、个人实施或者指使、资助他人实施的，或者境内组织、个人与境外机构、组织、个人相勾结实施的下列危害中华人民共和国国家安全的行为：

(一) 阴谋颠覆政府，分裂国家，推翻社会主义制度的；

- (二) 参加间谍组织或者接受间谍组织及其代理人的任务的;
- (三) 窃取、刺探、收买、非法提供国家秘密的;
- (四) 策动、勾引、收买国家工作人员叛变的;
- (五) 进行危害国家安全的其他破坏活动的。

第五条 国家对支持、协助国家安全工作的组织和个人给予保护, 对维护国家安全有重大贡献的给予奖励。

【章名】 第二章 国家安全机关在国家安全工作中的职权

第六条 国家安全机关在国家安全工作中依法行使侦查、拘留、预审和执行逮捕以及法律规定的其他职权。

第七条 国家安全机关的工作人员依法执行国家安全工作任务时, 经出示相应证件, 有权查验中国公民或者境外人员的身份证明; 向有关组织和人员调查、询问有关情况。

第八条 国家安全机关的工作人员依法执行国家安全工作任务时, 经出示相应证件, 可以进入有关场所; 根据国家有关规定, 经过批准, 出示相应证件, 可以进入限制进入的有关地区、场所、单位; 查看或者调阅有关的档案、资料、物品。

第九条 国家安全机关的工作人员在依法执行紧急任务的情况下, 经出示相应证件, 可以优先乘坐公共交通工具, 遇交通阻碍时, 优先通行。

国家安全机关为维护国家安全的需要, 必要时, 按照国家有关规定, 可以优先使用机关、团体、企业事业组织和个人的交通工具、通信工具、场地和建筑物, 用后应当及时归还, 并支付适当费用; 造成损失的, 应当赔偿。

第十条 国家安全机关因侦察危害国家安全行为的需要, 根据国家有关规定, 经过严格的批准手续, 可以采取技术侦察措施。

第十一条 国家安全机关为维护国家安全的需要, 可以查验组织和个人的电子通信工具、器材等设备、设施。

第十二条 国家安全机关因国家安全工作的需要, 根据国家有关规定, 可以提请海关、边防等检查机关对有关人员和资料、器材免检。有关检查机关应当予以协助。

第十三条 国家安全机关及其工作人员在国家安全工作中, 应当严格依法办事, 不得超越职权、滥用职权, 不得侵犯组织和个人的合法权益。

第十四条 国家安全机关工作人员依法执行职务受法律保护。

【章名】 第三章 公民和组织维护国家安全的义务和权利

第十五条 机关、团体和其他组织应当对本单位的人员进行维护国家安全的教育, 动员、组织本单位的人员防范、制止危害国家安全的行为。

第十六条 公民和组织应当为国家安全工作提供便利条件或者其他协助。

第十七条 公民发现危害国家安全的行为, 应当直接或者通过所在组

织及时向国家安全机关或者公安机关报告。

第十八条 在国家安全机关调查了解有关危害国家安全的情况、收集有关证据时，公民和有关组织应当如实提供，不得拒绝。

第十九条 任何公民和组织都应当保守所知悉的国家安全工作的国家秘密。

第二十条 任何个人和组织都不得非法持有属于国家秘密的文件、资料和其他物品。

第二十一条 任何个人和组织都不得非法持有、使用窃听、窃照等专用间谍器材。

第二十二条 任何公民和组织对国家安全机关及其工作人员超越职权、滥用职权和其他违法行为，都有权向上级国家安全机关或者有关部门检举、控告。上级国家安全机关或者有关部门应当及时查清事实，负责处理。

对协助国家安全机关工作或者依法检举、控告的公民和组织，任何人不得压制和打击报复。

【章名】第四章 法律责任

第二十三条 境外机构、组织、个人实施或者指使、资助他人实施，或者境内组织、个人与境外机构、组织、个人相勾结实施危害中华人民共和国国家安全的行为，构成犯罪的，依法追究刑事责任。

第二十四条 犯间谍罪自首或者有立功表现的，可以从轻、减轻或者免除处罚；有重大立功表现的，给予奖励。

第二十五条 在境外受胁迫或者受诱骗参加敌对组织，从事危害中华人民共和国国家安全的活动，及时向中华人民共和国驻外机构如实说明情况的，或者入境后直接或者通过所在组织及时向国家安全机关或者公安机关如实说明情况的，不予追究。

第二十六条 明知他人有间谍犯罪行为，在国家安全机关向其调查有关情况、收集有关证据时，拒绝提供的，由其所在单位或者上级主管部门予以行政处分，或者由国家安全机关处十五日以下拘留；情节严重的，依照刑法第一百六十二条的规定处罚。

第二十七条 以暴力、威胁方法阻碍国家安全机关依法执行国家安全工作任务的，依照刑法第一百五十七条的规定处罚。

故意阻碍国家安全机关依法执行国家安全工作任务，未使用暴力、威胁方法，造成严重后果的，依照刑法第一百五十七条的规定处罚；情节较轻的，由国家安全机关处十五日以下拘留。

第二十八条 故意或者过失泄露有关国家安全工作的国家秘密的，由国家安全机关处十五日以下拘留；构成犯罪的，依法追究刑事责任。

第二十九条 对非法持有属于国家秘密的文件、资料和其他物品的，以及非法持有、使用专用间谍器材的，国家安全机关可以依法对其人身、

物品、住处和其他有关的地方进行搜查；对其非法持有的属于国家秘密的文件、资料和其他物品，以及非法持有、使用的专用间谍器材予以没收。

非法持有属于国家秘密的文件、资料和其他物品，构成泄露国家秘密罪的，依法追究刑事责任。

第三十条 境外人员违反本法的，可以限期离境或者驱逐出境。

第三十一条 当事人对拘留决定不服的，可以自接到处罚决定书之日起十五日内，向作出处罚决定的上一级机关申请复议；对复议决定不服的，可以自接到复议决定书之日起十五日内向人民法院提起诉讼。

第三十二条 国家安全机关工作人员玩忽职守、徇私舞弊，构成犯罪的，分别依照刑法第一百八十七条、第一百八十八条的规定处罚；非法拘禁、刑讯逼供，构成犯罪的，分别依照刑法第一百四十三条、第一百三十六条的规定处罚。

【章名】 第五章 附 则

第三十三条 公安机关依照本法第二条第二款的规定，执行国家安全工作任务时，适用本法有关规定。

第三十四条 本法自公布之日起施行。