

## **Regulations on Procedures for the Formulation of Administrative Regulations**

*(Promulgated by Decree No. 321 of the State Council of the People's Republic of China on November 16, 2001, and effective as of January 1, 2002)*

### **Chapter I General Provisions**

**Article 1** These Regulations are formulated in accordance with the relevant provisions of the Constitution, the Legislation Law and the Organic Law of the State Council to standardize the procedures for formulating administrative regulations and to ensure the quality of administrative regulations.

**Article 2** These Regulations apply to the project establishment, drafting, examination, decision on, promulgation and interpretation of administrative regulations.

**Article 3** The formulation of administrative regulations shall comply with the legislative principles established by the Legislation Law and conform to the provisions of the Constitution and laws.

**Article 4** Administrative regulations are normally entitled "regulations", and they may also be entitled "provisions", "measures" etc. The administrative regulations that the State Council formulates in accordance with the authorization decisions of the National People's Congress or its Standing Committee are entitled "interim regulations" or "interim provisions".

Neither the rules formulated by the departments of the State Council nor the rules formulated by the local people's governments may be entitled "regulations".

**Article 5** Administrative regulations shall be detailed but not verbose, logically tight and operable with their articles clear and concrete, and their wording accurate and concise.

Administrative regulations may, as required by the contents, be arranged into chapters, sections, articles, paragraphs, items and sub-items. The serial numbers of chapters, sections and articles shall be indicated by Chinese numerals sequentially, paragraphs shall not be numbered, the serial numbers of items shall be indicated by Chinese numerals in parentheses sequentially, and the serial numbers of sub-items shall be indicated by Arabic numerals sequentially.

### **Chapter II Project Establishment**

**Article 6** The State Council shall prepare an annual legislation working plan at the beginning of each year.

**Article 7** Where the relevant departments of the State Council deem that there is a need to formulate administrative regulations, they shall, at the beginning of each year, submit an application to the State Council for the project establishment

of administrative regulations prior to the preparation of the annual legislation working plan of the State Council.

The applications for the project establishment of administrative regulations submitted by the relevant departments of the State Council shall state the main issues to be solved by such projects, the guidelines and policies that such projects are based on and the main systems to be established by such projects.

**Article 8**The legislative affairs department of the State Council shall study, on a consolidate basis, the applications for the project establishment of administrative regulations submitted by the departments of the State Council in light of the overall working plan of the State, draft the annual legislation working plan of the State Council, stressing focal points on the important projects and taking comprehensive consideration, and submit the plan to the State Council for examination and approval.

The projects of administrative regulations that are established in the annual legislation working plan of the State Council shall meet the following requirements:

- (1) meeting the needs of reform, development and stability;
- (2) the relevant reform experience is basically ripe; and
- (3) the issues to be solved are within the scope of the powers of the State Council and require the formulation of administrative regulations by the State Council.

**Article 9**With respect to the projects of administrative regulations established in the annual legislation working plan of the State Council, the departments charged with the drafting of them shall lose no time in doing so, and submit the drafts to the State Council as required.

The annual legislation working plan of the State Council may, in light of the actual conditions, be adjusted in the course of its implementation.

### Chapter III Drafting

**Article 10**The drafting of administrative regulations shall be organized by the State Council. The annual legislation working plan of the State Council may assign one department or several departments of the State Council to draft administrative regulations or assign the legislative affairs department of the State Council to conduct or organize such drafting.

**Article 11**The drafting of administrative regulations shall meet the following requirements in addition to complying with the principles established by the Legislation Law and conforming to the provisions of the Constitution and laws:

- (1) embodying the spirit of reform, scientifically regulating administrative acts, promoting the shift of government functions towards economic adjustment, social management and public service;
- (2) conforming to the principle of simplification, unification and efficiency, assigning identical or similar functions to one administrative department, and simplifying administrative formalities;
- (3) safeguarding the lawful rights and interests of citizens, legal persons and other organizations in real earnest, and

while prescribing the obligations they ought to perform, providing their corresponding rights and the means by which the realization of these rights are guaranteed;

(4) embodying the principle of uniting the powers and responsibilities of administrative departments, and while vesting necessary powers in relevant administrative departments, providing the conditions, procedures whereby they exercise their powers and the responsibilities they shall undertake.

**Article 12**In drafting administrative regulations, in-depth investigations and researches shall be conducted, practical experience shall be summed up and the opinions of the relevant organs, organizations and citizens shall be extensively solicited. Solicitation of opinions may take forms such as forums, appraisal meetings and hearings, etc.

**Article 13**In drafting administrative regulations, a drafting department shall, through consultation, reach a consensus with other departments on the provisions that involve their powers and responsibilities or the provisions that are closely related to them; where a consensus is not reached after sufficient consultation, the drafting department shall state the circumstances of and the reasons for such non-consensus when submitting the draft of administrative regulations for examination (hereinafter referred to as the draft for examination).

**Article 14**In drafting administrative regulations, a drafting department shall put forward solutions to the major issues that involve relevant administrative systems, guidelines and policies, etc. and require to be decided by the State Council, and submit such solutions to the State Council for decision.

**Article 15**A draft for examination to be submitted by a drafting department shall be signed by the principle responsible person of the drafting department. A draft for examination jointly drafted by several departments shall be jointly signed by the principle responsible persons of the said departments.

**Article 16**When submitting a draft for examination to the State Council for examination, a drafting department shall simultaneously submit the explanations thereof and relevant materials.

The explanations of a draft for examination shall state the necessity of the legislation, the main systems to be established, the differing opinions from various circles on the main issues in the draft for examination and the circumstances of the solicitation of opinions from the relevant organs, organizations and citizens, etc. The relevant materials include pertinent legislation materials from both home and abroad, reports of investigations and researches, observations, etc.

#### **Chapter IV Examination**

**Article 17**The legislative affairs department of the State Council is responsible for examination of drafts for examination submitted to the State Council.

The legislative affairs department of the State Council shall examine drafts for examination mainly in the following aspects:

- (1) whether they conform to the provisions of the Constitution, and laws and the guidelines and policies of the State;
- (2) whether they conform to the provisions in Article 11 of these Regulations;

(3) whether they are in harmony with, or dovetailed with the relevant administrative regulations;

(4) whether they have correctly handled the opinions of relevant organs, organizations and citizens on the drafts for examination; and

(5) other items that require examination.

**Article 18** Where a draft for examination falls under one of the following circumstances, the legislative affairs department of the State Council may table the examination thereof or return it to the drafting department:

(1) the basic conditions for the formulation of the administrative regulations are not ripe;

(2) the relevant departments hold substantive disagreement with one another on the main systems provided for in the draft for examination, and the drafting department has not yet consulted with the relevant departments; or

(3) the submission of the draft for examination does not conform to the provisions in Articles 15 and 16 of these Regulations.

**Article 19** The legislative affairs department of the State Council shall send drafts for examination or the main issues that the drafts for examination involve to the relevant departments of the State Council, local people's governments, organizations and experts for comments. The written comments fed back by the relevant departments of the State Council and the local people's governments shall be stamped with the official seals of their respective units or the seals of the (general) offices of their respective units.

Important drafts for examination may, upon approval of the State Council, be made public for comments.

**Article 20** The legislative affairs department of the State Council shall conduct on-spot investigations and researches on the main issues that drafts for examination involve at the grass root level, and solicit comments from the relevant organs, organizations and citizens at the grass root level.

**Article 21** Where a draft for examination involves major or difficult issues, the legislative affairs department of the State Council shall hold forums or appraisal meetings participated by the relevant units and experts to solicit comments and to conduct researches and appraisals.

**Article 22** Where a draft for examination directly involves the immediate interests of citizens, legal persons or other organizations, the legislative affairs department of the State Council may hold hearings to solicit comments from the relevant departments, organizations and citizens.

**Article 23** Where relevant departments of the State Council disagree with one another on the main systems, guidelines and policies, administrative systems and the division of powers, etc. that a draft for examination involves, the legislative affairs department of the State Council shall coordinate among them to promote the reaching of a consensus; where a consensus is not reached, the major controversial issues, the comments of the relevant departments and the proposals of the legislative affairs department of the State Council shall be submitted to the State Council for decision.

**Article 24** The legislative affairs department of the State Council shall study the comments from various circles, and after consulting with the drafting departments, it shall revise the drafts for examination and prepare the drafts of the administrative

regulations and explanations thereof.

**Article 25**The principle responsible person of the legislative affairs department of the State Council shall put forward a suggestion that a draft of administrative regulations be submitted to the Executive Meeting of the State Council for deliberation. With regard to a draft of administrative regulations which regulates a single area of administration and over which there exists a consensus among various circles, or a draft of the supporting administrative regulations formulated according to law, a circulatory approval method may be adopted and the legislative affairs department of the State Council may submit it directly to the State Council for examination and approval.

## **Chapter V Decision and Promulgation**

**Article 26**The Drafts of administrative regulations shall be deliberated at the Executive Meetings of the State Council, or be examined and approved by the State Council.

When a draft of administrative regulations is deliberated at the Executive Meetings of the State Council, explanations shall be made by the legislative affairs department of the State Council or by the drafting department.

**Article 27**The legislative affairs department of the State Council shall, in accordance with the deliberation opinions of the State Council on a draft of administrative regulations, revise the draft of administrative regulations and prepare the revised draft of administrative regulations, and submit to the Premier of the State Council for the signing of State Council decrees to promulgate them for implementation.

The effective date of administrative regulations shall be specified in the State Council decree signed by the Premier for promulgation.

**Article 28**Administrative regulations that have been signed and promulgated shall be promptly published in the State Council Gazette and in newspapers of nation-wide distribution. The legislative affairs department of the State Council shall promptly compile and publish the official texts of administrative regulations.

The texts of administrative regulations that are published in the State Council Gazette shall be the authentic texts.

**Article 29**Administrative regulations shall take effect after 30 days from the date of promulgation; but the administrative regulations that involve national security, the determination of foreign exchange rates or monetary policies as well as those that the implementation of which will be impeded if they are not implemented promptly may take effect on the dates of promulgation.

**Article 30**Administrative regulations shall, within 30 days after their promulgation, be submitted by the General Office of the State Council to the Standing Committee of the National People's Congress for the record.

## **Chapter VI Interpretation of Administrative Regulations**

**Article 31**The State Council shall interpret those articles of administrative regulations that need further definitions or

supplementary provisions.

The legislative affairs department of the State Council shall study and draft interpretations of administrative regulations and submit them to the State Council for approval, and after being approved, the interpretations of administrative regulations shall be promulgated either by the State Council itself or by the relevant departments of the State Council with the authorization of the State Council.

Interpretations of administrative regulations have the same effect as the administrative regulations themselves.

**Article 32**The departments of the State Council and the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government may request the State Council to make interpretations of administrative regulations.

**Article 33**Where the legislative affairs departments of the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government as well as the legislative affairs institutions of the departments of the State Council request the legislative affairs department of the State Council to interpret the issues on the application of administrative regulations in actual administrative work, the legislative affairs department of the State Council may study the cases and reply on its own; with regard to those major issues, the legislative affairs department of the State Council shall put forward its proposals and make replies after submitting such proposals to and obtaining an approval by the State Council.

## Chapter VII Supplementary Provisions

**Article 34**The drafting of the drafts of laws to be submitted by the State Council to the National People's Congress or its Standing Committee for deliberation shall be handled with reference to the relevant provisions of these Regulations.

**Article 35**The relevant provisions of these Regulations apply to the procedures for revising administrative regulations.

New texts of administrative regulations shall be promptly promulgated after the old ones are revised.

**Article 36**The official translations and ethnic group language texts of administrative regulations shall be verified and finalized by the legislative affairs department of the State Council.

**Article 37**These Regulations shall be effective as of January 1, 2002. The Interim Regulations on Procedures for Formulating Administrative Regulations promulgated by the General Office of the State Council upon approval of the State Council on April 21, 1987 shall be repealed simultaneously.