Civil Procedure Law of the People's Republic of China (Amended in 2023)

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PART I GENERAL PRINCIPLES

Chapter 1 Tasks, Scope of Application and Basic Principles

Article 1 The Civil Procedure Law of the People's Republic of China is enacted based on the Constitution and taking into account the civil trial practice and experience and actual conditions in China.

Article 2 The tasks of the Civil Procedure Law of the People's Republic of China are protection of the rights of litigants for exercise of litigation rights, ensuring ascertainment of facts and distinguishing between right and wrong by People's Courts, correct application of laws, prompt trial of civil cases, confirmation of civil rights and obligations, sanction of civil offences, protection of legitimate rights and interests of litigants, educating citizens to comply with the law voluntarily, safeguarding social order and economic order, safeguarding the smooth development of socialism.

Article 3 This Law shall apply to acceptance by People's Courts of civil lawsuits arising from property relationship and personal relationship between citizens, between legal persons, between other organisations, as well as mutually between the aforesaid groups.

Article 4 Civil lawsuits within the territory of the People's Republic of China shall be in compliance with this Law.

Article 5 Foreigners, stateless persons, foreign enterprises and organisations filing a lawsuit or responding to a lawsuit in a People's Court shall have equal litigation rights and obligations as citizens, legal persons and other organisations of the People's Republic of China.

Where a foreign court restricts the civil litigation rights of citizens, legal persons and other organisations of the People's Republic of China, People's Courts of the People's Republic of China will follow the principle of reciprocity for civil litigation rights of citizens, enterprises and organisations of that country.

Article 6 People's Courts may exercise the right to try civil cases.

People's Courts shall try civil cases independently pursuant to the provisions of the law and shall not be interfered by administrative authorities, social bodies and individuals.

Article 7 People's Courts shall try civil cases based on facts and with the law as the criterion.

Article 8 Litigants of civil lawsuits have equal litigation rights. People's Courts trying civil cases shall ensure and facilitate exercise of litigation rights by litigants and treat all litigants equally in the application of law.

Article 9 People's Courts trying civil cases shall carry out mediation pursuant to the principles of voluntary participation and legitimacy; where mediation is unsuccessful, the People's Court concerned shall promptly try and rule on the lawsuit.

Article 10 People's Courts trying civil cases shall implement the system of collegiate bench, recusal, open trial and trial of second instance being final pursuant to the provisions of the law.

Article 11 Citizens of all ethnic groups have the right to use their ethnic language and text in civil lawsuits.

In regions inhabited by ethnic minorities or several ethnic groups, People's Courts shall use the common language and text of the local ethnic groups in trial of lawsuits and promulgation of legal documents.

People's Courts shall provide interpretation for participants in proceedings who are not proficient in the common language and text of the local ethnic groups.

Article 12 When a People's Court tries a civil case, the litigants have the right to make argument.

Article 13 Civil lawsuits shall follow the principles of good faith.

Litigants have the right to handle their civil rights and litigation rights within the scope stipulated by the law.

Article 14 People's Procuratorates have the right to carry out legal supervision for civil lawsuits.

Article 15 Agencies, social bodies, enterprises and institutions may support aggrieved organisation(s) or individual(s) to file a lawsuit with a People's Court in respect of any act which harms State, collective or individual civil rights and interests.

Article 16 Upon consent of the parties concerned, civil litigation activities may be carried out online through information network platforms.

Civil litigation activities carried out online through information network platforms shall have the same legal effect as offline litigation activities.

Article 17 People's Congresses of autonomous areas may, pursuant to the principles of the Constitution and this Law, taking into account the specific circumstances of local ethnic groups, formulate modification or supplementary provisions. The provisions of autonomous regions shall be subject to approval by the Standing Committee of the National People's Congress. The provisions of autonomous prefectures and autonomous counties shall be subject to approval by the Standing Committee of the People's Congress of the province or autonomous region and filed with the Standing Committee of the National People's Congress for record.

Chapter 2 — Jurisdiction

Section 1 — Hierarchical jurisdiction

Article 18 Unless otherwise stipulated in this Law, primary People's Courts have jurisdiction over trial of first instance for civil cases.

Article 19 Intermediate People's Courts have jurisdiction over trial of first instance for the following civil cases:

(1) Major foreign-related cases;

(2) Cases which have a significant impact on their jurisdiction; and

(3) Cases for which intermediate People's Courts have jurisdiction as determined by the Supreme People's Court.

Article 20 High People's Courts have jurisdiction over trial of first instance for civil cases which have a significant impact on their jurisdiction.

Article 21 The Supreme People's Court has jurisdiction over trial of first instance for the following civil cases:

(1) cases which have a significant impact nationwide; and

(2) cases for which the Supreme People's Court deemed that it should try.

Section 2 — Territorial Jurisdiction

Article 22 With respect to a civil lawsuit filed by a citizen, the People's Court at the location of the Defendant's domicile has jurisdiction; where the domicile and habitual

residence of the Defendant are different, the People's Court at the location of habitual residence shall have jurisdiction.

With respect to a civil lawsuit filed by a legal person or an organisation, the People's Court at the location of the Defendant's domicile shall have jurisdiction.

Where there are two or more locations of domicile and habitual residence of several Defendants in a lawsuit which fall under the jurisdictions of two or more People's Courts, all the People's Courts shall have jurisdiction.

Article 23 The People's Court at the location of the Plaintiff's domicile has jurisdiction over the following civil lawsuits; where the domicile and habitual residence of the Plaintiff are different, the People's Court at the location of habitual residence of the Plaintiff shall have jurisdiction:

(1) A lawsuit regarding identity relationship filed against a person who does not reside in the People's Republic of China;

(2) A lawsuit regarding identity relationship filed against a missing or declared missing person;

(3) A lawsuit filed against a person who is subject to mandatory education measures; and

(4) A lawsuit filed against a person under imprisonment.

Article 24 With respect to a contract dispute lawsuit, the People's Court at the location of the Defendant's domicile or place of performance of contract shall have jurisdiction.

Article 25 With respect to an insurance contract dispute lawsuit, the People's Court at the location of the Defendant's domicile or the insurance subject matter shall have jurisdiction.

Article 26 With respect to a bill dispute lawsuit, the People's Court at the place of payment of bill or the Defendant's domicile shall have jurisdiction.

Article 27 With respect to a lawsuit regarding a dispute over incorporation of company, confirmation of shareholder qualification, profit distribution, dissolution, etc., the People's Court at the company's domicile shall have jurisdiction.

Article 28 With respect to a contract dispute lawsuit regarding railway, highway, maritime, air transport and combined transport, the People's Court at the place of origin and place of destination of transport or the Defendant's domicile shall have jurisdiction.

Article 29 With respect to a tort lawsuit, the People's Court at the place of occurrence of tortious act or the Defendant's domicile shall have jurisdiction.

Article 30 With respect to a lawsuit regarding claim of damages in a railway, highway, maritime and aviation accident, the People's Court at the place of occurrence of accident or the place of first arrival of vehicle or vessel, place of first landing of aircraft or the Defendant's domicile shall have jurisdiction.

Article 31 With respect to a lawsuit regarding claim of damages in a vessel collision or other maritime injury accident, the People's Court at the place of occurrence of collision, the place of first arrival of the collided vessel, place of detention of the colliding vessel or the Defendant's domicile shall have jurisdiction.

Article 32 With respect to a lawsuit regarding maritime salvage expenses, the People's Court at the place of salvage or the place of first arrival of the salvaged vessel shall have jurisdiction.

Article 33 With respect to a lawsuit regarding common averages, the People's Court at the place of first arrival of the vessel, the place of adjustment of common averages or the place of termination of voyage shall have jurisdiction.

Article 34 People's Courts stipulated in this Article shall have exclusive jurisdiction for the following cases:

(1) With respect to a real estate dispute lawsuit, the People's Court at the location of the real estate has jurisdiction;

(2) With respect to a lawsuit regarding a dispute arising in port operations, the People's Court at the location of the port has jurisdiction; and

(3) With respect to an inheritance dispute lawsuit, the People's Court at the decedent's domicile at the time of death or the location of the main legacy has jurisdiction.

Article 35 The litigants of a contract dispute or other property rights dispute may agree in writing on selection of the People's Court at the location of the Defendant's domicile, place

of performance of contract, place of execution of contract, address of the Plaintiff, location of the subject matter, etc. or a venue which has actual connection with the dispute to be the People's Court which has jurisdiction, but shall not violate the provisions hereof on grade jurisdiction and exclusive jurisdiction.

Article 36 With respect to a lawsuit for which two or more People's Courts have jurisdiction, the Plaintiff may file a lawsuit with any of the People's Courts; where the Plaintiff has filed a lawsuit with two or more People's Courts with jurisdiction, the People's Court which has filed the case first shall have jurisdiction.

Section 3 — Referral and Designation of Jurisdiction

Article 37 Where a People's Court becomes aware that a case it has accepted does not fall under its jurisdiction, the case shall be referred to the People's Court with jurisdiction, the People's Court to which the case is referred shall accept the case. Where the case being referred is deemed by the People's Court to which the case is referred to not fall under its jurisdiction pursuant to the provisions, it shall request the higher-level People's Court to designate jurisdiction, and no further referral is allowed.

Article 38 Where a People's Court with jurisdiction is unable to exercise jurisdiction due to a special reason, the higher-level People's Court shall designate jurisdiction.

Where there is a dispute over jurisdiction between People's Courts, the dispute parties shall negotiate and resolve the dispute; where negotiation is unsuccessful, the People's Courts shall request their common higher-level People's Court to designate jurisdiction.

Article 39 The higher-level People's Court shall have the right to try civil cases for which its lower-level People's Court has jurisdiction over trial of first instance; where it is genuinely necessary for a People's Court to pass a civil case for which it has jurisdiction over trial of first instance to a lower-level People's Court for trial, the People's Court shall obtain approval from its higher-level People's Court.

Where the lower-level People's Court deems that it is necessary for the higher-level People's Court to try a civil case for which it has jurisdiction over trial of first instance, it may request the higher-level People's Court to try the case.

Chapter 3 — Trial Organisation

Article 40 When a People's court hears a civil case of the first instance, a collegial panel shall be formed jointly by the trial judge and people's assessors or by the trial judge alone. The number of members of a collegial panel must be an odd number.

Civil cases to which summary procedure is applied shall be tried by a single judge alone. Civil cases of first instance with clear basic facts and clarified relationship of rights and obligations heard by a primary people's court may be tried by a sole judge under the general procedure.

When participating in judicial activities, the people's assessors shall have equal rights and obligations as the judges, unless otherwise stipulated by the law.

Article 41 When a People's court hears a civil case of the second instance, the judges shall constitute a collegiate bench. The number of collegiate bench members shall be odd number.

For a civil case of second instance with clear facts and explicit relationship of rights and obligations which is concluded in the first instance under summary procedures or a civil case of second instance where an appeal is made against a ruling, the intermediate people's court may have a single judge alone try it with consent of both parties concerned.

With respect to a remanded case, the People's Court which originally heard the case shall form a collegiate bench separately pursuant to the procedures for trial of first instance.

With respect to a re-trial of case, where the case was originally tried in the first instance, a collegiate bench shall be formed separately pursuant to the procedures for trial of first instance; where the case was originally tried in the second instance or arraigned by the higher-level People's Court, a collegiate bench shall be formed separately pursuant to the procedures for trial of second instance.

Article 42 The following civil cases to be tried by a people's court shall not be tried by a single judge alone:

(1) cases involving national interests or public interests;

(2) cases involving group disputes which may affect social stability;

(3) cases which attract widespread public attention or have other significant social impact;

(4) cases of a new type or complex nature;

(5) cases for which the law stipulates that a collegial panel shall be formed for trial; and

(6) other cases which are not appropriate to be tried by a single judge alone.

Article 43 Where a People's Court discovers in the course of trial that a case is not appropriate to be tried by a single judge alone, it shall rule to refer the case to a collegial panel for trial.

Where a litigant believes that trial of the case by a single judge alone violates the provisions of the law, it may raise an objection to the people's court. The People's Court shall examine the objection raised by the party. If the objection is tenable, the People's Court shall rule to refer the case to a collegial panel for trial; if the objection is untenable, the objection shall be rejected.

Article 44 The president of the court or the judge appointed by the presiding judge shall act as the presiding judge of a collegiate bench; where the president of the court or the presiding judge participates in the trial, the president of the court or the presiding judge shall act as the presiding judge of a collegiate bench.

Article 45 A collegiate bench deliberating a case shall implement the principle of majority rules. Minutes of deliberation shall be prepared, and members of the collegiate bench shall sign thereon. Different views in the deliberation shall be truthfully recorded in the minutes.

Article 46 Judges shall try cases impartially pursuant to the law.

Judges shall not accept treats or gifts from litigants and their agent ad litem.

For judges guilty of accepting bribery and corruption, perverting the law, legal liability shall be pursued in accordance with the law; where the case constitutes a criminal offence, criminal liability shall be pursued in accordance with the law.

Chapter 4 — Recusal

Article 47Under any of the following circumstances, a judge shall recuse himself/herself from the case voluntarily, and the litigants shall have the right to apply for recusal of a judge verbally or in writing:

(1) The judge is a litigant of the case or a close relative of a litigant or an agent ad litem of the case;

(2) The judge is an interested party of the case; or

(3) The judge is otherwise related to a litigant or an agent ad litem of the case, which may influence a fair trial of the case.

Where a judge has accepted treats or gifts from a litigant or an agent ad litem or met with a litigant or an agent ad litem in violation of the provisions, the litigants have the right to request for recusal of the judge.

For judges which have committed any of the acts stipulated in the preceding paragraph, legal liability shall be pursued in accordance with the law.

The provisions of the preceding three paragraphs shall apply to judge assistants, court clerks, judicial technicians, translators/interpreters, expert witnesses and inspectors.

Article 48 A litigant who applies for recusal of a judge shall state the reason, and makes the application at the time of commencement of trial of the case; where a litigant becomes aware of the fact for recusal upon commencement of trial of the case, the application for recusal may be made before the end of court debate.

Before the People's Court makes a decision on recusal or non-recusal, the person for which an application for recusal is being made shall stop participating in the case, except where there is a need to adopt emergency measures for the case.

Article 49 Recusal of the president of the court who acts as the presiding judge or the sole judge shall be decided by the Adjudication Committee; recusal of a judge shall be decided by the president of the court; recusal of any other person shall be decided by the presiding judge or the sole judge.

Article 50 A People's Court shall make a decision verbally or in writing within three days from the date of the application for recusal made by a litigant. Where the applicant disagrees with the decision, an application for review may be submitted at the time of receipt of the decision. During the review period, the person for which the application for recusal is being made shall not stop participating in the case. The People's Court shall make a review decision within three days from the application for review and notify the review applicant.

Chapter 5 — Participants in Proceedings

Section 1 — Litigants

Article 51 Citizens, legal persons and other organisations may act as litigants in civil lawsuits.

Legal persons are litigated by their legal representatives. Other organizations are litigated by their principal officers.

Article 52 Litigants shall have the right to appoint an agent, submit an application for recusal, gather and provide evidence, participate in debate, request for mediation, submit an appeal, apply for enforcement.

A litigant may inspect the relevant materials of the case and make copies of the relevant materials and legal documents of the case. The scope and methods for inspection and replication of the relevant materials of cases shall be stipulated by the Supreme People's Court.

A litigant shall exercise litigation rights pursuant to the law, comply with the order of litigation, perform the written judgment, ruling document or mediation document which has taken legal effect.

Article 53 The litigants can settle on their own.

Article 54 A Plaintiff may waive or amend a claim. The Defendant may acknowledge or refute a claim and has the right to file a counterclaim.

Article 55 Where a party or both parties to a lawsuit comprise(s) two or more persons, and the subject matter of litigation is common, or the subject matters of litigation are the same type, the People's Court deemed that the lawsuit may be tried as a joint action, the Court may try the lawsuit as a joint action upon consent by the litigants.

Where a party to a joint action has common rights and obligations pertaining to the subject matter of litigation, where the litigation actions of one litigant are acknowledged by the other joint litigant(s), the actions shall be binding upon the other joint litigant(s); where there is no common rights and obligations pertaining to the subject matter of litigation, the litigation actions of one litigant shall not be binding upon the other joint litigant(s).

Article 56 With respect to a joint action where there are multiple persons comprising one party to the lawsuit, the litigants may elect a representative to participate in the

proceedings. The litigation actions of the representative shall be binding upon the litigants he/she represents; for change of representative, waiver of the claims of the action or confirmation of the claims of the counterparty litigants, settlement, the consent by the litigants he/she represents is required.

Article 57 Where the subject matter of litigation is common, there are multiple persons comprising one party to the lawsuit but the number of persons is not confirmed at the time of filing of lawsuit, the People's Court may issue a public announcement, stating the facts of the case and the claims, and notify the rights holders to register with the People's Court within a stipulated period.

Rights holders registered with the People's Court may elect a representative to participate in the proceedings; where a representative is not elected, the People's Court may discuss with the registered rights holders to appoint a representative.

The litigation actions of the representative shall be binding upon the litigants he/she represents; for change of representative, waiver of the claims of the action or confirmation of the claims of the counterparty litigants, settlement, the consent of the litigants he/she represents is required.

The judgment or ruling made by the People's Court shall be binding upon all the registered rights holders. The said judgment or ruling shall apply to unregistered rights holders who have filed a lawsuit within the limitation of action.

Article 58 For acts which harm public interest such as environmental pollution, infringement of the legitimate rights and interests of multiple consumers, etc., the authorities stipulated by the law and the relevant organisations may file a lawsuit with a People's Court.

Where a People's Procuratorate discovers in the course of performing its duties any act which compromises public interests, such as damage to the ecological environment and resource protection, infringement upon the legitimate rights and interests of multiple consumers in terms of food and drug safety, in the absence of the authorities or organisations mentioned in the preceding paragraph or where the authorities or organisations mentioned in the preceding paragraph do not file a lawsuit, the people's procuratorate may file a lawsuit with a People's Court. If the authorities or organisations mentioned in the preceding paragraph have filed a lawsuit, the People's Procuratorate may support the lawsuit.

Article 59 Where a third party deemed that it has independent right of claim to a subject matter of litigation between two parties concerned, the third party shall have the right to file a lawsuit.

Where a third party does not have independent right of claim to a subject matter of litigation between two parties concerned, but it has legal stake in the handling outcome of the case, it may apply to participate in the proceedings, or the People's Court may notify the third party to participate in the proceedings. A third party ruled by a People's Court to bear civil liability shall have the litigation rights and obligations of a litigant.

Where a third party stipulated in the two preceding paragraphs cannot participate in the proceedings due to a reason not attributable to him/her, but there is evidence to prove that part or all of the contents of the judgment, ruling or mediation document which has taken legal effect is wrong and harm(s) his/her civil rights and interests, he/she may file a lawsuit with the People's Court which has issued the said judgment, ruling or mediation document within six months from the date on which he/she becomes aware or should have become aware that his/her civil rights and interests are harmed. After the People's Court has tried the lawsuit and held that the claim is justified, the People's Court shall amend or revoke the original judgment, ruling or mediation document; where the claim is groundless, the claim shall be rejected.

Section 2 — Agent Ad Litem

Article 60 For a person with no capacity for litigation action, his/her guardians shall act as his/her legal representatives to participate in the proceedings. Where the legal representatives try to shirk responsibilities, the People's Court shall appoint one of them to participate in the proceedings.

Article 61 A litigant or a legal representative may entrust one to two persons as his/her agent ad litem.

The following persons may be entrusted as agents ad litem:

(1) Lawyers, grassroots legal service workers;

(2) Close relatives or employees of a litigant; and

(3) Citizens recommended by the community, employer of a litigant and the relevant social bodies.

Article 62 Where a person is entrusted to participate in the proceedings, a power of attorney signed or sealed by the principal shall be submitted to the People's Court.

The power of attorney shall state the entrustment matter and limit of authority. An agent ad litem shall be specifically authorised by the principal for confirmation, waiver or amendment of claim, settlement, filing of counterclaim or appeal.

A power of attorney mailed from overseas by or submitted on behalf of a citizen of the People's Republic of China living abroad shall be authenticated by the embassy or consulate of the People's Republic of China based in that country; where there is no embassy or consulate, the power of attorney shall be authenticated by the embassy or consulate of a third country which has diplomatic relations with the People's Republic of China based in that country, and then authenticated by the embassy or consulate of the People's Republic of China based in that third country, or authenticated by a patriotic overseas Chinese organisation of that locality.

Article 63 Where there is change or revocation of the limit of authority of an agent ad litem, the litigant shall notify the People's Court in writing, and the People's Court shall notify the counterparty litigant.

Article 64 Lawyers acting as agents ad litem and other agents ad litem shall have the right to investigate and gather evidence, and may inspect the relevant materials of the case. The scope and methods for inspection of the relevant materials of a case shall be stipulated by the Supreme People's Court.

Article 65 Where an agent ad litem is appointed for a divorce case, the principal shall be present in court, unless he/she is unable to express him/her meaning; where the principal is unable to be present in court due to special circumstances, he/she shall submit a written opinion to the People's Court.

Chapter 6 — Evidence

Article 66 Evidence shall include:

(1) Statements of litigants;

(2) Documentary evidence;

(3) Physical evidence;

(4) Audio-visual materials;

(5) Electronic data;

(6) Witness testimony;

(7) Expert opinions; and

(8) Inquest records.

Evidence must be verified to be true before it can be used as the basis for ascertainment of facts.

Article 67 Litigants have the burden of proof for the claims they make.

Where a litigant and his/her/its agent ad litem are unable to gather evidence on their own due to objective reason, or With respect to the evidence deemed by the People's Court to be necessary for trial of case, the People's Court shall investigate and gather the evidence.

A People's Court shall examine and verify evidence comprehensively and objectively in accordance with statutory procedures.

Article 68 Litigants shall promptly provide evidence for the claims they make.

A People's Court shall determine the evidence to be provided by a litigant and the deadline thereof pursuant to the litigant's assertion and the status of trial of case. Where it is genuinely difficult for the litigant to provide evidence by the deadline, the litigant may apply to the People's Court for an extension of time, the People's Court shall grant an appropriate extension based on the litigant's application. Where the litigant provides evidence after the deadline, the People's Court shall order the litigant to state the reason; where the litigant refuses to state the reason or the reason is groundless, the People's Court may decide on non-admission of the evidence based on different circumstances, or decide on admission of the evidence but impose a warning or fine.

Article 69 A People's Court shall issue a receipt for evidential materials submitted by a litigant, stating the description of the evidence, number of pages, number of copies, original copy or photocopy and time of receipt, etc., and the receipt shall be signed or sealed by the handling officer.

Article 70 People's Courts shall have the right to investigate into and gather evidence from the relevant organisations and individuals, the relevant organisations and individuals shall not refuse.

People's Courts shall verify the authenticity of proof documents presented by the relevant organisations and individuals and examine and determine the validity.

Article 71 Evidence shall be presented in the courtroom and be subject to cross-examination by the litigants. Evidence which involves State secrets, commercial secrets and personal privacy shall be kept confidential, and shall not be presented at open hearings when there is a need to present such evidence in the courtroom.

Article 72 People's Courts shall use legal facts and documents notarised and authenticated through statutory procedures as the basis for ascertainment of facts, unless there is evidence to the contrary to invalidate the notarisation certificate.

Article 73 Original copies of documentary evidence shall be submitted. Original physical evidence shall be submitted. Where there is genuine difficulty in submission of original copies of documentary evidence or original physical evidence, a replication, photograph, duplicate copy or extract may be submitted.

With respect to documentary evidence in a foreign language, a Chinese translation shall be accompanied.

Article 74 People's Courts shall verify the authenticity of audio-visual materials, taking into account other evidence of the case, to examine and determine whether the audio-visual materials may be used as the basis for ascertainment of facts.

Article 75 Organisations and individuals that are aware of the facts of a case shall be obligated to testify in court. The persons-in-charge of the relevant organisations shall support testifying by the witnesses.

Persons who are unable to express their meaning properly cannot testify.

Article 76 Upon notification by a People's Court, a witness shall testify in court. Under any of the following circumstances, upon consent by the People's Court, a witness may testify by way of written testimony, audio-visual transmission technique or audio-visual materials, etc.:

(1) The witness is unable to be present in court due to health reason;

(2) The witness is unable to be present in court due to long journey and inaccessibility;

(3) The witness is unable to be present in court due to force majeure such as natural disaster, etc.; or

(4) The witness is unable to be present in court due to any other proper reason.

Article 77 The requisite transportation, accommodation and meal expenses incurred by a witness for performance of the obligation to testify in court and losses from absent from work shall be borne by the litigant who lost in the lawsuit. Where a litigant applies for a witness to testify, the litigant shall make advance payment; where a litigant does not make an application and the People's Court notifies a witness to testify, the People's Court shall make advance payment.

Article 78 A People's Court shall examine and determine whether a litigant's statement can be used as the basis for ascertainment of facts, taking into account other evidence of the case.

Where a litigant refuses to give a statement, this shall have no impact on the People's Court's ascertainment of facts of the case based on evidence.

Article 79 A litigant may apply to the People's Court for examination in respect of specialised issues pertaining to ascertainment of facts. Where a litigant applies for examination, both parties to the action shall discuss and appoint a qualified expert witness; where the discussion is unsuccessful, the People's Court shall appoint an expert witness.

Where a litigant does not apply for examination, but the People's Court deemed that examination of specialised issues is necessary, the People's Court shall entrust a qualified expert witness to carry out examination.

Article 80 An expert witness shall have the right to understand the case materials necessary for examination and may interview the litigants and witnesses where necessary.

An expert witness shall make a written examination opinion and sign or affix seal on the examination opinion.

Article 81 Where a litigant disagrees with the examination opinion or the People's Court deemed that it is necessary for the expert witness to be present in court, the expert witness shall testify in court. Upon notification by the People's Court, where the expert witness refuses to testify in court, the examination opinion shall not be used as the basis for ascertainment of facts; a litigant who has paid for examination expenses may require a refund of the examination expenses.

Article 82 A litigant may apply to the People's Court to notify a person with special expertise to be present in court to give opinions on the examination opinion or a specialised issue of the expert witness.

Article 83 An inspector who inspects physical evidence, or the premises shall present his/her People's Court credential and invite the local grassroots organisation or the employer of a litigant to assign personnel to participate in the inspection. The litigant or an adult family member of the litigant shall be present; where the litigant or an adult family member of the litigant refuses to be present, the conduct of the inspection shall not be affected.

The relevant organisations and individuals shall be obligated to protect the premises and assist in the inspection pursuant to the notice of the People's Court.

The inspector shall keep written record of the status and outcome of the inspection, and the inspector, the litigant and the invited participants shall sign or affix seal thereon.

Article 84 Where the evidence may be lost, or it may be difficult to obtain the evidence in future, a litigant may apply to the People's Court for preservation of evidence during the proceedings, the People's Court may also voluntarily adopt preservation measures.

Under urgent circumstances where the evidence may be lost or it may be difficult to obtain the evidence in future, an interested party may apply to the People's Court at the location of the evidence or the respondent's domicile or the People's Court which has jurisdiction for the case for preservation of evidence prior to filing of lawsuit or application for arbitration.

The relevant provisions of Chapter 9 hereof on preservation shall apply to other procedures for preservation of evidence mutatis mutandis.

Chapter 7 — Period and Service of Process

Section 1 — Period

Article 85 Period shall include the statutory period and the period stipulated by the People's Court.

Period shall be computed in hours, days, months and years. The time and date of commencement of a period shall be excluded from the period.

Where the last date of expiry of the period is a legal holiday, the first day following the legal holiday shall be the date of expiry of the period.

Transit time shall be excluded in a period, a litigation document mailed before the date of expiry shall not be deemed as overdue.

Article 86 Where a litigant is unable to meet a deadline due to a force majeure event or any other proper reason, the litigant may apply for an extension of time within 10 days from elimination of the hindrance, the People's Court shall decide whether to grant an extension of time.

Section 2 — Service of Process

Article 87 An acknowledgement of service is required for service of litigation documents, the party being served shall state the date of receipt and sign or affix seal on the acknowledgement of service.

The date of service of process shall be the date of receipt acknowledgement stated on the acknowledgement of service by the party being served.

Article 88 Litigation documents shall be served directly on the party being served. Where the party being served is a citizen, an adult family member living with him/her may acknowledge receipt of the documents served in his/her absence; where the party being served is a legal person or an organisation, the legal representative of the legal person or the key person-in-charge of the organisation or the person of the said legal person or the organisation responsible for receiving documents shall acknowledge receipt of the documents served; where the party being served has appointed an agent ad litem, the agent ad litem may acknowledge receipt of the documents served; where the party being served has notified the People's Court of assigning an agent to receive litigation documents, the agent shall acknowledge receipt of the documents served.

The date of service shall be the date on which the adult family member residing with the person to be served, the person responsible for the receipt of the document of the legal

person or other organization, the representative of the litigation or the person acting on behalf of the person signing for acknowledge receipt of the documents served.

Article 89 Where the party being served or the adult family member(s) living with him/her refuse(s) to receive the litigation documents, the person serving the documents may invite the relevant grassroots organisation or a representative of his/her employer to be present, explain the situation, state the facts and date for refusal of receipt on the acknowledgement of service, the person serving the documents and the witness shall sign or affix seal thereon and leave the litigation documents at the address of the party being served; or leave the litigation documents at the address of the party being served and record the service process by way of photography, video-recording, etc., and the litigation documents shall be deemed served.

Article 90 Upon consent of the party on whom litigation documents are to be served, the people's Court may adopt an electronic method of service of litigation documents the receipt of which can be acknowledged. For a judgment, ruling or mediation document served electronically, if the party requests for a hard copy thereof, the people's Court shall provide.

Where the party is served by any means of service stipulated in the preceding paragraph, the date when the served information reach the specific system of the party being served shall be the service date.

Article 91 Where there is difficulty in direct service of litigation documents, another People's Court may be entrusted to serve the documents on behalf, or the documents may be mailed. Where the service of process is made by way of mail, the date of service of process shall be the date of receipt stated on the acknowledgement of service.

Article 92 Where the party being served is a serviceman, the documents shall be served through the political organ at or above the regimental level of the unit to which he/she belongs.

Article 93 Where the party being served is under imprisonment, the documents shall be served through the prison in which he/she is being confined.

Where the party being served is subject to mandatory education measures, the documents shall be served through the mandatory educational institution in which he/she is confined.

Article 94 Upon receipt of the litigation documents, the agency or unit which received the litigation documents on behalf shall forthwith pass the litigation documents to the party being served for acknowledgement of receipt, the date of service of process shall be the date of receipt acknowledgement stated on the acknowledgement of service.

Article 95 If the whereabouts of the person on whom the documents are to be served is unknown, or if the documents cannot be served by any other means prescribed in this section, the documents shall be served by public announcement, and shall be deemed to have been served thirty days after the announcement is made.

Where the documents are served by way of a public announcement, the reason and process shall be stated in the case files.

Chapter 8 — Mediation

Article 96 People's Courts shall carry out mediation in the trial of civil cases pursuant to the principle of voluntary participation by litigants, based on clear facts and distinction between right and wrong.

Article 97 When a People's Court carries out mediation, the mediation may be presided by the judge or the collegiate bench and shall be carried out on the spot as far as possible.

A People's Court carrying out mediation may adopt simple and convenient methods to notify litigants and witnesses to be present in court.

Article 98 A People's Court carrying out mediation may invite the relevant organisations and individuals to assist. The invited organisations and individuals shall assist the People's Court to carry out mediation.

Article 99 An agreement reached through mediation shall be voluntary between both parties and shall not be coerced. The contents of a mediation agreement shall not violate the provisions of the law.

Article 100 When an agreement is reached through mediation, the People's Court shall prepare a mediation document. The mediation document shall state the claim(s), the facts of the case and the mediation outcome.

A mediation document shall be signed by the judge(s) and the court clerk, be affixed with the People's Court's seal, and served on both parties to the lawsuit.

A mediation document shall come into legal effect upon acknowledgement of receipt by both parties to the lawsuit.

Article 101 In the event of an agreement reached through mediation for the following cases, the People's Court may not be required to prepare a mediation document:

(1) Divorce cases in which the parties reconcile through mediation;

(2) Cases in which an adoptive relationship is maintained through mediation;

(3) Cases which can be forthwith performed; or

(4) Any other cases for which preparation of a mediation document is not required.

With respect to an agreement for which a mediation document is not required to be prepared, written records shall be kept, upon signature or affixation of seal by both parties to the lawsuit, the judge(s) and the court clerk, the agreement shall come into legal effect.

Article 102 Where an agreement is not reached after mediation or either party reneges prior to service of the mediation document, the People's Court shall promptly make a judgment.

Chapter 9 — Preservation and Prior Enforcement

Article 103 For cases in which the action of a party to the lawsuit or any other reason causes difficulty in enforcement of a judgment or causes other harm to the litigants, a People's Court may, pursuant to an application by a counterparty litigant, rule on preservation of its property or order the counterparty to undertake certain acts or prohibit the counterparty to undertake certain acts; where the litigants do not make an application, a People's Court may rule that preservation measures be adopted where necessary.

A People's Court adopting preservation measures may order the applicant to provide guarantee, where the applicant does not provide guarantee, the People's Court shall rule that the application be rejected.

Upon acceptance of an application, the People's Court shall make a ruling within 48 hours under urgent circumstances; where the People's Court rules that preservation measures shall be adopted, the ruling shall be forthwith enforced.

Article 104 In the event of urgent circumstances where the legitimate rights and interests of an interested party will be subject to irreparable damages if the interested party does not forthwith apply for preservation, the interested party may, prior to filing of lawsuit or application for arbitration, apply to the People's Court at the location of the properties to be preserved or the respondent's domicile or a People's Court which has jurisdiction for the case for adoption of preservation measures. The applicant shall provide guarantee, where the applicant does not provide guarantee, the People's Court shall rule that the application be rejected.

Upon acceptance by an application, the People's Court shall make a ruling within 48 hours; where the People's Court rules that preservation measures shall be adopted, the ruling shall be forthwith enforced.

Where the applicant fails to file a lawsuit or apply for arbitration pursuant to the law within 30 days from adoption of preservation measures by the People's Court, the People's Court shall lift the preservation.

Article 105 Preservation shall be limited to the scope of the request or the properties related to the case.

Article 106 Preservation of properties shall adopt seizure, confiscation, freezing or any other method stipulated by the law. Upon preservation of properties, the People's Court shall forthwith notify the party whose properties are being preserved.

Where the properties have been seized or frozen, the properties shall not be subject to seizure or freezing again.

Article 107 Where the respondent of a property dispute case provides guarantee, the People's Court shall rule that preservation be lifted.

Article 108 Where there is an error in an application, the applicant shall compensate the respondent for losses incurred from the preservation.

Article 109 A People's Court may rule on prior enforcement pursuant to an application of a litigant for the following cases:

(1) Recourse of alimony, payment of maintenance, payment of upbringing, pension, medical fees, etc.;

(2) Recourse of labour remuneration; or

(3) There is a need for prior enforcement under urgent circumstances.

Article 110 The following criteria shall be satisfied for ruling of prior enforcement by a People's Court:

(1) The rights and obligations relationship between the litigants is clear, failure to grant prior enforcement shall have a serious impact on the applicant's livelihood or manufacturing and business activities; and

(2) The respondent has the capacity for performance.

The People's Court may order the applicant to provide guarantee, where the applicant does not provide guarantee, the application shall be rejected. Where the applicant loses the lawsuit, the applicant shall compensate the respondent for property losses incurred from prior enforcement.

Article 111 A litigant who disagrees with the ruling on preservation or prior enforcement may apply for review once. Enforcement of the ruling shall not be suspended during the review period.

Chapter 10 — Mandatory Measures Against Obstruction of Civil Action

Article 112 A People's Court may issue a warrant for a Defendant who is required to be present in court but refused to be present in court without a proper reason after being served a summons twice.

Article 113 Participants in proceedings and other persons shall comply with court rules.

A People's Court may reprimand persons who violate court rules, order them to leave the courtroom or impose a fine or detention.

For persons who cause a stir in the courtroom or charge into the courtroom, insult, defame, threaten or assault the judge(s), or seriously disrupt the order of the courtroom, criminal liability shall be pursued by the People's Court in accordance with the law; in less serious cases, a fine or detention shall be imposed.

Article 114 For participants in proceedings or other persons who commit any of the following acts, the People's Court may impose a fine or detention based on the extent of

the circumstances; where the case constitutes a criminal offence, criminal liability shall be pursued in accordance with the law:

(1) Forge and destroy important evidence, obstructing trial of cases by the People's Court;

(2) Use violence, threat or bribery to stop a witness from testifying or instigate, bribe or threaten others to commit perjury;

(3) Conceal, transfer, sell and destroy seized or confiscated properties or properties which have been counted and placed under custody, transfer frozen properties;

(4) Insult, defame, frame, assault or retaliate against judicial staff, participants in proceedings, witnesses, interpreters, expert witnesses, inspectors and personnel assisting in enforcement;

(5) Obstruct performance of duties by judicial staff by way of violence, threat or any other method; or

(6) Refuse to perform a judgment or ruling of a People's Court which has come into legal effect.

The People's Court may impose a fine or detention on the key person-in-charge or directly accountable personnel of the organisation which has committed any of the acts stipulated in the preceding paragraph; where the case constitutes a criminal offence, criminal liability shall be pursued in accordance with the law.

Article 115 Where the litigants have conspired to attempt to infringe upon the state interest, public interest or the legitimate rights and interests of others through litigation, mediation, etc., the People's Court shall reject their request and impose a fine or detention based on the extent of the circumstances; where the case constitutes a criminal offence, criminal liability shall be pursued in accordance with the law.

Where a litigant unilaterally fabricates the basic facts of a civil case to file a lawsuit with a people's court in an attempt to infringe upon the state interest, public interest or the legitimate rights and interests of others, the provisions of the preceding paragraph shall apply.

Article 116 Where an enforcee has conspired with others to evade performance of the obligations stipulated in the legal documents through litigation, arbitration, mediation, etc,

the People's Court shall impose a fine or detention pursuant to the extent of the circumstances; where the case constitutes a criminal offence, criminal liability shall be pursued in accordance with the law.

Article 117 Where an organisation obligated to assist in investigation or enforcement has committed any of the following acts, the People's Court may, in addition to ordering the organisation to perform the obligation to assist, impose a fine:

(1) The relevant organisation refuses or obstructs the People's Court's investigation or evidence collection;

(2) The relevant organisation refuses to assist in enquiry, seizure, freezing, allocation or realisation of properties upon receipt of the People's Court's Notice on Assistance in Enforcement;

(3) The relevant organisation refuses to assist in seizure of the enforcee's income, handling of transfer of the relevant property rights certificate, forwarding of the relevant bills, certificates or other properties upon receipt of the People's Court's Notice on Assistance in Enforcement; or

(4) Refusal to assist in enforcement.

The People's Court may impose a fine on the key person-in-charge or directly accountable personnel of the organisation which has committed any of the acts stipulated in the preceding paragraph; person(s) who still refuse(s) to perform the obligations to assist may be detained; the People's Court may propose judicial recommendations of disciplinary actions to the surveillance authorities or the relevant authorities.

Article 118 A fine imposed on an individual shall not exceed RMB100,000. A fine imposed on an organisation shall range from RMB50,000 to RMB1 million.

The detention period shall not exceed 15 days.

Detained persons shall be referred to the custody of public security authorities by the People's Court. Where a detained person admits and makes correction during the detention period, the People's Court may decide to terminate the detention prematurely.

Article 119 Issuance of warrant, fine or detention shall be subject to approval by the President of the People's Court.

Subpoena shall be issued for coercive summons.

A written decision shall be made for a fine or detention. A person who disagrees with a decision may apply to the higher-level People's Court for review once. Enforcement of the written decision shall not be suspended during the review period.

Article 120 Mandatory measures for obstruction of civil lawsuit shall be decided by the People's Court. For any organisations and individuals adopting illegal detention of others or illegal seizure of other's properties for recovery of debts, criminal liability shall be pursued in accordance with the law or the People's Court may impose detention or a fine.

Chapter 11 — Litigation Expenses

Article 121 Litigants participating in civil lawsuits shall pay a case acceptance fee pursuant to the provisions. For property cases, in addition to case acceptance fee, litigants shall pay other litigation expenses pursuant to the provisions.

Where a litigant has genuine difficulty in payment of litigation expenses, the litigant may apply to the People's Court for deferred payment, reduction or exemption of payment pursuant to the provisions.

The measures on collection of litigation expenses shall be separately formulated.

Part II TRIAL PROCEDURES

Chapter 12 — General Procedures for Trial of First Instance

Section 1 — Filing and Acceptance of Lawsuits

Article 122Filing of a lawsuit shall satisfy the following criteria:

(1) The Plaintiff is a citizen, a legal person or an organisation that has a direct stake in the case;

(2) There is/are specific Defendant(s);

(3) There are specific claim(s) and facts and reasons; and

(4) The lawsuit falls under the scope of acceptance of civil lawsuits by People's Courts and the jurisdiction of the People's Court which accepts the lawsuit.

Article 123 An indictment shall be submitted to a People's Court for filing of a lawsuit, and the number of duplicate copies to be submitted shall be based on the number of the Defendants.

Where there is genuine difficulty for submission of a written indictment, the lawsuit may be filed verbally, and the People's Court shall keep the written record and notify the counterparty of the lawsuit.

Article 124 An indictment shall state the following matters:

(1) The name, gender, age, race, occupation, employer, address, contact details of the Plaintiff, the name, address of the legal person or organisation and the name, designation and contact details of the legal representative or the key person-in-charge;

(2) The name, gender, employer, address, etc. of the Defendant, the name, address, etc. of the legal person or other organisation;

(3) Claim and facts and reasons on which the claim is based; and

(4) Evidence and source of evidence, the name and address of the witness.

Article 125 Where a civil dispute lawsuit lodged by a litigant with a People's Court is suitable for mediation, mediation shall be carried out first, except where the litigant refuses mediation.

Article 126 People's Courts shall protect the rights of litigants for filing of lawsuit pursuant to the provisions of the laws. Lawsuits which comply with Article 122 hereof shall be accepted. A People's Court shall establish a case file for a lawsuit which satisfies the prosecution criteria within seven days and notify the litigants; where the prosecution criteria is not satisfied, the People's Court may issue a ruling document on non-acceptance of lawsuit within seven days; where the Plaintiff disagrees with the ruling, the Plaintiff may file an appeal.

Article 127 People's Courts may deal with the following filing of lawsuits based on the respective circumstances:

(1) Where the case falls under the scope of acceptance of an administrative lawsuit pursuant to the provisions of the Administrative Procedure Law, the People's Court shall notify the Plaintiff to file an administrative lawsuit;

(2) Where both parties to a lawsuit have entered into a written arbitration agreement to apply for arbitration pursuant to the provisions of the laws, and are not allowed to file a lawsuit with a People's Court, the People's Court shall notify the Plaintiff to apply to an arbitration organisation for arbitration;

(3) Where a dispute should be handled by other authorities pursuant to the provisions of the laws, the People's Court shall notify the Plaintiff to apply to the relevant authorities for resolution;

(4) Where the case does not fall under the jurisdiction of the People's Court, the People's Court shall notify the Plaintiff to file a lawsuit with a People's Court which has jurisdiction;

(5) In the event of a case for which the judgment, ruling or mediation document has come into legal effect, and that the litigant files a lawsuit again, the People's Court shall notify the Plaintiff to apply for re-trial, except for a ruling where the People's Court grants withdrawal of lawsuit;

(6) Where a lawsuit cannot be filed within a stipulated period pursuant to the provisions of the laws, but the Plaintiff files a lawsuit within the period for which filing of lawsuit is prohibited, the lawsuit shall not be accepted; and

(7) With respect to divorce cases for which the judgment does not permit a divorce, divorce cases for which both parties are reconciled after mediation, and cases for which adoptive relations are maintained by the judgment or upon mediation, where there are no new circumstances or a new reason and the Plaintiff files a lawsuit again within six months, the lawsuit shall not be accepted.

Section 2 — Pre-trial Preparation

Article 128 A People's Court shall send a duplicate copy of the indictment to the Defendant within five days from the date of establishment of case file, the Defendant shall submit the pleadings within 15 days from the date of receipt of the indictment. The pleadings shall state the name, gender, age, race, occupation, employer, address and contact details of the Defendant; the name and address of the legal person or other organisation and the name, designation and contact details of the legal representative or the key person-in-charge. The People's Court shall send a duplicate copy of the pleadings to the Plaintiff within five days from the date of receipt of the pleadings.

Failure of a Defendant to submit a pleading does not affect trial of the lawsuit by the People's Court.

Article 129 Where a People's Court has decided to accept a case, the People's Court shall notify the litigants of the relevant litigation rights and obligations in the notice on acceptance of case and notice on respondence to action or verbally.

Article 130 Upon acceptance of a case by the People's Court, where a litigant objects to the jurisdiction, the objection shall be raised during the timeframe for submission of pleadings. The People's Court shall examine the objection raised by the litigant. Where the objection is justified, the People's Court shall rule that the case be forwarded to a People's Court which has jurisdiction; where the objection is groundless, the People's Court shall rule that the objection be rejected.

Where the litigants do not raise any objection to jurisdiction and respond to defend or file a counterclaim, it shall be deemed that the people's court which accepts the lawsuit has jurisdiction, except where the provisions on jurisdiction by forum level or exclusive jurisdiction are violated.

Article 131 Upon confirmation of the judges, the litigants shall be notified within three days.

Article 132 The judge(s) shall examine litigation materials seriously, investigate and gather the requisite evidence.

Article 133 Personnel designated by a People's Court to conduct investigation shall present their credentials to the party being investigated.

Upon review of the investigation records by the party being investigated, the party being investigated and the investigation personnel shall sign or affix seal thereon.

Article 134 Where necessary, a People's Court may entrust a People's Court at another location to conduct investigation.

Specific items and requirements shall be put forward for entrustment of investigation. The entrusted People's Court may voluntarily engage in supplementary investigation.

Upon receipt of the power of attorney, the entrusted People's Court shall complete investigation within 30 days. Where the investigation cannot be completed due to some reason, the entrusting People's Court shall be notified in writing within the aforesaid period.

Article 135 Where a litigant in a joint action does not participate in the proceedings, the People's Court shall notify the litigant to participate in the proceedings.

Article 136 People's Courts shall deal with accepted cases based on the respective circumstances:

(1) The litigants do not dispute, and the case complies with the criteria stipulated in the procedures of supervision and urge, the case may be moved to the procedures of supervision and urge;

(2) Where mediation can be carried out before a hearing, the dispute shall be promptly resolved by way of mediation;

(3) It is determined in accordance with the circumstances of a case that the summary procedures or general procedures are applicable to the lawsuit; and

(4) Where a hearing is required, the litigants shall be required to define the focus of the dispute through exchange of evidence, etc.

Section 3 — Open Hearing

Article 137 People's Courts shall try civil cases by way of open hearing, except where State secrets or personal privacy is/are involved or otherwise stipulated by the law.

For a divorce case or a case which involves commercial secrets, where a litigant applies for closed hearing, the lawsuit may be tried in closed hearing.

Article 138 People's Courts trying civil cases shall try cases on a roaming manner and handle cases on the spot based on the needs.

Article 139 People's Courts trying a civil case shall notify the litigants and other participants in proceedings three days before the hearing. For an open hearing, the name of the litigants, the cause of action and the time and venue of the hearing shall be announced.

Article 140 Prior to a hearing, the court clerk shall ascertain whether the litigants and other participants in proceedings will be present in court and proclaim courtroom order.

At a hearing, the presiding judge or a sole judge shall verify the litigants, announce the cause of action and the list of judges, judge assistants, court clerks, etc., notify the litigants of their relevant litigation rights and obligations and inquire whether the litigants file an application for recusal.

Article 141 Court investigation shall be conducted in accordance with the following sequence:

(1) Statements of litigants;

(2) Notification of witnesses of rights and obligations, testifying by witnesses, reading of testimony(ies) of witness(es) not present in the court;

(3) Presentation of documentary evidence, physical evidence, audio-visual materials and electronic data;

(4) Reading of expert opinion; and

(5) Reading of inquest records.

Article 142 Litigants may put forward new evidence in the courtroom.

Upon consent by the court, a litigant may question a witness, expert witness or inspector.

Where a litigant requests re-investigation, re-examination or re-inspection, the People's Court shall decide whether to grant approval.

Article 143 Where the Plaintiff increases claims, the Defendant files a counterclaim, and a third party makes claims relating to this case, the People's Court may try them together.

Article 144 Court debate shall be conducted in accordance with the following sequence:

(1) Statement by the Plaintiff and its agent ad litem;

(2) Response by the Defendant and its agent ad litem;

(3) Statement or response by the third party and its agent ad litem; and

(4) Mutual debate.

Upon conclusion of court debate, the presiding judge or the sole judge shall consult the final opinion of each party in the sequence of the Plaintiff, the Defendant and the third party.

Article 145 Upon conclusion of the court debate, the People's Court shall make a judgment pursuant to the law. Where mediation can be carried out before the judgment is made, mediation may be carried out; where mediation is unsuccessful, the court shall promptly make a judgment.

Article 146 Where the Plaintiff refuses to be present in court upon being served a summons and without a proper reason, or leaves the courtroom halfway without the consent of the court, the matter may be dealt with as withdrawal of lawsuit; where the Defendant files a counterclaim, the judgment in default may be made.

Article 147 Where the Defendant refuses to be present in court upon being served a summons and without a proper reason or leaves the courtroom halfway without the consent of the court, the judgment in default may be made.

Article 148 Prior to the pronouncement of the judgment, where the Plaintiff applies for withdrawal of lawsuit, the People's Court shall rule on whether to grant approval.

Where the People's Court rules that withdrawal of lawsuit is not granted, the Plaintiff refuses to be present in court upon being served a summons and without a proper reason, the judgment in default may be made.

Article 149 Under any of the following circumstances, a hearing may be deferred:

(1) Where the litigants and other participants in proceedings who are required to be present at a hearing are absent at the hearing with a proper reason;

(2) Where the litigants submit an application for recusal impromptu;

(3) Where there is a need to notify a new witness to be present in court, investigate and collect new evidence, carry out re-examination or re-inspection, or there is a need to carry out supplementary investigation; or

(4) Any other circumstances under which a hearing should be deferred.

Article 150 The court clerk shall record all activities in a hearing into the courtroom record, and the judge(s) and the court clerk shall sign thereon.

The courtroom record shall be read out in court, or the litigants and other participants in proceedings may be notified of inspecting the courtroom record on the spot or within five days. Where the litigants and other participants in proceedings deemed that there is any omission or error in the record of their statement, they shall have the right to apply for supplementation or correction. Where correction or supplementation is not granted, this shall be recorded in the case file.

The litigants and other participants in proceedings shall sign or affix seal on the courtroom record. Where a litigant or participant in proceedings refuses to sign or affix seal, this shall be stated on file.

Article 151 People's Courts shall pronounce judgment for all cases, regardless of open hearing or closed hearing.

Where a judgment is pronounced in court, the written judgment shall be served within 10 days; where a judgment is pronounced on a fixed date, the written judgment shall be served forthwith upon pronouncement of judgment.

When a judgment is pronounced, the litigants shall be notified of their rights to appeal, the appeal period and the court of appeal.

When a divorce judgment is pronounced, the litigants shall be notified that they shall not remarry before the judgment comes into legal effect.

Article 152 Trial of a case for which a People's Court applies general procedures for trial shall be completed within six months from the date of establishment of case file. Where there is a need for extension of time under special circumstances, upon the approval of the president of the court, an extension of time of six months may be granted; where there is a need for further extension of time, the approval of the higher-level People's Court is required.

Section 4 — Suspension and Termination of Litigation

Article 153 Under any of the following circumstances, litigation shall be suspended:

(1) A party to the lawsuit has passed away, there is a need to wait for the heir to express if he/she will participate in the lawsuit;

(2) A party to the lawsuit has lost the capacity to participate in proceedings and a statutory agent has not been determined;

(3) A legal person or an organisation who is a party to the lawsuit has its operation terminated, and the bearer of its rights and obligations has not been determined;

(4) A party to the lawsuit is unable to participate in proceedings due to a force majeure event;

(5) The case is required to use the outcome of the trial of another case as the basis and the trial of the other case has yet to be concluded; or

(6) Any other circumstances under which litigation should be suspended.

Upon elimination of the reason for suspension of litigation, litigation shall be resumed.

Article 154 Under any of the following circumstances, litigation shall be terminated:

(1) The Plaintiff has passed away and there is no heir or the heir has waived the litigation rights;

(2) The Defendant has passed away, there is no estate and no duty bearer;

(3) A party to a divorce case has passed away; or

(4) A party to a lawsuit for recourse of alimony, payment of maintenance, payment of upbringing or termination of adoptive relationship has passed away.

Section 5 — Judgments and Rulings

Article 155 A written judgment shall state the outcome of the judgment and the reason for making the judgment. The contents of a written judgment shall include:

(1) Cause of action, claim, dispute facts and reasons;

(2) Facts and reasons ascertained by the judgment, applicable laws and reason;

(3) Outcome of judgment and bearing of litigation expenses; and

(4) Appeal period and court of appeal.

A written judgment shall be signed by the judge(s) and the court clerk and affixed with the People's Court's seal.

Article 156 Where part of the facts of a case being tried by a People's Court is clear, the People's Court may pass judgment on the said part first.

Article 157 Rulings shall apply to the following scope:

(1) Non-acceptance of lawsuit;

(2) Objection to jurisdiction;

(3) Rejection of lawsuit;

(4) Preservation and prior enforcement;

(5) Approval or non-approval of withdrawal of lawsuit;

(6) Suspension or termination of litigation;

(7) Correction of clerical error in a written judgment;

(8) Suspension or termination of enforcement;

(9) Revocation or non-enforcement of an arbitral award;

(10) Non-enforcement of a debt instrument for which a notary public has vested mandatory enforceability; or

(11) Any other matters which require ruling and resolution.

An appeal may be filed for a ruling stipulated in item (1) to item (3) of the preceding paragraph.

A ruling document shall state the ruling outcome and the reason for making the ruling. A ruling document shall be signed by the judge(s) and the court clerk and affixed with the People's Court's seal. A verbal ruling shall be recorded in writing.

Article 158 Judgments and rulings of the Supreme People's Court, and judgments and rulings for which appeal is not allowed pursuant to the law or judgments and rulings for

which an appeal is not filed within the appeal period shall be judgments and rulings which have come into legal effect.

Article 159 The public may inspect written judgments and ruling document s which have come into legal effect, except where the contents involve State secrets, commercial secrets and personal privacy.

Chapter 13 — Summary Procedures

Article 160 The provisions of this Chapter shall apply to trial of simple civil cases with clear facts, specific rights and obligations and non-major dispute by primary People's Courts and their branches.

For civil cases other than those stipulated in the preceding paragraph tried by Primary People's Courts and their branches, both litigants may agree on application of summary procedures.

Article 161 With respect to a simple civil case, the Plaintiff may file the lawsuit verbally.

Both parties to a lawsuit may go to a primary People's Court or its branch to request for resolution of dispute at the same time. The primary People's Court or its branch may try the lawsuit on the spot or fix a date for trial.

Article 162 Primary People's Courts and their branches trying simple civil cases may summon the litigants and witnesses, serve litigation documents and try the cases via simple and convenient methods, but shall protect the rights of litigants to make representation.

Article 163 Simple civil cases shall be tried by one judge and shall not be subject to the restrictions stipulated in Article 139, Article 141 and Article 144 hereof.

Article 164 A People's Court applying summary procedures for trial of a case shall complete trial within three months from the date of filing. Where it is necessary to extend the time limit under special circumstances, it may be extended by one month upon approval of the president of the court.

Article 165 For a simple civil lawsuit pertaining to payment of money with clear facts, specific rights and obligations relationship and non-major dispute to be tried by a primary People's Court or any tribunal dispatched by it, where the amount of the subject matter is

below 50% of the annual average wage of employees in the province, autonomous region or centrally administered municipality concerned in the previous year, and the petty lawsuit procedures apply, the trial of first instance shall be final.

Where a primary people's court or a tribunal dispatched by it tries a civil case as prescribed in the preceding paragraph, with the amount of subject matter exceeding 50% but less than two times the annual average wage of the employees in the province, autonomous region or centrally administered municipality concerned in the previous year, the parties concerned may also agree to apply the petty lawsuit procedure.

Article 166 The petty lawsuit procedures shall not apply to the trial of the following civil cases by a People's Court:

(1) cases involving the confirmation of personal relations and property rights;

(2) foreign-related cases;

(3) cases that require evaluation or authentication or where objections are raised to pre-trial evaluation or authentication results;

(4) cases in which the whereabouts of one party are unknown;

(5) cases in which a party concerned files a counterclaim; and

(6) other cases to which the petty lawsuit procedures are not applicable.

Article 167 A People's Court applying the petty lawsuit procedures to try a case may close the trial in one hearing and the judgment may be pronounced in court.

Article 168 A People's Court applying the petty lawsuit procedures to try a case shall complete the trial within two months from the date of filing. Where there is a need for extension of time under special circumstances, upon approval of the president of the court, a one-month extension may be allowed.

Article 169 Where a People's Court discovers during trial that the petty lawsuit procedures are not appropriate for the case, it shall apply other provisions of summary procedures or rule on conversion of the trial to general procedures.

Where a litigant believes that the application of petty lawsuit procedures to trial of the case violates the provisions of the law, it may raise an objection to the People's Court. The

People's Court shall examine the objection raised by the litigant, where the objection is tenable, the People's Court shall apply other provisions of summary procedures or rule on conversion of the trial to general procedures; where the objection is untenable, the People's Court shall rule to reject it.

Article 170 Where a People's Court discovers during the trial process that summary procedures are not suitable for the case on trial, the People's Court shall rule on switching to general procedures.

Chapter 14 — Procedures for Trial of Second Instance

Article 171 Where a litigant disagrees with a judgment of first instance of a local People's Court, it/he has the right to file an appeal with the higher-level People's Court within 15 days from the date of service of the written judgment.

Where a litigant disagrees with a ruling of first instance of a Local People's Court, it/he has the right to file an appeal with the higher-level People's Court within 10 days from the date of service of the ruling document.

Article 172 A petition for appeal shall be submitted for an appeal. The contents of a petition for appeal shall include the names of the litigants, the name of the legal person and the name of its legal representative or the name of the organisation and the name of its key person-in-charge; the name of the People's Court which originally heard the case, reference number and cause of action of the case; the appeal request(s) and reason(s).

Article 173 A petition for appeal shall be made through the People's Court which originally heard the case, and the number of duplicate copies shall be based on the number of the counterparty litigants or the number of the counterparty's representatives.

Where a litigant file an appeal with the People's Court of second instance directly, the People's Court of second instance shall forward the petition for appeal to the People's Court which originally heard the case within five days.

Article 174 Upon receipt of the petition for appeal, the People's Court which originally heard the case shall serve the duplicate copy of the petition for appeal on the counterparty litigant within five days, the counterparty litigant shall submit a pleading within 15 days from the date of receipt of the petition. The People's Court shall serve the duplicate copy of the pleading on the appellant within five days from the date of receipt of the pleading. Non-

submission of pleading by the counterparty litigant will not affect trial of the petition by the People's Court.

Upon receipt of the petition for appeal, the People's Court which originally heard the case shall submit the petition for appeal together with all case files and evidence to the People's Court of second instance within five days.

Article 175 The People's Court of second instance shall examine the relevant facts and applicable laws for the appeal request(s).

Article 176 A People's Court of second instance shall conduct a hearing to try an appeal case. Upon examination of case files, investigation and questioning of litigants, where there is no new fact, evidence or reason, and the people's court deems that a hearing is not necessary, the case may be tried without a hearing.

The People's Court of second instance may try an appeal case at the court or try the case at the place of occurrence of the case or the location of the People's Court which originally heard the case.

Article 177 The People's Court of second instance shall, upon trial of an appeal case, take the following action in accordance with the following circumstances:

(1) Where the facts ascertained in the original judgment or ruling are clear, and the application of laws is correct, the appeal shall be rejected by way of a judgment or ruling, and the original judgment or ruling shall be upheld;

(2) Where the facts ascertained in the original judgment or ruling are wrong or the application of laws is wrong, the original judgment shall be amended, revoked or modified by way of a judgment or ruling;

(3) Where the basic facts ascertained in the original judgment are unclear, the People's Court of second instance shall rule that the original judgment be revoked, the case shall be remanded to the People's Court which originally heard the case for re-trial, or the original judgment shall be amended upon ascertainment of facts; and

(4) Where a litigant is omitted in the original judgment or the judgment in default is passed illegally which violates statutory procedures seriously, the People's Court of second instance shall rule that the original judgment be revoked, and the case shall be remanded to the People's Court which originally heard the case for re-trial.

Where the People's Court which originally heard the case has made a judgment on a remanded case, and the litigants file an appeal, the People's Court of second instance shall not remand the case for re-trial again.

Article 178 The People's Court of second instance shall make rulings in all cases for handling of appeal cases against rulings of the People's Court of first instance.

Article 179 The People's Court of second instance may carry out mediation in the trial of an appeal case. Where an agreement is reached through mediation, a mediation document shall be prepared; the mediation document shall be signed by the judge(s) and the court clerk and affixed with the People's Court's seal. Upon service of the mediation document, the judgment of the People's Court which originally heard the case shall be deemed revoked.

Article 180 Prior to announcement of the judgment of the People's Court of second instance, where the appellant applies for withdrawal of appeal, the People's Court of second instance shall rule on whether to grant withdrawal of appeal.

Article 181 In addition to the provisions of this Chapter, the general procedures for trial of first instance shall apply to trial of the appeal case by the People's Court of second instance.

Article 182 The judgment or ruling of the People's Court of second instance shall be the final judgment or ruling.

Article 183 A People's Court trying an appeal case against a judgment shall complete the trial within three months from the date of establishment of case file for the trial of second instance. Where there is a need for extension of time under special circumstances, the approval of the president of the court is required.

A People's Court trying an appeal case against a ruling shall make a ruling of final instance within 30 days from the date of establishment of case file for the trial of second instance.

Chapter 15 — Special Procedures

Section 1 — General Provisions

Article 184 The provisions of this Chapter shall apply to trial by People's Courts of electoral qualification cases, cases of declaring persons missing or dead, cases of appointment of estate administrator, cases of ascertainment of citizens with no capacity for

civil conduct or with limited capacity for civil conduct, cases of ascertainment of ownerless property, cases of confirmation of mediation agreement and cases of realisation of security interest. For matters not covered in this Chapter, the relevant provisions of this Law and other laws shall apply.

Article 185 Cases tried pursuant to the procedures stipulated in this Chapter shall implement trial of first instance being final. Voter eligibility cases, major and complex cases shall be tried by a collegiate bench formed by the judges; other cases shall be tried by one judge.

Article 186 Where a People's Court discovers during the process of trial of a case pursuant to the procedures in this Chapter that the case is a dispute over civil rights and interests, the People's Court shall rule on termination of special procedure, and notify the interested parties to file a separate lawsuit.

Article 187 The trial of a case for which special procedures are applicable by a People's Court shall be completed within 30 days from the date of establishment of case file or within 30 days from expiry of the public announcement period. Where there is a need for extension of time under special circumstances, the approval of the president of the court is required, except for trial of voter eligibility cases.

Section 2 — Voter Eligibility Cases

Article 188 A citizen who disagrees with a decision made by the Electoral Commission in respect of handling of complaint of voter eligibility may file a lawsuit with the primary People's Court at the location of the electoral district five days before the election day.

Article 189 Upon acceptance of a voter eligibility case, the People's Court shall complete the trial before the election day.

During the trial, the party which files the lawsuit, the representatives of the Electoral Commission and the relevant citizen shall participate.

The written judgment of the People's Court shall be served on the Electoral Commission and the party which files the lawsuit before the election day and notify the relevant citizen.

Section 3 — Cases of Declaration of Missing or Death

Article 190 Where a citizen has been missing for two years, an interested party may submit an application for declaration of missing to a primary People's Court at the place of residence of the missing person.

The written application shall state the fact of the missing person, time and request, and be supported by a written certificate of missing person issued by the public security authorities or other relevant authorities in respect of the said citizen.

Article 191 Where a citizen has been missing for four years, or has been missing for two years due to an accidental event, or has been missing due to an accidental event, upon certification by the relevant authorities that the citizen is unlikely to be alive, an interested party may submit an application for declaration of death to the primary People's Court at the place of residence of the missing person.

The written application shall state the fact of the missing person, time and request, and be supported by a written certificate of missing person issued by the public security authorities or other relevant authorities in respect of the said citizen.

Article 192 Upon acceptance of a case for declaration of missing person or declaration of death, the People's Court shall make a public announcement on search for missing person. The public announcement period for declaration of missing person shall be three months, the public announcement period for declaration of death shall be one year. Where a citizen has been missing due to an accidental event and upon certification by the relevant authorities that the said citizen is unlikely to be alive, the public announcement period for declaration of death shall be three months.

Upon expiry of the public announcement period, the People's Court shall make a judgment on declaration of missing person or declaration of death based on whether the facts for declaration of missing person or declaration of death are confirmed or make a judgment on rejection of the application.

Article 193 Where a citizen who has been declared missing or dead reappears, upon application by the citizen or an interested party, the People's Court shall make a new judgment, and revoke the original judgment.

Section 4 Cases Concerning the Designation of Estate Administrators

Article 194 Where there is a dispute over the determination of an estate administrator, an interested party applying for the appointment of the estate administrator shall file an application with the primary people's court at the domicile of the deceased at the time of death or the location of the main estate.

The written application shall specify the time of death of the deceased, application reasons and specific requests, with the relevant evidence of the death of the deceased attached.

Article 195 The people's court shall, upon acceptance of an application, examine and verify the application and make a judgment for appointment of the estate administrator under the principle of facilitation of estate administration.

Article 196 Where the designated estate administrator has died, terminated, lost civil capacity or is otherwise unable to continue to perform the estate administration duties, the people's court may designate another estate administrator pursuant to the application of an interested party or the estate administrator.

Article 197 Where an estate administrator violates the duties of estate administration and seriously infringes upon the legitimate rights and interests of the successors, legatees or creditors, the people's court may, upon the application of an interested party, disqualify the estate administrator and designate a new estate administrator pursuant to the law.

Section 5 — Cases of Identification of Citizen with No Capacity for Civil Conduct or Limited Capacity for Civil Conduct

Article 198 An application for identification of a citizen with no capacity for civil conduct or limited capacity for civil conduct shall be submitted to the primary People's Court at the place of the citizen's residence by any interested party or the organisation concerned.

The written application shall state the fact and basis that the citizen has no capacity for civil conduct or limited capacity for civil conduct.

Article 199 Upon acceptance of an application, the People's Court shall, when necessary, conduct an appraisal on the citizen for whom the application for identification of no capacity for civil conduct or limited capacity for civil conduct is made. Where the applicant has provided an appraisal opinion, the appraisal opinion shall be examined.

Article 200 In the trial of a case for identification of a citizen with no capacity for civil conduct or limited capacity for civil conduct by a People's Court, the close relatives of the

said citizen other than the applicant shall act as his/her agent. Where the close relatives of the citizen try to shirk responsibilities, the People's Court shall designate one of them to act as the agent. Where the health conditions of the said citizen permit, the People's Court shall seek his/her opinion.

Where a People's Court tried the case and held that an application for identification is based on facts, the People's Court shall rule that the citizen has no capacity for civil conduct or limited capacity for civil conduct; where the People's Court held that the application is not based on facts, the People's Court shall rule that the application be rejected.

Article 201 Where a People's Court, based on an application by a person held to have no capacity for civil conduct or limited capacity for civil conduct or the application by his/her guardian, confirms that the reason that a citizen has no capacity for civil conduct or limited capacity for civil conduct is eliminated, the People's Court shall make a new judgment and revoke the original judgment.

Section 6 — Cases of Determination of Ownerless Property

Article 202 An application for determination of ownerless property shall be submitted by a citizen, a legal person or an organisation to the primary People's Court at the location of the property. The written application shall state the type and quantity of the property and the basis for the request for ascertainment of ownerless property.

Article 203 Upon acceptance of an application, the People's Court shall, upon examination and verification, make a public announcement on claim of property. Where the property is not claimed within one year from public announcement, the People's Court shall rule that the property is ownerless and is State-owned or collectively owned.

Article 204 Following the judgment that the property is ownerless, the original owner of the property or the successor which appears may make a request for the property within the limitation of action stipulated in the Civil Code, upon examination and verification by the People's Court, a new judgment shall be made and the original judgment shall be revoked.

Section 7 — Cases of Confirmation of A Mediation Agreement

Article 205 Where a mediation agreement is reached upon mediation by a mediation organisation established pursuant to the law and an application for judicial confirmation is made, both parties to the lawsuit shall submit an application jointly to the following people's court within 30 days from the effective date of the mediation agreement:

(1) where a people's court invites a mediation organisation to conduct prior mediation, the application shall be made to the inviting people's court; and

(2) where a mediation organisation conducts mediation on its own initiative, the application shall be made to the primary People's Court at the location of the litigant's domicile, the subject matter or the mediation organisation; where the dispute involved in the mediation agreement is subject to the jurisdiction of an intermediate People's Court, the application shall be made to the corresponding intermediate people's court.

Article 206 Upon acceptance of an application, the People's Court shall rule that the mediation agreement is valid upon examination that the application complies with the provisions of the laws; where one party concerned refuses to perform the mediation agreement or where the mediation agreement is not performed fully, the counterparty may apply to the People's Court for enforcement; where the application does not comply with the provisions of the laws, the People's Court shall rule that the application be rejected, the litigants may amend the original mediation agreement through mediation or enter into a new mediation agreement, or file a lawsuit with the People's Court.

Section 8 — Cases of Realisation of Security Interest

Article 207 An application for realisation of security interest shall be submitted by the holder of security interest and any other person(s) who has/have the right to request for realisation of security interest to the primary People's Court at the location of the secured property or the place of registration of security interest pursuant to the Civil Code and other pertinent laws, etc.

Article 208 Upon acceptance of an application, the People's Court shall, upon examination that the application complies with the provisions of the laws, rule that the secured property be auctioned or sold off, the litigants may apply to the People's Court for enforcement pursuant to the said ruling; where the application does not comply with the provisions of the laws, the People's Court shall rule that the application be rejected, the litigants may file a lawsuit with the People's Court.

Chapter 16 — Procedures for Trial Supervision

Article 209 Where the president of a People's Court at any level discovers an error in a written judgment, ruling document or mediation document of this court which has come into legal effect and deemed that there is a need for re-trial, the matter shall be submitted to the Adjudication Committee for discussion and decision.

Where the Supreme People's Court discovers an error in a written judgment, ruling document or mediation document of a Local People's Court at any level which has come into legal effect, or where a higher-level People's Court discovers an error in a written judgment, ruling document or mediation document of a lower-level People's Court which has come into legal effect, it shall have the right to arraign or order the lower-level People's Court to re-try the case.

Article 210 A litigant who deemed that there is an error in a judgment or ruling which has come into legal effect may apply to the higher-level People's Court for re-trial; for cases for which one party to the lawsuit comprises multiple persons or both parties to the lawsuit are citizens, an application for re-trial may be submitted to the People's Court which originally heard the case. Where the litigants apply for re-trial, enforcement of the judgment or ruling shall continue.

Article 211 Where the application of the litigants satisfies any of the following circumstances, the People's Court shall conduct a re-trial:

(1) There is adequate new evidence to overturn the original judgment or ruling;

(2) There is lack of evidence for the basic facts ascertained in the original judgment or ruling;

(3) The main evidence for the facts ascertained in the original judgment or ruling is forged;

(4) The main evidence for the facts ascertained in the original judgment or ruling has not been cross-examined;

(5) Where the litigants are unable to gather the main evidence required for trial of the case due to objective reasons, the litigants have submitted a written application to the People's Court for investigation and gathering of evidence, and the People's Court does not carry out investigation and gathering of evidence;

(6) The application of laws by the original judgment or ruling is wrong;

(7) The composition of the trial organisation is illegal or a judge who should abstain from the lawsuit pursuant to the law does not abstain;

(8) A person with no capacity for litigation action is unable to participate in proceedings as he/she is not represented by a legal representative or a litigant who should participate in proceedings is unable to participate in proceedings due to any reason not attributable to himself/herself or his/her agent ad litem;

(9) A litigant's right to debate is deprived in violation of the provisions of the laws;

(10) Judgment in default is made in the absence of a litigant who has not been served a summons;

(11) The original judgment or ruling has omitted or exceeded a claim;

(12) The legal document on which the original judgment or ruling is based is revoked or modified; or

(13) The judge(s) has/have committed corruption, favouritism or perverted the law in making a judgment during the trial of the case.

Article 212 Where a litigant presents evidence to prove that the mediation for a mediation document which has come into legal effect has violated the principle of voluntary participation or the contents of the mediation agreement have violated the laws, an application for re-trial may be submitted. Upon examination and verification by the People's Court, a re-trial shall be carried out.

Article 213 For a judgment or mediation document for dissolution of marriage which has come into legal effect, the litigants shall not apply for re-trial.

Article 214 A litigant applying for re-trial shall submit materials such as a written application for re-trial, etc. The People's Court shall serve the duplicate copy of the written application for re-trial to the counterparty within five days from the date of receipt of the written application for re-trial. The counterparty shall submit a written opinion within 15 days from the date of receipt of the duplicate copy of the written application for re-trial; non-submission of a written opinion shall not affect examination by the People's Court.

The People's Court may require the applicant and the counterparty to supplement the relevant materials and enquire into the relevant matters.

Article 215 The People's Court shall conduct examination within three months from the date of receipt of the written application for re-trial, where the application complies with the provisions hereof, the People's Court shall rule on re-trial; where the application does not comply with the provisions hereof, the People's Court shall rule that the application be rejected. Under special circumstances where there is a need for an extension of time, the approval of the president of the court is required.

Cases ruled to be re-tried in accordance with an application by the litigants shall be tried by an intermediate People's Court or above, except for applications for re-trial of cases submitted by litigants to primary People's Courts pursuant to the provisions of Article 206 hereof. Cases ruled by the Supreme People's Court or a higher People's Court to be re-tried shall be re-tried by the Supreme People's Court or the higher People's Court or handed over to another People's Court for re-trial, or remanded to the People's Court which originally heard the case for re-trial.

Article 216 A litigant applying for re-trial shall submit the application within six months from a judgment or ruling taking legal effect; under the circumstances stipulated in item (1), (3), (12), or (13) of Article 211 hereof, the application shall be submitted within six months from the date on which the litigant becomes or should become aware of the circumstances.

Article 217 In the event of a case for which re-trial is decided pursuant to the procedure for trial supervision, a ruling on suspension of enforcement of the original judgment, ruling, mediation document shall be made, however, for cases of recourse of alimony, payment of maintenance, payment of upbringing, pension, medical fees, labour remuneration, etc., enforcement may not be suspended.

Article 218 In the event of a case subject to re-trial by a People's Court pursuant to the procedure for trial supervision, where the judgment or ruling which has come into legal effect is made by the court of first instance, the case shall be tried pursuant to the procedure for trial of first instance, the litigants may file an appeal for the judgment or ruling; where the judgment or ruling which has come into legal effect is made by the court of second instance, the case shall be tried pursuant to the procedure for trial of second instance, the judgment or ruling is a judgment or ruling which has come into legal effect; where the case is arraigned by a higher-level People's Court pursuant to the

procedure for trial supervision, the case shall be tried pursuant to the procedure for trial of second instance, the judgment or ruling is a judgment or ruling which has come into legal effect.

A People's Court trying a re-trial case shall form a collegiate bench separately.

Article 219 Where the Supreme People's Procuratorate discovers that a judgment or ruling of a People's Court at any level which has come into legal effect falls under any of the circumstances stipulated in Article 207 hereof or discovers that a mediation document harms national interest or public interest, or where a higher-level People's Procuratorate discovers that a judgment or ruling of a lower-level People's Court which has come into legal effect falls under any of the circumstances stipulated in Article 211 hereof or discovers that a mediation document harms national interest or public interest, a protest shall be made.

Where a People's Procuratorate at any level at any locality discovers that a judgment or ruling made by a People's Court of counterpart level which has come into legal effect falls under any of the circumstances stipulated in Article 211 hereof, or discovers that a mediation document harms national interest and public interest, the People's Procuratorate may make an attorney recommendation to the People's Court of counterpart level, and file record with the higher-level People's Procuratorate; or request the higher-level People's Procuratorate to make a protest to the People's Court of counterpart level.

The People's Procuratorate at any level shall have the right to make an attorney recommendation to the People's Court of counterpart level for any illegal act of a judge committed in any trial procedure other than the procedure for trial supervision.

Article 220 Under any of the following circumstances, a litigant may apply to a People's Procuratorate for attorney recommendation or make a protest:

(1) A People's Court has rejected an application for re-trial;

(2) A People's Court has not made a ruling on an application for re-trial within the stipulated period; or

(3) There is an obvious mistake in a re-trial judgment or ruling.

A People's Procuratorate shall examine an application from a litigant within three months and decide whether to make an attorney recommendation or protest. The litigant shall not apply to the People's Procuratorate again for an attorney recommendation or protest.

Article 221 A People's Procuratorate may investigate into or verify with a litigant or a non-party to the case the relevant information for the need to make an attorney recommendation or protest for performance of legal supervision duties.

Article 222 In the event of a case for which a protest is made by a People's Procuratorate, the People's Court which receives the protest shall rule on re-trial within 30 days from the date of receipt of the protest letter; under any of the circumstances stipulated in item (1) to item (5) of Article 211 hereof, the case may be handed over to a lower-level People's Court for re-trial, except where the case has been retried by the said lower-level People's Court.

Article 223 Where a People's Procuratorate has decided to make a protest against a judgment, ruling or mediation document of a People's Court, the People's Procuratorate shall prepare a protest letter.

Article 224 In the event of a case for which a protest is made by a People's Procuratorate, the People's Court shall notify the People's Procuratorate to assign personnel to be present in court when the People's Court re-tries the case.

Chapter 17 — Procedures of Supervision and Urge

Article 225 Where a creditor requesting for payment of money and securities by a debtor satisfies the following criteria, the creditor may apply to a primary People's Court which has jurisdiction for an order of payment:

(1) There is no other debt dispute between the creditor and the debtor; or

(2) The order of payment can be served on the debtor.

The written application shall state the amount of the money or the quantity of securities for which payment is requested and the facts and evidence on which the request is based.

Article 226 Upon submission of an application by a creditor, the People's Court shall notify the creditor within five days on whether the application is accepted.

Article 227 Upon acceptance of an application by a People's Court, upon examination of the facts and evidence provided by the creditor, where the creditor-debtor relationship is

clear and legitimate, an order of payment shall be issued to the debtor within 15 days from the date of acceptance of the application; where the application is not justified, the People's Court shall rule that the application be rejected.

The debtor shall settle the debt or submit a written objection to the People's Court within 15 days from the date of receipt of the order of payment.

Where the debtor failed to submit an objection or perform the order of payment within the period stipulated in the preceding paragraph, the creditor may apply to the People's Court for enforcement.

Article 228 Upon receipt of the written objection from the debtor, the People's Court shall rule on termination of procedure of supervision and urge upon examination and conclusion that the objection is justified, and the order of payment shall become void automatically.

Where an order of payment becomes void, the case shall enter into litigation procedure, except where one party to the application for order of payment disagrees with filing of lawsuit.

Chapter 18 — Procedures of Public Invitation to Assert Claims

Article 229 A holder of a note which can be endorsed or transferred pursuant to the provisions may apply to a primary People's Court at the place of payment of the note for public invitation to assert claims in the event that the note is stolen, lost or destroyed. The provisions of this Chapter shall apply to other matters for which an application for public invitation to assert claims may be made pursuant to the provisions of the law.

The applicant shall submit a written application to a People's Court, stating the main contents of the note such as the par value, drawer, bearer, endorser, etc. and the reason and facts of the application.

Article 230 A People's Court shall, upon decision on acceptance of an application, simultaneously notify the payor to stop payment, issue a public announcement within three days, and urge interested parties to declare their rights. The period of public invitation to assert claims shall be decided by a People's Court in accordance with the circumstances but shall not be less than 60 days.

Article 231 Upon receipt of the notice on stopping payment from the People's Court, the payor shall stop payment, until the procedure of public invitation to assert claims is concluded.

During the period of public invitation to assert claims, the transfer of rights pertaining to the note shall be invalid.

Article 232 Interested parties shall declare to the People's Court during the period of public invitation to assert claims.

Upon receipt of declaration by the interested parties, the People's Court shall rule on termination of the procedure of public invitation to assert claims and notify the applicant and the payor.

The applicant or the declarant may file a lawsuit with a People's Court.

Article 233 Where there is no declarant, the People's Court shall make a judgment in accordance with the applicant's application to declare that the bill is invalid. The judgment shall be announced in a public announcement and the payor shall be notified. With effect from the date of public announcement of the judgment, the applicant shall have the right to request for payment by the payor.

Article 234 Where an interested party is unable to declare to the People's Court before the judgment due to a proper reason, the interested party may file a lawsuit with the
People's Court which makes the judgment within one year from the date on which the interested party is aware or should be aware of the date of public announcement of the judgment.

PART III ENFORCEMENT PROCEDURES

Chapter 19 — General Provisions

Article 235 The people's court of the first instance, or the people's court at the same level as the people's court of first instance at the place where the property under enforcement is located, is responsible for enforcing an effective civil judgment or ruling or the property portion of an effective criminal judgment or ruling.

The people's court at the place of domicile of the party against whom enforcement is sought, or at the place where the property under enforcement is located, is responsible for enforcing other legal instruments which the law requires a people's court to enforce.

Article 236 Where a litigant or an interested party deemed that the act of enforcement is in violation of the provisions of the law, the litigant or interested party may submit a written objection to the People's Court which is in charge of enforcement. Where a litigant or an interested party submits a written objection, the People's Court shall conduct examination within 15 days from the date of receipt of the written objection, where the reason is valid, the People's Court shall rule on revocation or correction; where the reason is not valid, the People's Court shall rule that the application be rejected. Where the litigant or the interested party disagrees with the ruling, an application for review shall be submitted to the higher-level People's Court within 10 days from the date of service of the ruling.

Article 237 Where a People's Court does not carry out enforcement within six months from the date of receipt of an application for enforcement, the applicant for enforcement may apply to a higher-level People's Court for enforcement. Upon examination by the higher-level People's Court, the higher-level People's Court may order the original People's Court to carry out enforcement within a stipulated period, or the higher-level People's Court may decide to carry out enforcement or order another People's Court to carry out enforcement.

Article 238 During the enforcement process, where a non-party to the case submits a written objection in respect of the subject matter of enforcement, the People's Court shall conduct examination within 15 days from the date of receipt of the written objection, where the reason is valid, the People's Court shall rule on suspension of enforcement of the subject matter; where the reason is not valid, the People's Court shall rule that the application be rejected. Where the non-party to the case or the litigant disagrees with the ruling or deems that there is an error in the original judgment or ruling, the matter shall be dealt with pursuant to the procedure for trial supervision; whether it is unrelated to the original judgment or ruling, a lawsuit may be filed with a People's Court within 15 days from the date of service of the ruling.

Article 239 Enforcement shall be carried out by enforcement officers.

When adopting mandatory enforcement measures, an enforcement officer shall present his/her credential. Upon completion of enforcement, a written record of the status of enforcement shall be kept and the relevant personnel onsite shall sign or affix seal thereon.

A People's Court may establish an enforcement agency based on the needs.

Article 240 Where the enforcee or the enforced property is at another locality, a local People's Court may be entrusted to carry out enforcement on behalf. Upon receipt of the entrustment letter, the entrusted People's Court shall commence enforcement within 15 days and shall not refuse. Upon completion of enforcement, the entrusting People's Court shall be promptly notified of the enforcement outcome in writing; where the enforcement is not completed within 30 days, the entrusting People's Court shall also be notified of the status of enforcement in writing.

Where the entrusted People's Court does not carry out enforcement within 15 days from the date of receipt of the entrustment letter, the entrusting People's Court may request the higher-level People's Court of the entrusted People's Court to order the entrusted People's Court to carry out enforcement.

Article 241 During the enforcement process, where both parties concerned settle and reach an agreement, the enforcement officer shall include the contents of the agreement in the written record, both parties concerned shall sign and affix seal thereon.

Where the applicant for enforcement is deceived or coerced into entering into a settlement agreement with the enforcee, or the litigants do not perform the settlement agreement, the People's Court may, pursuant to the application of a litigant, resume enforcement of the original legal document which has taken effect.

Article 24 2During the enforcement process, where the enforcee provides guarantee to the People's Court, and upon consent of the applicant for enforcement, the People's Court may decide on deferment of enforcement and the period for deferment of enforcement. Where the enforcee does not perform within the stipulated period, the People's Court shall have the right to enforce the enforcee's secured property or the guarantor's property.

Article 243 Where the enforcee who is a citizen has passed away, his/her estate shall be used to repay the debt. Where the enforcee who is a legal person or an organisation is terminated, the bearer of its rights and obligations shall perform the obligations.

Article 244 Upon completion of enforcement, where the judgment or ruling or any other legal document on which enforcement is based has an error and is revoked by the People's Court, the People's Court shall make a ruling on the enforced property and order the party which obtains the property to return the property; where the party refuses to return the property, mandatory enforcement shall be carried out.

Article 245 The provisions of this Part shall apply to enforcement of mediation document s prepared by People's Courts.

Article 246 People's Procuratorates shall have the right to implement legal supervision for civil enforcement.

Chapter 20 — Application for and Transfer of Enforcement

Article 247 The parties concerned shall perform the civil judgment or ruling which has come into legal effect. Where one party refuses to perform, the counterparty may apply to the People's Court for enforcement, or the judge may assign an enforcement officer to carry out enforcement.

With respect to a mediation document and any other legal document which should be enforced by the People's Court, the parties concerned shall perform the mediation document and legal document. Where one party refuses to perform, the counterparty may apply to the People's Court for enforcement.

Article 248 With respect to an arbitral award of an arbitration organisation established pursuant to the law, where one party does not perform, the counterparty may apply to a People's Court which has jurisdiction for enforcement. The People's Court accepting the application shall carry out enforcement.

Where the respondent presents evidence to prove that the arbitral award falls under any of the following circumstances, upon examination and verification by the collegiate bench formed by the People's Court, a ruling on non-enforcement shall be made:

(1) The parties concerned have not included an arbitration clause in the contract or have not entered into a written arbitration agreement subsequently;

(2) The arbitration matter does not fall under the scope of the arbitration agreement or the arbitration organisation has no right to carry out arbitration;

(3) The composition of the arbitral tribunal or the arbitration procedures is/are in violation of statutory procedures;

(4) The evidence on which the arbitral award is based is forged;

(5) The counterparty has concealed evidence which has an impact on making a fair arbitral award from the arbitration organisation; or

(6) The arbitrators have committed bribery or favouritism or perverted the law in making the arbitral award when carrying out arbitration of the case.

Where the People's Court rules that enforcement of the arbitral award is against the public interest, a ruling of non-enforcement shall be made.

A ruling document shall be served on both parties to the arbitration and the arbitration organisation.

Where non-enforcement of an arbitral award is ruled by a People's Court, the party concerned may apply for arbitration again based on the written arbitration agreement between both parties, or file a lawsuit with a People's Court.

Article 249 Where one party concerned does not perform a debt instrument which has been vested with mandatory enforceability by a notary organisation pursuant to the law, the counterparty may apply to a People's Court which has jurisdiction for enforcement, the People's Court which accepts the application shall carry out enforcement.

Where there is an error in the notarised debt instrument, the People's Court shall rule on non-enforcement, and shall serve the ruling document on both parties concerned and the notary organisation.

Article 250 The time frame for application for enforcement shall be two years. The provisions of the applicable laws on suspension and termination of limitation of action shall apply to suspension and termination of limitation period for application for enforcement.

The period stipulated in the preceding paragraph shall commence from the last day of the performance period stipulated in the legal document; where the legal document stipulates performance in phases, the period shall commence from the date of expiration of the time limit for the last performance; where the legal document does not stipulate the

performance period, the period shall commence from the effective date of the legal document.

Article 251 Upon receipt of an application for enforcement or a notice of handover of enforcement, the enforcement officer shall issue a notice of enforcement to the enforcee and may forthwith adopt mandatory enforcement measures.

Chapter 21 — Enforcement Measures

Article 252 Where an enforcee has not performed the obligations determined in the legal document pursuant to the notice of enforcement, the enforcee shall report the current status of property and the status of property in the year preceding the date of receipt of the notice of enforcement. Where the enforcee refuses to report or makes a false report, the People's Court may impose a fine or detention on the enforcee or its legal representative or the key person-in-charge or directly accountable personnel of the relevant organisation based on the extent of the circumstances.

Article 253 Where an enforcee does not perform the obligations determined in the legal document pursuant to the notice of enforcement, the People's Court shall have the right to enquire about the enforcee's properties such as deposits, debentures, shares, unit trusts, etc from the relevant organisations. The People's Court shall have the right to seize, freeze, appropriate or sell the enforcee's properties based on the circumstances. The properties enquired, seized, frozen, appropriated or sold by the People's Court shall not exceed the scope of performance of obligations of the enforcee.

Where the People's Court decides on seizure, freezing, appropriation or sale of properties, the People's Court shall make a ruling and issue a "Notice on Assistance for Enforcement", the relevant organisations shall act accordingly.

Article 254 Where an enforcee does not perform the obligations determined in the legal document pursuant to the notice of enforcement, the People's Court shall have the right to withhold or withdraw the portion of the enforcee's income which corresponds to the performance of obligations, but shall retain the requisite living expenses of the enforcee and his/her dependants.

A People's Court shall make a ruling at the time of withholding or withdrawal of income, and issue a "Notice on Assistance for Enforcement", the enforcee's employer, the bank(s), the credit cooperative(s) and other organisations with savings business shall act accordingly.

Article 255 Where an enforcee does not perform the obligations determined in the legal document pursuant to the notice of enforcement, the People's Court shall have the right to seize, confiscate, freeze, auction or sell the enforcee's properties which correspond to the performance of obligations, but shall retain the necessities of the enforcee and his/her dependants.

For adoption of the measures in the preceding paragraph, a People's Court shall make a ruling.

Article 256 When a People's Court seizes or confiscates properties, where the enforcee is a citizen, the People's Court shall notify the enforcee or his/her adult family members to be present; where the enforcee is a legal person or an organisation, the People's Court shall notify the legal representative of the legal person or the key person-in-charge of the organisation to be present. Absence of the said person(s) shall not affect enforcement. Where the enforcee is a citizen, his/her employer or the grassroots organisation at the location of the properties shall assign personnel to participate in the enforcement.

The enforcement officer shall prepare a list of the seized and confiscated properties, the persons on-site shall sign or affix seal thereon, and a copy shall be given to the enforcee. Where the enforcee is a citizen, a copy may be given to his/her adult family member.

Article 257 The enforcement officer may appoint the enforcee to be responsible for safekeeping the seized properties, the enforcee shall bear the losses resulting from his/her mistake.

Article 258 Upon seizure and confiscation of properties, the enforcement officer shall order the enforcee to perform the obligations determined in the legal documents within the designated period. Where the enforcee refuses to perform the obligations within the stipulated period, the People's Court shall auction or sell the seized and confiscated properties; where the properties are not suitable to be put up for auction or both parties concerned agree not to put the properties up for auction, the People's Court may entrust the relevant organisations to sell the properties or the People's Court may arrange to sell the properties. Items prohibited by the State to be traded freely shall be handed to the relevant organisations for acquisition in accordance with the prices stipulated by the State.

Article 259 Where an enforcee does not perform the obligations determined in the legal document, and conceals the properties, the People's Court shall have the right to issue a

search warrant, and conduct search on the enforcee and his/her residence or the place where the properties are concealed.

For adoption of the measures in the preceding paragraph, the president of the court shall issue a search warrant.

Article 260 For properties or bills to be delivered as designated by a legal document, the enforcement officer shall summon both parties concerned for face-to-face delivery or forwarded by the enforcement officer and the party taking delivery shall acknowledge receipt. Where the properties or bills are held by the relevant organisations, the properties or bills shall be handed over pursuant to the "Notice on Assistance for Enforcement" of the People's Court, and the party taking delivery shall acknowledge receipt.

Where the properties or bills are held by the relevant citizen, the People's Court shall notify the citizen to hand over. Where the relevant citizen refuses to hand over, mandatory enforcement shall be carried out.

Article 261 For mandatory eviction from a building or mandatory eviction from a land parcel, the president of the court shall issue a public announcement to order the enforcee to perform eviction during the stipulated period. Where the enforcee failed to perform eviction during the stipulated period, the enforcement officer shall carry out mandatory enforcement.

During mandatory enforcement, if the enforcee is a citizen, the enforcee or his/her adult family member shall be notified to be present; where the enforcee is a legal person or an organisation, its legal representative or the key person-in-charge shall be notified to be present. Absence of the notified person shall not affect enforcement. If the enforcee is a citizen, his/her employer or the grassroots organisation at the location of the housing or land parcel shall assign personnel to participate in enforcement. The enforcement officer shall prepare written record of the status of mandatory enforcement, the persons on-site shall sign or affix seal thereon.

Properties removed from a mandatory eviction building shall be transported to designated premises by the personnel assigned by the People's Court and handed over to the enforcee. Where the enforcee is a citizen, the properties may be handed over to his/her adult family member(s). Losses arising from refused acceptance shall be borne by the enforcee.

Article 262 During the enforcement process, where there is a need to complete the formalities for transfer of the relevant property rights certificate, the People's Court may issue a "Notice on Assistance for Enforcement" to the relevant organisation(s), the relevant organisation(s) shall act accordingly.

Article 263 Where an enforcee does not perform the acts stipulated by a judgment, ruling or any other legal document pursuant to the notice of enforcement, the People's Court may carry out mandatory enforcement or entrust the relevant organisation or any other person to carry out enforcement, and the enforcee shall bear the expenses.

Article 264 Where an enforcee does not perform the obligations for money payment within the period stipulated in a judgment, ruling or any other legal document, the enforcee shall pay an amount double the interest on the debts during the deferred performance period. Where an enforcee does not perform other obligations during the period stipulated in the judgment, ruling or any other legal document, the enforcee shall pay a deferred performance fine.

Article 265 Upon adoption of enforcement measures stipulated in Article 253, Article 254 or Article 255 hereof by a People's Court, where an enforcee is still unable to repay the debts, the obligations shall continue to be performed. Where a creditor becomes aware that the enforcee has other properties, the creditor may request to a People's court at any time for enforcement.

Article 266 Where an enforcee does not perform the obligations determined in the legal document, the People's Court may adopt or notify the relevant authorities to assist in adoption of measures such as restricting the enforcee from leaving China, announcement of information on non-performance of obligations through the creditworthiness system records or the media and other measures stipulated by the laws.

Chapter 22 — Suspension and Termination of Enforcement

Article 267 Under any of the following circumstances, the People's Court shall rule that enforcement be suspended:

(1) The applicant has indicated that the enforcement can be deferred;

(2) A non-party to the case raised an objection to the subject matter of enforcement and the objection is justified;

(3) A citizen who is a party has passed away, and there is a need to wait for his/her heir to succeed his/her rights or bear his/her obligations;

(4) A legal person or an organisation who is a party has its operation terminated and the bearer of its rights and obligations has not been determined; or

(5) Any other circumstances under which a People's Court deemed that enforcement should be suspended.

Upon elimination of the circumstances for suspension, enforcement shall resume.

Article 268 Under any of the following circumstances, the People's Court shall rule that enforcement be terminated:

(1) The applicant has revoked the application;

(2) The legal documents on which the enforcement is based are revoked;

(3) A citizen who is an enforcee has passed away and does not have estate which can be enforced upon, and there is no duty bearer;

(4) The rights holder in a case for recourse of alimony, payment of maintenance, payment of upbringing has passed away;

(5) A citizen who is an enforcee has financial difficulties and is unable to repay borrowings, has no source of income and loses the ability to work; or

(6) Any other circumstances under which a People's Court deemed that enforcement should be terminated.

Article 269 A ruling on suspension or termination of enforcement shall take effect upon service on the party concerned.

PART IV — SPECIAL PROVISIONS ON FOREIGN-RELATED CIVIL PROCEDURES

Chapter 23 — General Principles

Article 270 The provisions of this Part shall apply to foreign-related civil lawsuits carried out in the People's Republic of China. Where this Part does not stipulate, other relevant provisions hereof shall apply.

Article 271 Where the provisions of an international treaty concluded or participated by the People's Republic of China differ from the provisions hereof, the provisions of the international treaty shall apply, except for clauses for which the People's Republic of China declared reservation.

Article 272 Civil lawsuits filed by foreigners, foreign organisations or international organisations that enjoy diplomatic privileges and immunities shall be handled pursuant to the provisions of the relevant laws of the People's Republic of China and the international treaties concluded or participated by the People's Republic of China.

Article 273 People's Courts trying foreign-related civil lawsuits shall use language or text commonly used in the People's Republic of China. Where a litigant requests for provision of translation, translation may be provided and the expenses shall be borne by the litigant.

Article 274 Foreigners, stateless persons, foreign enterprises and organisations filing a lawsuit or countersuit with a People's Court that are required to entrust a lawyer to participate in proceedings shall entrust a lawyer of the People's Republic of China.

Article 275 Where a foreigner, stateless person or foreign enterprise or organisation without residence in the People's Republic of China entrusts a lawyer or any other person in the People's Republic of China to participate in proceedings or mails or entrusts submission of the power of attorney from regions outside the People's Republic of China, the power of attorney shall be effective upon notarisation by a notary organisation in that country and authentication by the embassy or consulate of the People's Republic of China in that country, or performance of authentication formalities stipulated in the relevant treaty concluded between the People's Republic of China and the country.

Chapter 24 — Jurisdiction

Article 276 For a foreign-related civil dispute lawsuit other than the personal status relationship filed against a defendant who has no domicile within the territory of the People's Republic of China, the People's Court at the place of execution of contract, the place of performance of contract, the location of the subject matter of litigation, the location of the properties available for seizure, the place of infringement act or the domicile of the representative office may have jurisdiction, if the place of execution of contract, the place of performance of contract, the location of the subject matter of litigation, the location of the properties available for seizure, the place of infringement act or the domicile of the representative office is located within the territory of the People's Republic of China.

Except as stipulated in the preceding paragraph, foreign-related civil disputes that are otherwise appropriately related to the People's Republic of China may fall under the jurisdiction of the people's court.

Article 277 Where the parties to a foreign-related civil dispute agree in writing to select a people's court for jurisdiction, the People's Court may have jurisdiction.

Article 278 Where the parties do not raise any objection to jurisdiction and respond to defend or file counterclaims, the people's court shall be deemed to have jurisdiction.

Article 279 A people's court shall have exclusive jurisdiction over the following civil cases:

(1) actions initiated due to disputes over the establishment, dissolution and liquidation of a legal person or any other organization established within the territory of the People's Republic of China, as well as the validity of a resolution passed by the said legal person or other organization;

(2) actions initiated due to disputes relating to examination of the validity of intellectual property rights granted within the territory of the People's Republic of China; and

(3) actions initiated due to disputes arising from performance of Sino-foreign equity joint venture contracts, Sino-foreign cooperative joint venture contracts and Sino-foreign cooperative exploration and development of natural resources contracts within the territory of the People's Republic of China.

Article 280 Where a party to the same dispute between the parties concerned files a lawsuit with a foreign court and the other party files a lawsuit with a people's court, or a party files a lawsuit with both a foreign court and a people's court, the people's court which has jurisdiction pursuant to this Law may accept the dispute. Where the parties enter into an exclusive jurisdiction agreement and select a foreign court for jurisdiction, which does not violate the provisions of this Law on exclusive jurisdiction and does not involve the sovereignty, security or public interest of the People's Republic of China, the people's court may rule on non-acceptance of the dispute; where the case has been accepted, the people's court shall rule to dismiss the lawsuit.

Article 281 Upon acceptance of a case by a people's court pursuant to the provisions of the preceding Article, where a litigant applies to the people's court in writing for suspension of the lawsuit, on the ground that the foreign court has accepted the case prior to the

people's court, the people's court may rule on suspension of the lawsuit, except under any of the following circumstances:

(1) the litigants have agreed on selection of a people's court with jurisdiction, or the dispute falls under exclusive jurisdiction of the people's court; or

(2) it is evidently more convenient for a people's court to try the case.

Where the foreign court does not adopt the requisite measures to try the case or does not conclude the case within a reasonable period, the people's court shall resume litigation upon a written application by a litigant.

Where all or part of a judgment or ruling made by a foreign court which has come into legal effect is recognised by the people's court, and a litigant files a lawsuit with the people's court again in respect of the recognised part, the people's court shall rule on non-acceptance of case; where the case has been accepted, the people's court shall rule to dismiss the lawsuit.

Article 282 For a foreign-related civil case accepted by a people's court, where the defendant raises a jurisdictional objection, and the following circumstances are satisfied concurrently, the people's court may rule on rejection of the lawsuit and notify the plaintiff to file a lawsuit with a foreign court which is more convenient:

(1) the basic facts of the dispute involved in the case have not occurred in the People's Republic of China, and it is evidently inconvenient for the people's court to try the case and for the litigants to participate in the lawsuit;

(2) the litigants have not agreed on selection of the people's court for jurisdiction;

(3) the case does not fall under exclusive jurisdiction of the people's court;

(4) the case does not involve the sovereignty, security or public interest of the People's Republic of China; and

(5) it is more convenient for a foreign court to try the case.

Upon ruling on rejection of the lawsuit, where the foreign court refuses to exercise jurisdiction over the dispute or does not adopt the requisite measures to try the case or does not conclude the case within a reasonable period, and a litigant files a lawsuit with the people's court again, the people's court shall accept the case.

Chapter 25 — Service, Investigation and Evidence Collection and Period

Article 283 A people's court may adopt the following methods for service of litigation documents on litigants without domicile in the People's Republic of China:

(1) service by the methods stipulated in an international treaty concluded or jointly acceded to by the country of the party being served and the People's Republic of China;

(2) service through diplomatic channels;

(3) service upon the party being served with the Chinese nationality by the entrusted embassy or consulate of the People's Republic of China based in the country where the party being served resides;

(4) service on the agent ad litem entrusted by the party being served in the lawsuit;

(5) service on a wholly owned enterprise, representative office or branch established in the People's Republic of China by the party being served or a business agent who has the right to receive service of process;

(6) service on the legal person or other organisation where the party being served is a foreigner or a Stateless person, who acts as the legal representative or key person-in-charge of a legal person or any other organisation established in the People's Republic of China, and is the co-defendant with the said legal person or other organisation;

(7) service on the legal representative or key person-in-charge where the party being served is a foreign legal person or any other organisation, and its legal representative or key person-in-charge is in the People's Republic of China;

(8) where the laws of the country where the party being served resides permit service of documents by mail, the documents may be served by mail; upon expiry of a three-month period from the date of mailing and the acknowledgement of service is not being returned, but the documents may be deemed served based on the circumstances, the service shall be deemed successful on the date of expiry of the period;

(9) service by electronic methods for which receipt by the party being served can be confirmed, except prohibited by the laws of the country where the party being served resides; and

(10) service by any other methods agreed by the party being served, except prohibited by the laws of the country where the party being served resides.

Where the documents cannot be served by any of the aforesaid methods, the documents shall be served by way of a public announcement and deemed served 60 days after the date of issuance of the public announcement.

Article 284 Where the evidence applied by a litigant to a people's court for investigation and collection is located outside the People's Republic of China, the people's court may investigate and collect evidence pursuant to the methods stipulated in the international treaties concluded or jointly acceded to by the country where the evidence is located and the People's Republic of China or through diplomatic channels.

Where the laws of the country where the evidence is located do not prohibit, the people's court may adopt the following methods to investigate and collect evidence:

(1) where a litigant or witness is of PRC nationality, the people's court may entrust the embassy or consulate of the People's Republic of China based in the country of the litigant or witness to collect evidence on its behalf;

(2) upon consent of both parties to the case, it may collect evidence through instant messaging tools; and

(3) it may collect evidence by any other method agreed by both parties to the case.

Article 285 With respect to a Defendant without a domicile in the People's Republic of China, the People's Court shall serve the duplicate copy of the indictment on the Defendant, and notify the Defendant to submit a pleading within 30 days from receipt of the duplicate copy of the indictment. Where the Defendant applies for an extension of time, the People's Court shall decide whether to grant an extension of time.

Article 286 Where a litigant without residence in the People's Republic of China disagrees with the judgment or ruling of the People's Court of first instance, the litigant shall have the right to file an appeal within 30 days from the date of service of the written judgment or ruling document. Upon receipt of the duplicate copy of the petition for appeal, the appellee shall submit a pleading within 30 days. Where the litigant is unable to file an appeal or submit a pleading within the statutory period and applies for an extension of time, the People's Court shall decide whether to grant an extension of time.

Article 287 The period for trial of foreign-related civil cases by People's Courts shall not be subject to the provisions stipulated in Article 152 and Article 183 hereof.

Chapter 26 — Arbitration

Article 288 With respect to disputes arising in foreign economic relations and trade and foreign-related transport and maritime activities, where the parties concerned have included an arbitration clause in the contract or a written arbitration agreement is reached subsequently for submission of the dispute to a foreign-related arbitration organisation of the People's Republic of China or any other arbitration organisation for arbitration, the parties concerned shall not file a lawsuit with a People's Court.

Where the parties concerned have not included an arbitration clause in the contract or no written arbitration agreement is reached subsequently, they may file a lawsuit with a People's Court.

Article 289 Where a party concerned applies for preservation, the foreign-related arbitration organisation of the People's Republic of China shall forward the application of the party concerned to an intermediate People's Court at the location of the respondent's residence or the location of the properties for ruling.

Article 290 Upon ruling by a foreign-related arbitration organisation of the People's Republic of China, the parties concerned shall not file a lawsuit with a People's Court. Where a party concerned does not perform the arbitral award, the counterparty may apply to an intermediate People's Court at the location of the respondent's residence or the location of the properties for enforcement.

Article 291 For an arbitral award made by a foreign-related arbitration organisation of the People's Republic of China, where the respondent presents evidence to prove that the arbitral award falls under any of the following circumstances, upon examination and verification by the collegiate bench formed by the People's Court that the assertion is true, the People's Court shall rule on non-enforcement:

(1) The parties concerned have not included an arbitration clause in the contract or reached a written arbitration agreement subsequently;

(2) The respondent has not received a notice from the designated arbitrators or notice on arbitration procedure, or the respondent is unable to make representation due to any reason not attributable to the respondent;

(3) The composition of the arbitral tribunal or the arbitration procedure does not comply with the arbitration rules; or

(4) The arbitration matter does not fall under the scope of the arbitration agreement or the arbitration organisation has no right to carry out arbitration.

Where a People's Court deemed that enforcement of the arbitral award violates public interest, the People's Court shall rule on non-enforcement.

Article 292 Where a People's Court rules on non-enforcement of an arbitral award, the parties concerned may apply for arbitration again pursuant to the written arbitration agreement reached by both parties, or file a lawsuit with a People's Court.

Chapter 27 — Judicial Assistance

Article 293 Pursuant to the international treaty concluded or participated by the People's Republic of China or in accordance with the principle of reciprocity, a People's Court and a foreign court may request each other to carry out service of documents on behalf, investigation and collection of evidence and any other litigation acts.

Where a request by a foreign court for assistance is prejudicial to the sovereignty, security or public interest of the People's Republic of China, the People's Court shall refuse to enforce.

Article 294 Request for and provision of judicial assistance shall be carried out via the channels stipulated in the international treaty concluded or participated by the People's Republic of China; where there is no treaty relations, request for and provision of judicial assistance shall be carried out via diplomatic channels.

An embassy or consulate of a foreign country based in the People's Republic of China may serve documents on a citizen of the foreign country and carry out investigation and collection of evidence, but shall not violate the laws of the People's Republic of China and shall not adopt mandatory measures.

Except for the circumstances stipulated in the preceding paragraph, no foreign agency or individual shall carry out service of documents, investigation and collection of evidence in the People's Republic of China without the consent by the relevant administrative authorities of the People's Republic of China.

Article 295 A request from a foreign court for a People's Court to provide judicial assistance and the appendices thereto shall be attached with a Chinese translation or any other language version stipulated by the international treaty.

A request from a People's Court for a foreign court to provide judicial assistance and the appendices thereto shall be attached with a translation of the request into the country's language or any other language version stipulated by the international treaty.

Article 296 People's Courts shall provide judicial assistance in accordance with the procedures stipulated by the laws of the People's Republic of China. Where a foreign court requests for adoption of a special method, the requested special method may be adopted, provided that the requested special method shall not violate the laws of the People's Republic of China.

Article 297 With respect to a judgment or ruling made by a People's Court which has come into legal effect, where the enforcee or its properties is/are not located in the People's Republic of China, and the parties concerned request for enforcement, the parties concerned may submit an application directly to a foreign court which has jurisdiction for ratification and enforcement, or the People's Court may, pursuant to the provisions of the international treaty concluded or participated by the People's Republic of China or in accordance with the principle of reciprocity, request for ratification and enforcement by the foreign court.

Where a party applies for enforcement of an arbitral award made in the People's Republic of China pursuant to the law which has come into legal effect, and the person subject to enforcement or its properties are not located in the People's Republic of China, the party may apply directly to a foreign court which has jurisdiction for recognition and enforcement.

Article 298 Where a judgment or ruling made by a foreign court which has come into legal effect requires recognition and enforcement by a people's court, a party may apply directly to the intermediate people's court which has jurisdiction for recognition and enforcement, or the foreign court may, pursuant to the provisions of the international treaty concluded or acceded to by the country of the foreign country and the People's Republic of

China or under the principle of reciprocity, request for recognition and enforcement by the people's court.

Article 299 For a judgment or ruling made by a foreign court which has come into legal effect for which recognition and enforcement are applied or requested, where a people's court concludes, upon examination pursuant to the international treaty concluded or acceded to by the People's Republic of China or under the principle of reciprocity, that it does not violate the basic principles of the laws of the People's Republic of China and damage the sovereignty, security or public interest, the people's court shall rule on recognition of the validity; where there is a need for enforcement, an enforcement order shall be issued to enforce such judgment or ruling pursuant to the relevant provisions of this Law.

Article 300 For a judgment or ruling made by a foreign court which has come into legal effect for which recognition and enforcement are applied or requested, a people's court shall rule upon examination not to recognize and enforce such judgment or ruling under any of the following circumstances:

(1) the foreign court has no jurisdiction over the case pursuant to the provisions of Article 301 of this Law;

(2) the respondent has not been legitimately summoned, or the respondent has been legitimately summoned but has not been given a reasonable opportunity to make a representation and debate, or the litigant without litigation capacity has not been assigned appropriate agent;

(3) the judgment or ruling is obtained by fraud;

(4) the people's court has made a judgment or ruling on the same dispute, or has recognised the judgment or ruling made by a court of a third country for the same dispute; or

(5) it violates the basic principles of the laws of the People's Republic of China or harms the State sovereignty, security and public interest.

Article 301 Under any of the following circumstances, the people's court shall deem that a foreign court has no jurisdiction over the case:

(1) the foreign court has no jurisdiction over the case pursuant to its laws, or the foreign court has jurisdiction over the case but has no appropriate connection with the dispute involved in the case;

(2) the provisions of this Law on exclusive jurisdiction are violated; or

(3) the agreement on exclusive choice of court for jurisdiction by the litigants is violated.

Article 302 Where a litigant applies to a people's court for recognition and enforcement of a judgment or ruling made by a foreign court which has come into legal effect, and the dispute involved in the said judgment or ruling is the same as the dispute under trial by the people's court, the people's court may rule on suspension of lawsuit.

Where a judgment or ruling made by a foreign court which has come into legal effect does not satisfy the recognition criteria stipulated in this Law, the people's court shall rule not to recognize and enforce it and resume the suspended lawsuit; where the judgment or ruling satisfies the recognition criteria stipulated in this Law, the people's court shall rule on recognition of its validity; where there is a need for enforcement, an enforcement order shall be issued for enforcement pursuant to the relevant provisions of this Law; for the suspended lawsuit, the people's court shall rule to dismiss the action.

Article 303 A litigant who disagrees with the ruling on recognition and enforcement or non-recognition and enforcement may apply to the higher-level people's court for reconsideration within 10 days from the date of service of the ruling.

Article 304 Where an arbitral award made outside the People's Republic of China which has come into legal effect requires recognition and enforcement by a people's court, a litigant may apply directly to the intermediate people's court at the domicile of the person subject to enforcement or the location of its properties. Where the domicile of the person subject to enforcement or the properties are not located in the People's Republic of China, the litigant may apply to the intermediate people's court at the domicile of the applicant or the location which has an appropriate connection with the ruling of the dispute. The people's court shall handle the matter pursuant to the international treaty concluded or acceded to by the People's Republic of China or under the principle of reciprocity.

Article 305 The provisions of the laws of the People's Republic of China on foreign state immunity shall apply to civil lawsuits involving foreign states; where the relevant laws do not provide, this Law shall apply.

Article 306 This Law shall be effective as of the date of promulgation, repealing simultaneously the Civil Procedure Law of the People's Republic of China (for Trial Implementation).