



# CHINA LEGAL BRIEFING\* 152

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## **The Amendment to the Criminal Law of the People's Republic of China (VI) (Order of the President of the People's Republic of China Number Fifty-One)**

中华人民共和国刑法修正案(六) (中华人民共和国主席令第五十一号)

Issued By	<b>Standing Committee of the National People's Congress</b>
Subject	<b>Criminal Law</b>
Promulgated on	<b>June 29<sup>th</sup> 2006</b>
Effective from	<b>June 29<sup>th</sup> 2006</b>
Source	<a href="http://www.npc.gov.cn">www.npc.gov.cn</a>

The Criminal Law of the People's Republic of China was amended by the Order of the President of the People's Republic of China. No. 51 (the "Amendment") was approved by the 10th Standing Committee of the National People's Congress.

A maximum jail term of 15 years for people who forced others to work in risky conditions resulting in serious accidents was approved. The previous maximum sentence was 7 years. Where serious accidents involving injury, death or other serious consequences occur due to disregard of safety in production facilities, the persons directly in charge shall be sentenced to a fixed-term imprisonment of no more than 3 years or detention. Where the circumstances are especially serious, such persons shall be sentenced to fixed-term imprisonment of no less than 3 years, not exceeding 7 years.

Previously, the unlawful earnings for the crime of money-laundering had four main sub-categories of crimes: drug-related crimes, crimes committed by criminal syndicates, crimes of smuggling and crimes of terrorists' activities. Now, two more main sub-categories have been added, the unlawful earnings from crimes of corruption and bribery, and the unlawful earnings from committing financial crimes.

Where the arbitration personnel make arbitrary decisions and rulings which are not in line with facts and laws, they shall be sentenced to fixed-term imprisonment of no more than 3 years or criminal detention. Where the circumstances are especially serious, they shall be sentenced to fixed-term imprisonment of no less than 3 years and no more than 7 years.

Where directors, supervisors, and senior management of listed companies undertake the following activities causing serious loss and damages to the listed companies, they shall be sentenced to fixed-term imprisonment of no more than 3 years or criminal detention:

- a) Where providing funds, goods, services or other assets to other entities or individuals for free;

- b) Where providing or accepting funds, goods, services or other assets under obvious unfair conditions;
- c) Where providing or accepting funds, goods, services or other assets to entities or individuals who are obviously do not have capabilities to tender;
- c) Where providing securities to other entities or individuals who are obviously do not have capabilities to tender or providing securities to other entities or individuals without warrants;
- d) Where abandoning creditor's right or bearing liabilities without warrants;
- e) Where taking other means to damage the interests of the listed company.

Where the circumstances are especially serious, they shall be sentenced to fixed-term imprisonment of between 3 years and 7 years and, in addition, may be fined.

## **The Administrative Measures on Bidding of Construction of Highway Projects (No. 7 [2006])**

公路工程施工招标投标管理办法(2006年第7号)

**Issued By** Ministry of Communications  
**Subject** Highway Projects, Bidding  
**Promulgated on** June 23<sup>rd</sup> 2006  
**Effective from** August 1<sup>st</sup> 2006  
**Source** [www.moc.gov.cn](http://www.moc.gov.cn)

The Administrative Measures on Bidding of Construction of Highway Projects (No. 7 [2006]) (the "Measures") have been promulgated by the Ministry of Communications in order to standardize the bidding activities, to ensure the quality of the construction of highway projects and to protect the legal benefits of parties involved. The Measures apply to the bidding activities for the construction of highway projects within China. The terms "highway projects" refer to the projects of highways, highway bridges, highway tunnels and the construction of related safety, protection, supervision and control, communications, charging, management, service and affiliated facilities.

Except for the projects which are not suitable for inviting public bidding, for reasons such as concerning national security or in case of emergency, the following highway projects should invite bidding: Highway projects with a total investment of more than 30 million RMB, projects with an estimated price of a single contract exceeding 2 million RMB and any other projects fit for inviting public bidding pursuant to laws and regulations.

The highway projects shall be provided with the following conditions: The preliminary designing documents are already approved; the constructing funds are already invested; and the legal person of the highway projects is already confirmed and in line with the required qualifications.

The bidding documents of highway projects for the main national highways and the national expressway networks shall be filed with the Ministry of Communications for registration. The bidding documents of other highway projects shall be filed with local governments above country-level.

Where bidders are invited for a highway project using loans from international financial organizations or foreign governments, and the lender or financier has different provisions in respect of the specific conditions and procedures for the invitation and submission of bidding, those provisions may be applied, unless they are against the public interest of the People's Republic of China.

## **China Union Pay Is Sued for Charging Inter-Bank Enquiry**

中国银联跨行查询收费首次被起诉

Subject            **Bank Charging**  
Source            [www.lab-lib.com](http://www.lab-lib.com)

China Union Pay, a company who provides services to bank card users, has been sued together with the Bank of Communications, the Industry and Commerce Bank of China and the China Construction Bank (jointly the “Defendants”) for charging inter-bank enquiries by a debit card holder, a citizen of Shanghai (the “Complainant”). According to the First Financial Daily, the case has been accepted and heard by the People’s Court of Xuhui District of Shanghai Municipality.

As of 1 June 2006, the service of inter-bank enquiry at the Defendants’ automatic teller machines (ATM) began to be charged at RMB 0.3. Inter-bank enquiry services essentially cover the services of balance enquiring at the ATM. A representative of the Chinese parliament, the National People’s Congress, has submitted a proposal to stop this charging. Such proposal is now said to be considered by the competent authorities. Simultaneously, however, the Complainant, a card user of the Long Card of the China Construction Bank, brought this case before the court claiming a compensation of RMB 1.5 Yuan.

According to the Complainant, she was told that the service of inter-bank enquiry is free when she applied for her bank card. Furthermore, such charging is not covered by the agreement of the bank card either. Before the court, her lawyer argued that the Defendants collusively fixed the charge thereby violating related laws and regulations such as the PRC Pricing Law and the PRC Law on Commercial Banks.

This case is drawing the attention of more and more people to on the conditions in the financial services industry in China. The judgment is expected to have a very significant impact on the whole industry.

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