

# CHINA LEGAL BRIEFING\* 168

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## **Regulations on the Administration of Commercial Franchising**

### **商业特许经营管理条例**

**Issued By**            **The State Council**  
**Subject**             **Commercial Franchising**  
**Promulgated on**    **February 6<sup>th</sup> 2007**  
**Effective from**     **May 1<sup>st</sup> 2007**  
**Source**              [www.gov.cn](http://www.gov.cn)

The Regulations on the Administration of Commercial Franchising (the “Regulation”) have been formulated with the purpose of standardizing the business of commercial franchising, accelerating the commercial franchising in a healthy and ordered way, and maintaining the market order. The Regulations shall apply where executing the business of commercial franchising within the territory of China. The Regulations consist of five chapters and thirty-four articles.

The term “commercial franchising” (the “franchising”) as mentioned herein refers to the business activity that enterprises (the “franchisor”) assign business resources owned by the franchisor such as registered trademarks and patents, to other business operators (the “franchisee”) to use in the method of contract, the franchisee shall execute the business operation in line with the provisions of the contract and shall make payments to the franchisor. According to the Regulations only enterprises are entitled to engage in the franchising business.

The franchising contract, according to the Regulations, should be registered by the franchisor with the competent administration of commerce within 15 days as of the signing of the contract for the first time. Article 8 of the Regulations specifies the documents required for such registration.

Article 11 mainly concerns the franchising contract, and it clearly stipulates that ten categories of information should be covered by the franchising contract, including the basic information of both the franchisor and the franchisee, the contents and term of the contract, the payment, the specific franchising method, quality of the product and service and the guarantee measures, advertising and sales promotion, protection of consumer’s rights and benefits and the liability of compensation, modification and termination of the contract, liabilities for breach of faith, and the disputes resolution.

**Hygienic Standard for Cosmetics (2007) and the Circular of the Ministry of Health Concerning the Related Issues on Implementation of the Hygienic Standard for Cosmetics (2007) (Weijiandufa[2007]No. 63)**

《化妆品卫生规范(2007年版)》和卫生部关于实施《化妆品卫生规范(2007年版)》有关问题的通知(卫监督发[2007]63号)

Issued By	<b>The Ministry of Health</b>
Subject	<b>Hygienic Standard for Cosmetics</b>
Promulgated on	<b>February 13<sup>th</sup> 2007</b>
Effective From	<b>February 13<sup>th</sup> 2007</b>
Source	<a href="http://www.moh.gov.cn">www.moh.gov.cn</a>

On 4 January 2007, the Ministry of Health promulgated the Hygienic Standard for Cosmetics (2007) (the “Standard”), which consists of five big parts with three hundred pages. The electric version is available on the website of the Ministry of Health. In order to ensure the implementation of the Standard, the Ministry of Health issued the Circular of the Ministry of Health Concerning the Related Issues on Implementation of the Hygienic Standard for Cosmetics (2007) (the “Circular”).

According to the Circular, as of 1 July 2007, any production and importation of cosmetics that does not comply with the Standard shall be banned. For the products produced or imported prior to 1 July 2007, they are allowed to be sold until their expiration date.

For the cosmetics that has already been approved by or registered with the Ministry of Health prior to 1 July 2007, if the prescription consists of any substance that newly banded by the Standard, such prescription shall be modified in line with the Standard. After examined and accepted by the experts, if the modified description complies with the Standard such modification shall be accepted, however, if it does not, then the original approval on the products shall be cancelled.

There are also some new provisions on labels, marks and signs of products and such new provisions shall be applied as of 1 July 2009 to production and importation of cosmetics. Furthermore, as of 1 July 2007, all levels of sanitary administrations shall launch supervision and check with the purpose of protecting the security of consumers.

## **Measures of the Customs of the People's Republic of China for the Administration of Direct Return of Imported Goods**

中华人民共和国海关进口货物直接退运管理办法

Issued By           **The China Customs**  
Subject             **Direct Return of Imported Goods**  
Promulgated on    **February 2<sup>nd</sup> 2007**  
Effective From     **April 1<sup>st</sup> 2007**  
Source              [www.customs.gov.cn](http://www.customs.gov.cn)

The Measures of the Customs of the People's Republic of China for the Administration of Direct Return of Imported Goods (the "Measures") have been enacted for the purpose of strengthening the administration of direct return of imported goods, and protecting the lawful rights and interests of citizens, legal persons and other organizations. The Measures are formulated in line with the Customs Law of the People's Republic of China as well as other relevant laws and administrative regulations.

After the entry into the territory of the goods and prior to the finish of the customs release formalities, if the consignee and the consigner of the imported goods, or the person in charge of the original transportation means or its agent applies for the direct return of the goods in whole or in part to the overseas, or the customs orders such direct return according to the related state provisions, the Measures shall apply.

If the application for direct return is made after the imported goods to be transited between customs offices are released by the customs of the entry place, the Measures shall not apply and instead the general return formalities shall apply. According to the Measures, the direct return of imported goods shall be determined by the directly subordinate customs or its authorized subordinate customs.

The direct return of imported goods shall be executed via the port of the original entry place. Where the transportation means is needed to be changed or the imported goods are required to exit from the territory via another port due to any transportation reasons, such goods shall exit from the territory in the method of transit transport upon approval by the customs of the entry place.

The Measures shall also apply to the direct return of imported goods in bonded zones, export processing zones, other areas under special surveillance of the customs, and the bonded surveillance areas.

Furthermore, mainly in Article 4, 7 and 11 of the Measures there are detailed provisions regarding different circumstances of direct return of the imported goods.

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