

CHINA LEGAL BRIEFING* 179

JANUARY 14 – 18, 2008



* CHINA LEGAL BRIEFING is a weekly collection of Chinese law related news gathered from various media and news services, edited by WENFEI ATTORNEYS-AT-LAW LTD. distributed to its clients and CHINA LEGAL BRIEFING subscribers. WENFEI ATTORNEYS-AT-LAW LTD. does not accept responsibility for accuracy of quotes or truthfulness of content. CHINA LEGAL BRIEFING is not intended to provide advice.

- 1 Decision of the Standing Committee of the National People's Congress on Amending the Civil Procedure Law of the People's Republic of China**
- 2 Decision on Abolishing Some Rules Concerning Labor and Social Security (No. 29)**
- 3 Decision of the General Administration of Customs on Abolishing Some Customs Rules (Decree No. 167)**

Decision of the Standing Committee of the National People's Congress on Amending the Civil Procedure Law of the People's Republic of China

全国人民代表大会常务委员会关于修改《中华人民共和国民事诉讼法》的决定

Issued By Standing Committee of the National People's Congress on Amending the Civil Procedure Law of the People's Republic of China

Subject Civil Procedure Law

Promulgated on October 28th 2007

Effective from April 1st 2008

Source www.npcd.gov.cn

The Amendment consists of 19 amendments as well as changing of sequences of some articles.

The original XIX chapter of Procedures for Debt Payment by Bankruptcy by Enterprise with Legal Status is deleted since China now has its Bankruptcy Law.

Item 2 of Article 103 shall be amended to read as follows: "A people's court may fine the person in charge directly responsible or any other person directly responsible for an entity that commits any of the acts described in the preceding paragraph; the people's court may detain any person that refuses to carry out his duty to assist and submit a judicial proposal to the supervisory authorities or other relevant authorities suggesting the imposition of disciplinary sanctions", but according to the previous provisions the court was not entitled to detain any person in such cases.

Item 1 of Article 104 shall be amended to read as follows: "A fine imposed on an individual shall not exceed RMB 10,000 and a fine imposed on an entity shall be no less than RMB 10,000 but shall not exceed RMB 300,000", and the previous numbers were respectively 1,000 and 30,000.

The people's court shall retry any case in which the relevant party's application satisfies any of the 13 conditions provided by the amended Article 179, previously there were only 5 such conditions and this amendment is commonly believed to provide further protection on right to apply for retrial. A party shall apply for a retrial within two years of the date on which the judgment or ruling becomes legally effective.

Article 207 shall be amended as Article 201 and Item 1 shall be amended to read as follows: "A legally effective civil judgment or ruling, or that portion of a legally effective criminal

judgment or ruling that pertains to property, shall be enforced by the people's court of first instance or the people's court at the same level as the people's court where the property subject to execution is located.”

Article 226 shall be amended as Article 216, and one item shall be added as Item 2 to read as follows: “In the event that any individual required to assist in the execution of a judgment fails to perform the duties required of him as set out in the legal documentation, and it is possible for him to conceal or remove the relevant assets, the execution officer may proceed to instigate enforcement measures.”

One additional article shall be added as Article 217 to read as follows: “Where the person subject to execution fails to perform the duties required of him as set out in the legal documentation in accordance with the execution notice, he or she shall provide a report on the circumstances relating to the assets concerned during the current period or in the year prior to the date on which he receives the execution notice. Where the person subject to execution refuses to provide such a report or makes a false report, the people's court may fine or detain that person subject to execution, its statutory agent, principally responsible person or the directly responsible person in the relevant work unit, according to the seriousness of the case.”

One additional article shall be added as Article 231 to read as follows: “Where any person fails to perform the duties required of him as set out in the legal documentation, the people's court may take steps towards or seek the assistance of his employer in the imposition of restrictions on him leaving the country, record or publicize the fact that he has failed to perform his duties through the public credit system, or adopt other measures provided by the law.”

Decision on Abolishing Some Rules concerning Labor and Social Security (No.29)

关于废止部分劳动和社会保障规章的决定【第29号】

Issued By	Ministry of Labor and Social Security
Subject	Abolished Rules
Promulgated on	November 9th 2007
Effective From	November 9th 2007
Source	www.molss.gov.cn

With a view to accelerate the construction of a government ruled by laws and comprehensively implementing government administration according to law, the Ministry

conducted a comprehensive check over the current rules concerning labor and social security in accordance with the provisions of the Law of Legislation and the arrangement of the State Council. Some rules concerning labor and social security are abolished upon study.

Such information is useful for FIEs especially the abolishment of the Provisions on the Labor Administration of the Enterprises of Foreign Investment.

1. Implementation Measures for Authentication of Labor Contract, promulgated on 22 Oct. 1992, and the reasons for abolishment is “conflicting with current laws and regulations”;
2. Provisions on the Labor Administration of the Enterprises of Foreign Investment, promulgated on 11 August 1994, because of having been replaced by Labor Law and other laws and regulations;
3. Provisions on the Administration of the Vocational Training Entity, promulgated on 14 December 1994, and the reason for abolishment is “having been replaced by current laws and regulations”;
4. Trial Measures for Insurance for Work-Related Injuries of Corporate Employees, promulgated on 12 August 1996, because of having been replaced by Regulations on Work-Related Injury Insurances;
5. Interim Provisions of the Ministry of Labor and Social Security on Complaint Letters and Visits, promulgated on 12 August 1999, and because of conflicting with Regulation on Complaint Letters and Visits.

Decision of the General Administration of Customs on Abolishing Some Customs Rules (Decree No.167)

海关总署关于废止部分海关规章的决定[第167号]

Issued By	General Administration of Customs
Subject	Abolished Rules
Promulgated on	November 2nd 2007
Effective from	November 2nd 2007
Source	www.customs.gov.cn

According to China Customs, the following customs rules have been abolished, and both foreign and domestic enterprises are strongly suggested to be aware of such information.

1. Circular of the General Administration of Customs on the Entry and Exit Administration of Corpses, Coffins and Bone ash (Shu Xing Zi [1984] No. 540) (promulgated on June 25th, 1984);

2. Provisions on Tax Collection and Exemption of Imported Goods Compensated at Zero Cost (promulgated by document "Shu Shui [1984] No. 894" on October 25, 1984, and amended by document "Shu Shui [1995] No. 383" on May 23, 1995);
3. Measures on Consulting Customs Archives by Lawyers (Shu Diao Zi [1987] No. 625) (promulgated on June 18, 1987);
4. Administrative Provisions for the Customs of the People's Republic of China on Entry and Exit Cargos in Economic and Technological Development Zones (Shu Huo Zi [1988] No. 445) (promulgated on April 26, 1988);
5. Measures for the Customs of the People's Republic of China to Collect Commission Charges for Customs Supervision against Imported Cargoes which Enjoy Tax Reduction, Exemption or Bonded Treatment (Decree No. 1, 1988 of the General Administration of Customs) (promulgated on September 20, 1988);
6. Administration Provisions for the Customs of the People's Republic of China on Entry and Exit Cargos in Costal Opening Regions (Decree No. 5, 1989) (promulgated on February 15, 1989, and amended by document "Shu Jian Yi [1993] No. 623" on April 10, 1993);
7. Measures for the Customs of the People's Republic of China to Supervise the Imported Materials Donated by Overseas Chinese as well as Chinese Compatriots in Hong Kong, Macau and Taiwan (Decree No. 10, 1989) (promulgated on December 26, 1989);
8. Measures for the Bonded Administration of Materials Imported by Foreign-funded Material Companies (Decree No.17, 1991) (promulgated on March 5, 1991);
9. Measures of Customs of the People's Republic of China for the Administration over Import and Export Goods of the Development Zones of the State High/new Technological Industries (Decree No. 26, 1991) (promulgated on September 2, 1991);
10. Administrative Measures for the Customs of the People's Republic of China on Cargos, Means of Transport, Goods Carried by Individuals as well as Goods Delivered by Post that Go in and out of Yangpu Economic Development Zone of Hainan Province (Decree No. 32, 1992) (promulgated on July 27, 1992);
11. The Measures for the Administration on Goods, Conveyances, Luggage and Postal Articles Entering and Leaving the Shanghai Pudong New Area of the People's Republic of China (Decree No. 37, 1992) (promulgated on October 7, 1992);
12. Administrative Provisions for the Customs of the People's Republic of China on Imported and Exported Cargos in National Tourist & Holiday Resorts (Decree No. 45, 1993) (promulgated on February 24, 1993);
13. Provisions for the Customs of the People's Republic of China on Punishing the Illegal Transit of Export-oriented Textile Products (Decree No. 48, 1994) (promulgated on July 2, 1994);

14. Measures of the Customs of the People's Republic of China on Supervision and Control of Import and Export Goods of the Suzhou Industrial Park (Decree No. 53, 1995) (promulgated on July 12, 1995);
15. Decision of the Customs of the People's Republic of China on the Application of Law and Regulation in Giving Administrative Punishments upon Violations against the Interim Measures for the Administration of Xinjiang Cotton under Setting off Import with Export (Decree No. 72, 1999) (promulgated on May 12, 1999);
16. Measures for the Customs of the People's Republic of China to Punish Acts Illegally Selling in Domestic Market or Transferring Bonded Goods of Processing Trade (Decree No. 76, 1999) (promulgated on September 14, 1999).

© Wenfei, Beijing, 14 January 2008

Check the China Legal Briefing archives on: Check the China Legal Briefing archives on:

<http://www.wenfei.com/publications/html>

Obtain your personal subscription from: clb@wenfei.com