# Administrative Compulsion Law of the PRC

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## Chapter I — General Provisions

Article 1 — This Law is enacted in accordance with the Constitution for the purposes of regulating the establishment and enforcement of administrative compulsion, safeguarding and supervising the lawful exercise of administrative authority by administrative agencies, protecting the lawful rights and interests of citizens, legal persons, and other organizations, and maintaining the public interest and social order.

Article 2 — For the purposes of this Law, administrative compulsion includes administrative compulsory measures and administrative compulsory enforcement. Administrative compulsory measures means measures temporarily restricting the personal freedom of citizens, or temporarily controlling the property of citizens, legal persons, or other organizations, taken by administrative agencies in the course of administrative administration to stop illegal acts, prevent the destruction of evidence, avoid the occurrence of harmful consequences, or control the expansion of danger, in accordance with the law. Administrative compulsory enforcement means measures taken by administrative agencies or by administrative agencies applying to people's courts to compel citizens, legal persons, or other organizations that fail to perform

administrative decisions in accordance with the law to perform their obligations.

Article 3 — The establishment and enforcement of administrative compulsion shall comply with the provisions of this Law. Where there are provisions in laws or administrative regulations on the establishment and enforcement of administrative compulsory measures, such provisions shall prevail. Where administrative agencies take administrative compulsory enforcement measures against the property of enterprises or individuals in connection with the collection of taxes, such measures shall be governed by the provisions of relevant laws and administrative regulations.

Article 4 — The establishment and enforcement of administrative compulsion shall be in accordance with legally prescribed authority, scope, conditions, and procedures.

Article 5 — The establishment and enforcement of administrative compulsion shall be appropriate. Where non-compulsory means are sufficient to achieve the objective of administrative administration, no administrative compulsion shall be established or enforced.

Article 6 — Administrative agencies and their functionaries shall not seek benefits by taking advantage of administrative compulsion.

Article 7 — The State Council shall strengthen the guidance for the enforcement of administrative compulsion. The relevant departments of the State Council shall, within the scope of their respective duties, strengthen the supervision over the enforcement of administrative compulsion. Local people's governments at or above the county level shall strengthen the leadership and supervision over the enforcement of administrative compulsion within their respective administrative regions.

## Chapter II — Types and Establishment

Article 8 — Administrative compulsory measures shall be established by laws. Where matters have not been provided for by laws and fall within the scope of autonomous administrative authority of the State Council, administrative regulations may establish administrative compulsory measures. A local regulation may establish compulsory measures of sealing up or distraining within the scope of the matters prescribed by laws and administrative regulations. No administrative compulsory measures may be established by rules or other normative documents.

Article 9 — The types of administrative compulsory measures include: (1) restricting personal freedom of citizens; (2) sealing up of premises, facilities, or property; (3) distraining of property; (4) freezing of deposits or remittances; and (5) other administrative compulsory measures.

Article 10 — Administrative compulsory enforcement shall be established by laws. Where laws provide that an administrative agency has the power of compulsory enforcement, administrative regulations and local regulations may not establish provisions to expand the scope of compulsory enforcement. Where laws do not provide that an administrative agency has compulsory enforcement power, the administrative agency shall apply to the people's court for compulsory enforcement.

Article 11 — Where administrative compulsion is to be established, the necessity, feasibility, and social impact of the establishment shall be carefully studied and demonstrated. Where administrative compulsion is established, hearings, argumentation meetings, or other means shall be adopted to hear the opinions of citizens, legal persons, and other organizations.

## Chapter III — Enforcement by Administrative Agencies

Article 12 — Administrative agencies shall enforce administrative compulsion in accordance with the law and the prescribed procedures. The enforcement of administrative compulsion shall be in proportion to the seriousness of the illegal act and the degree of harm.



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Article 13 — When enforcing administrative compulsion, administrative agencies shall present their law enforcement credentials. Where two or more law enforcement officers enforce administrative compulsion, the enforcement shall be carried out jointly. During the enforcement of administrative compulsion, the parties concerned shall have the right to make statements and arguments. Administrative agencies shall fully hear the opinions of the parties concerned and shall record, review, and respond to the facts, reasons, and evidence presented by the parties concerned.

Article 14 — Where an administrative agency takes administrative compulsory measures, it shall comply with the following provisions: (1) reporting to the person in charge of the administrative agency for approval before enforcement; (2) having two or more law enforcement officers carry out the enforcement; (3) presenting their law enforcement credentials; (4) notifying the parties concerned on the spot of the reasons and grounds for taking the administrative compulsory measures and the rights that the parties enjoy in accordance with the law and the means of remedy; (5) hearing the statements and arguments of the parties concerned; (6) preparing on-the-spot written records; and (7) other procedures prescribed by laws and regulations.

Article 15 — Where an administrative agency takes administrative compulsory measures of sealing up or distraining, it shall prepare a list of the sealed-up or distrained property, which shall be signed or sealed by the parties concerned and the law enforcement officers. The sealed-up or distrained property shall be properly kept and shall not be used or damaged.

Article 16 — The time limit for sealing up or distraining property shall not exceed 30 days. Where the circumstances are complex, an extension may be granted upon approval by the person in charge of the administrative agency. However, the extended period shall not exceed 30 days, unless otherwise provided for by laws or administrative regulations. Where an extension of the time limit is granted, the parties concerned shall be promptly notified in writing and the reasons for the extension shall be explained. The administrative agency shall make a timely decision to lift the sealing-up or distraint of property.

Article 17 — An administrative agency shall not seal up or distrain the personal necessities of citizens and the living expenses of their dependents. An administrative agency shall not seal up or distrain property that has been sealed up by another administrative agency in accordance with the law. An administrative agency shall not seal up or distrain objects or facilities that are not related to the illegal act.

Article 18 — When an administrative agency makes a decision on administrative compulsory enforcement, it shall inform the parties concerned in writing in advance of the reasons for the enforcement, the legal basis, the method and time of enforcement, and the right to apply for administrative reconsideration or bring an administrative lawsuit. The administrative agency shall urge the parties concerned to perform their obligations. Where the parties concerned perform their obligations within the prescribed time limit after being urged, no compulsory enforcement shall be carried out.

Article 19 — An administrative agency may not enforce administrative compulsory enforcement by means such as cutting off water supply, heat supply, gas supply, or electricity supply that affect the basic living needs of the parties concerned, except where the parties concerned have failed to perform their obligations as required. An administrative agency may not enforce administrative compulsory enforcement at nighttime or on statutory holidays, except where the circumstances are urgent.

## Chapter IV — Application to People's Courts

Article 20 — Where an administrative agency has no power of administrative compulsory enforcement, it shall apply to the people's court for compulsory enforcement. The administrative agency shall apply to the people's court for compulsory enforcement within three months of the expiry of the time limit for the parties concerned to apply for administrative reconsideration or bring an administrative lawsuit.



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Article 21 — Before applying to the people's court for compulsory enforcement, the administrative agency shall urge the parties concerned to perform their obligations, and the written notice of urging shall be served on the parties concerned. If the parties concerned still fail to perform their obligations 10 days after the service of the written notice of urging, the administrative agency may apply to the people's court with jurisdiction at the place where the administrative agency is located or where the immovable property is located for compulsory enforcement.

Article 22 — The people's court shall, within five days of receipt of the application from the administrative agency, make a ruling on whether to accept the application. The people's court shall not accept an application for compulsory enforcement that does not meet the statutory conditions. If the people's court makes a ruling not to accept the application, the administrative agency may apply for reconsideration to the people's court at the next higher level within 15 days.

Article 23 — After accepting the application, the people's court shall conduct a written examination and, within seven days, make a ruling on whether to enforce the application. If the people's court discovers any of the following circumstances, it shall, before making a ruling, hear the opinions of the parties concerned and the administrative agency: (1) there is a clear lack of factual basis; (2) there is a clear lack of legal basis; or (3) other circumstances where the lawful rights and interests of the parties concerned are clearly harmed.

## Chapter V — Legal Liability

Article 24 — Where an administrative agency enforces administrative compulsion by illegal means, causing damage to the parties concerned, it shall compensate the parties concerned in accordance with the law. Where a functionary of an administrative agency takes advantage of administrative compulsion to seek personal gains, he or she shall be given a sanction by the authority with the power of appointment and removal, the supervisory authority, or the relevant department in accordance with the law. If a crime is constituted, criminal liability shall be pursued in accordance with the law.

Article 25 — Where a local people's government at or above the county level or a relevant department of a people's government at or above the county level violates the provisions of this Law by unlawfully establishing administrative compulsory measures or administrative compulsory enforcement, the authority at a higher level shall order it to make corrections or shall revoke the relevant establishment in accordance with the law. The directly responsible person in charge and other directly responsible persons shall be given sanctions in accordance with the law.

## Chapter VI — Supplementary Provisions

Article 26 — This Law shall enter into force on January 1, 2012.

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