

Martial Law of the PRC

Dan Young Business Consultancy — www.danyoungcpa.com
Unofficial English translation prepared for reference only. The official Chinese text prevails.

Contents

Table of Contents	1
Chapter I — General Provisions	1
Chapter II — Implementation of Martial Law	2
Chapter III — Measures for Implementing Martial Law	2
Chapter IV — Duties of Martial Law Enforcement Personnel	4
Chapter V — Supplementary Provisions	5

Adopted at the 18th Meeting of the Standing Committee of the Eighth National People's Congress on March 1, 1996
Promulgated by Order No. 61 of the President of the People's Republic of China on March 1, 1996
Effective: March 1, 1996

Table of Contents

- Chapter I — General Provisions
- Chapter II — Implementation of Martial Law
- Chapter III — Measures for Implementing Martial Law
- Chapter IV — Duties of Martial Law Enforcement Personnel
- Chapter V — Supplementary Provisions

Chapter I — General Provisions

Article 1 — This Law is formulated in accordance with the Constitution of the People's Republic of China.

Article 2 — The State may decide to impose martial law when there occurs an emergency situation of turmoil, riot, or serious unrest that seriously endangers the unity of the State, state security, or public order, and where public order and the safety of people's lives and property cannot be maintained without extraordinary measures.

Article 3 — Martial law in the whole country or in an individual province, autonomous region, or municipality directly under the Central Government shall be decided by the Standing Committee of the National People's Congress at the request of the State Council; the President of the People's Republic of China shall issue the martial law order in accordance with the decision of the Standing Committee of the National People's Congress.

Martial law in parts of a province, autonomous region, or municipality directly under the Central Government shall be decided by the State Council, and the Premier of the State Council shall issue the martial law order.

Article 4 — During the period of martial law, in order to ensure the implementation of martial law and to maintain public order, the State may, in accordance with this Law, adopt special provisions in the martial law area concerning the exercise of the rights and freedoms of citizens as provided by the Constitution and laws.

Article 5 — The people's governments in the martial law area shall, in accordance with this Law, adopt necessary measures to restore normal social order as soon as possible and to ensure the safety of people's lives and property as well as the supply of basic necessities of life.

Article 6 — All organizations and individuals in the martial law area must strictly observe the martial law order and the provisions for the implementation of the martial law order, and actively assist the people's governments in restoring normal social order.

Article 7 — The State shall adopt effective measures to protect the lawful rights and interests of organizations and individuals that observe the martial law order and the provisions for the implementation of the martial law order from infringement.

Article 8 — The tasks of martial law shall be performed by the people's police and the people's armed police; when necessary, the State Council may make a proposal to the Central Military Commission, and the Central Military Commission shall decide to dispatch the People's Liberation Army to assist in performing the tasks of martial law.

Chapter II — Implementation of Martial Law

Article 9 — Martial law in the whole country or in an individual province, autonomous region, or municipality directly under the Central Government shall be organized and implemented by the State Council.

Martial law in parts of a province, autonomous region, or municipality directly under the Central Government shall be organized and implemented by the people's government of the province, autonomous region, or municipality directly under the Central Government; when necessary, the State Council may directly organize and implement it.

The organs that organize and implement martial law shall be called martial law implementation organs.

Article 10 — The martial law implementation organs shall establish martial law command organs, which shall coordinate the actions of the relevant parties performing the tasks of martial law and make unified deployment and implementation of martial law measures.

The People's Liberation Army performing the tasks of martial law shall be commanded by military organs designated by the Central Military Commission under the unified deployment of the martial law command organs.

Article 11 — The martial law order shall specify the territorial scope of martial law, the starting time, the implementation organs, and other matters.

Article 12 — After the emergency situation for which martial law is imposed in accordance with Article 2 of this Law is eliminated, martial law shall be lifted in a timely manner.

The procedure for lifting martial law shall be the same as the procedure for deciding to impose martial law.

Chapter III — Measures for Implementing Martial Law

Article 13 — During the period of martial law, the martial law implementation organs may decide to adopt the following measures in the martial law area and may formulate specific implementation measures:

- (1) prohibiting or restricting assemblies, processions, demonstrations, street speeches, and other mass activities;
- (2) prohibiting strikes, market closures, and class boycotts;

- (3) exercising news control;
- (4) exercising control over communications, postal services, and telecommunications;
- (5) exercising entry and exit control;
- (6) prohibiting any activities opposing martial law.

Article 14 — During the period of martial law, the martial law implementation organs may decide to adopt traffic control measures in the martial law area, restricting the entry and exit of persons in the traffic control areas, and inspecting the certificates, vehicles, and articles of persons entering or leaving the traffic control areas.

Article 15 — During the period of martial law, the martial law implementation organs may decide to adopt curfew measures in the martial law area. During the curfew, persons passing through streets or other public places in the areas under curfew must hold their personal identity documents and the special passes issued by the martial law implementation organs.

Article 16 — During the period of martial law, the martial law implementation organs or the martial law command organs may adopt special management measures in the martial law area for the following articles:

- (1) weapons and ammunition;
- (2) controlled knives;
- (3) inflammable and explosive articles;
- (4) hazardous chemicals, radioactive articles, highly toxic articles, and the like.

Article 17 — In accordance with the needs of performing the tasks of martial law, the people's governments at or above the county level in the martial law area may temporarily requisition houses, premises, facilities, means of transport, engineering machinery, and the like of state organs, enterprises, public institutions, and social organizations, as well as of individual citizens. In extremely urgent situations, the on-site commanders of the people's police, the people's armed police, and the People's Liberation Army performing the tasks of martial law may directly decide on temporary requisition, and the local people's governments shall provide assistance. A requisition receipt shall be issued for any requisition.

The temporarily requisitioned items mentioned in the preceding paragraph shall be returned in a timely manner after use is completed or after martial law is lifted; where damage is caused by the requisition, corresponding compensation shall be given by the people's governments at or above the county level in accordance with the relevant provisions of the State.

Article 18 — During the period of martial law, measures shall be adopted to strengthen the security of the following units and premises in the martial law area:

- (1) leading organs;
- (2) military organs and important military installations;
- (3) foreign embassies and consulates in China, representative offices of international organizations in China, and places where state guests stay;
- (4) important news units such as radio stations, television stations, and the national news agency, and their important installations;
- (5) public utility enterprises and public facilities of major importance to the national economy and the people's livelihood;
- (6) airports, railway stations, and ports;
- (7) prisons, reeducation-through-labor institutions, and detention houses;

(8) other units and premises requiring strengthened security.

Article 19 — In order to ensure the supply of basic necessities of life to the people in the martial law area, the martial law implementation organs may adopt special management measures for the production, transport, supply, and prices of basic necessities of life.

Article 20 — The measures and methods adopted by the martial law implementation organs in accordance with this Law for implementing the martial law order shall be published where the public is required to observe them; in the course of implementation, where measures and methods no longer need to be implemented, the cessation of their implementation shall be published in a timely manner.

Chapter IV — Duties of Martial Law Enforcement Personnel

Article 21 — The people's police, the people's armed police, and the People's Liberation Army performing the tasks of martial law are martial law enforcement personnel.

When performing the tasks of martial law, martial law enforcement personnel shall wear the insignia uniformly prescribed by the martial law implementation organs.

Article 22 — In accordance with the provisions of the martial law implementation organs, martial law enforcement personnel shall have the right to inspect the certificates, vehicles, and articles of persons on public roads or in other public places in the martial law area.

Article 23 — In accordance with the provisions of the martial law implementation organs, martial law enforcement personnel shall have the right to detain persons violating the curfew provisions until the curfew ends in the early morning, and shall have the right to search the persons of the detainees and inspect the articles carried by them.

Article 24 — In accordance with the provisions of the martial law implementation organs, martial law enforcement personnel shall have the right to immediately detain the following persons:

- (1) persons committing or strongly suspected of committing crimes endangering state security or disrupting public order;
- (2) persons obstructing or resisting martial law enforcement personnel in performing the tasks of martial law;
- (3) persons resisting traffic control or curfew provisions;
- (4) persons engaging in other activities resisting the martial law order.

Article 25 — In accordance with the provisions of the martial law implementation organs, martial law enforcement personnel shall have the right to search the persons of detained persons, and shall have the right to search the residences of criminal suspects and the premises suspected of hiding criminals, criminal suspects, or dangerous articles such as weapons and ammunition.

Article 26 — Where any of the following mass gathering situations occurs in the martial law area and cannot be stopped, martial law enforcement personnel may, in accordance with the relevant provisions, use police equipment to forcibly stop or disperse the gathering, and forcibly remove the organizers and persons refusing to obey from the scene or immediately detain them:

- (1) illegally holding assemblies, processions, demonstrations, and other mass activities;
- (2) illegally occupying public places or inciting destructive activities in public places;
- (3) storming state organs or other important units and premises;
- (4) disrupting traffic order or deliberately blocking traffic;
- (5) plundering or damaging the property of organs, organizations, enterprises, public institutions, and individual citizens.

Article 27 — Martial law enforcement personnel shall promptly register and interrogate persons detained in accordance with the provisions of this Law, and shall immediately release those found not to require continued detention.

During the period of martial law, the procedures and time limits for detention and arrest may not be subject to the relevant provisions of the Criminal Procedure Law of the People's Republic of China, but arrest must be approved or decided by a people's procuratorate.

Article 28 — Where any of the following extremely urgent situations occurs in the martial law area and cannot be stopped by the use of police equipment, martial law enforcement personnel may use firearms and other weapons:

- (1) when the life safety of citizens or martial law enforcement personnel is endangered by violence;
- (2) when detaining, arresting, or escorting criminal suspects and encountering violent resistance, violence, or escape;
- (3) when encountering violent seizure of weapons and ammunition;
- (4) when important guarded persons or targets are attacked by violence or are in imminent danger of being attacked by violence;
- (5) when encountering serious violent obstruction in the performance of firefighting, emergency rescue, first aid operations, and other major urgent tasks;
- (6) other circumstances under which firearms and other weapons may be used as provided by laws and administrative regulations.

Martial law enforcement personnel must strictly observe the provisions on the use of firearms and other weapons.

Article 29 — Martial law enforcement personnel shall observe laws, regulations, and duty rules, obey orders, perform their duties, respect local ethnic customs and habits, and shall not infringe upon or harm the lawful rights and interests of citizens.

Article 30 — The acts of martial law enforcement personnel in performing their tasks in accordance with the law shall be protected by law.

Where martial law enforcement personnel, in violation of the provisions of this Law, abuse their powers and infringe upon or harm the lawful rights and interests of citizens, legal liability shall be pursued in accordance with the law.

Chapter V — Supplementary Provisions

Article 31 — Where serious unrest suddenly occurs within a partial area of an individual county or city, seriously endangering state security, public order, and the safety of people's lives and property, and the State has not decided to impose martial law, the local people's government at the provincial level may, upon approval by the State Council, decide to organize the people's police and the people's armed police to implement traffic control and on-site control, restrict the entry and exit of persons in the controlled areas, inspect the certificates, vehicles, and articles of persons entering or leaving the controlled areas, forcibly disperse, remove from the scene, and search persons participating in the unrest, and immediately detain the organizers and persons refusing to obey; where the forces of the people's police and the people's armed police are still insufficient to maintain public order, it may request the State Council to make a proposal to the Central Military Commission, and the Central Military Commission shall decide to dispatch the People's Liberation Army to assist the local people's government in restoring and maintaining normal public order.

Article 32 — This Law shall come into force on the date of promulgation.

Disclaimer: This translation is provided for reference and educational purposes only. It is an unofficial English rendering of the original Chinese text and does not constitute legal advice. In the event of any discrepancy, the official Chinese version shall prevail. Dan Young Business Consultancy assumes no liability for any use of this translation.