Regulations of the PRC on Urban Collective-Owned Enterprises

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Chapter I — General Provisions

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Article 1 — These Regulations are formulated for the purpose of safeguarding the consolidation and development of the urban collective-owned economy, defining the rights and obligations of urban collective-owned enterprises, and protecting their lawful rights and interests.

Article 2 — These Regulations apply to collective-owned enterprises of various trades and various organizational forms in cities and towns, except enterprises established by rural peasant collectives.

Article 3 — The urban collective-owned economy is a basic component of China's socialist public-ownership economy. The State encourages and supports the development of the urban collective-owned economy.

Article 4 — An urban collective-owned enterprise (hereinafter referred to as a "collective enterprise") is a socialist economic organization whose property is collectively owned by the working masses, that engages in collective labor, and in whose distribution the principle of distribution according to work prevails.

The collective ownership by the working masses referred to in the preceding paragraph shall conform to any of the following provisions:

(1) collective ownership by the working masses of the collective enterprise itself;

(2) collective ownership by the working masses within the scope of the associated economic organization of the collective enterprise;

(3) where there are two or more investors that are collective enterprises, the property collectively owned by the working masses under items (1) and (2) shall occupy a dominant position. The dominant position referred to in this item means that the proportion of property collectively owned by the working masses to the total property of the enterprise shall generally be not less than 51 percent; under special circumstances, upon approval by the original approving department, the proportion may be appropriately lowered.

Article 5 — The principles that collective enterprises shall follow are: voluntary association and self-raised funds; independent accounting and sole responsibility for profits and losses; autonomous operation and democratic administration; collective accumulation and autonomous disposal; distribution according to work and dividends on shares.

Collective enterprises shall carry forward the spirit of hard work and frugal nation-building, and follow the path of mutual aid, cooperation and common prosperity.

Article 6 — A collective enterprise obtains legal-person status in accordance with law and independently bears civil liability with all of its property.

The property of a collective enterprise and its lawful rights and interests are protected by State law and shall not be infringed.

Article 7 — The task of collective enterprises is: to develop commodity production, expand commodity business and develop social services in accordance with market and social demand under the guidance of the State plan, so as to create wealth, increase accumulation, continuously improve economic and social efficiency, and prosper the socialist economy.

Article 8 — The staff and workers of a collective enterprise are the masters of the enterprise and shall exercise the power to administer the enterprise in accordance with laws, regulations and the enterprise's articles of association. The lawful rights and interests of the staff and workers of a collective enterprise are protected by law.

Article 9 — Collective enterprises shall practice democratic administration in accordance with the provisions of law. The staff and workers' (representatives') congress is the organ of power of the collective enterprise, and shall elect and remove the enterprise's management personnel and decide on major issues of business management.

Collective enterprises shall practice the factory director (manager) responsibility system.

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Both the democratic administration right of the staff and workers of a collective enterprise and the lawful exercise of functions and powers by the factory director (manager) are protected by law.

Article 10 — The primary-level organization of the Communist Party of China in a collective enterprise is the political leadership core of the collective enterprise, shall lead the enterprise's ideological and political work, and shall guarantee and supervise the implementation of the Party's and the State's principles and policies in the enterprise.

Article 11 — The trade union of a collective enterprise shall protect the lawful rights and interests of the staff and workers, carry out its work independently and autonomously in accordance with law, and organize the staff and workers to participate in democratic administration and democratic supervision.

Chapter II — Establishment, Alteration and Termination of Collective Enterprises

Article 12 — The establishment of a collective enterprise must satisfy the following conditions:

(1) having an enterprise name, an organizational structure and articles of association;

(2) having fixed production and business premises, necessary facilities, and safety and sanitary conditions in conformity with the provisions;

(3) having an amount of funds and a number of employees that conform to State provisions and are commensurate with the scale of its production, business and services;

(4) having a defined scope of business;

(5) being able to independently bear civil liability;

(6) other conditions prescribed by laws and regulations.

Article 13 — The articles of association of a collective enterprise must specify the following matters:

(1) the name and domicile of the enterprise;

(2) the scope and manner of business;

(3) registered capital;

(4) sources of funds and methods of investment;

(5) methods of income distribution;

(6) the organizational structure and its functions and powers and rules of procedure;

(7) the conditions and procedures for staff and workers to join and withdraw from the enterprise;

(8) the rights and obligations of staff and workers;

(9) the procedures for the selection of the legal representative and the scope of his or her functions and powers;

(10) the conditions and procedures for termination of the enterprise;

(11) the procedures for amending the articles of association;

(12) the date of adoption of the articles of association;

(13) other matters that need to be specified.

Article 14 — The establishment of a collective enterprise shall be subject to approval by the approving department prescribed by the people's government of the province, autonomous region or municipality directly under the Central Government.

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Where laws and regulations contain special provisions on the approving department for the establishment of a collective enterprise, such provisions shall prevail.

A collective enterprise shall engage in production and business activities within its approved and registered scope of business.

Article 15 — The merger, division, suspension of business, relocation or alteration of major registered items of a collective enterprise shall conform to the relevant State provisions, and shall be applied for by the enterprise and reported to the original approving department for approval.

Article 16 — The merger and division of a collective enterprise shall follow the principle of voluntariness and equality, and the relevant parties shall sign an agreement in accordance with law, properly handle creditor's rights and debts, other property relations and outstanding problems, and properly arrange the enterprise's personnel.

The rights and obligations of a collective enterprise before merger or division shall be enjoyed and borne by the legal person formed after the merger or division.

Article 17 — A collective enterprise shall be terminated where any of the following causes exists:

(1) the enterprise is unable to continue business and applies for dissolution, with approval by the original approving department;

(2) the enterprise is revoked in accordance with law;

(3) the enterprise is declared bankrupt in accordance with law;

(4) other causes.

Article 18 — Upon termination of a collective enterprise, the enterprise's property shall be liquidated in accordance with the relevant State provisions. The enterprise's property shall be used to satisfy various debts and expenses in the following order:

(1) the expenses required for liquidation work;

(2) the wages and labor insurance expenses owed to staff and workers;

(3) the taxes owed;

(4) the loans owed to banks and credit cooperatives and other debts.

Where the property is insufficient to satisfy all claims in the same order, distribution shall be made proportionately.

Article 19 — The residual property of a collective enterprise after liquidation of its property shall be handled in the following manner:

(1) where the State, units or individuals outside the enterprise, or individual staff and workers of the enterprise have made investments in shares, they shall be repaid from the residual property of the enterprise in proportion to their investment amounts relative to the total assets of the enterprise;

(2) the remaining property shall be used by the enterprise's higher-level administrative authority as funds for unemployment and old-age relief, employment placement and vocational training of the enterprise's staff and workers, and shall be used exclusively for such purposes and shall not be diverted to other uses.

Article 20 — Upon termination of a collective enterprise, deregistration formalities must be completed and a public announcement made in accordance with the provisions of the Regulations on the Administration of Registration of Enterprise Legal Persons of the People's Republic of China.

Chapter III — Rights and Obligations of Collective Enterprises

Article 21 — Within the scope prescribed by State laws and regulations, a collective enterprise shall enjoy the following rights:

(1) the right to possess, use, benefit from and dispose of all of its property, and to refuse any form of equalization and transfer;

(2) independently arranging its production, business and service activities;

(3) except for prices controlled by the pricing department and the relevant competent departments in accordance with State provisions, the right to determine the prices of its products and labor services on its own;

(4) the right to negotiate with and sign contracts with foreign businessmen in accordance with State provisions, and to draw and use its share of foreign exchange income;

(5) applying for loans from the relevant specialized banks in accordance with the State credit policy;

(6) determining, in accordance with State provisions, the forms of economic responsibility system, wage forms and bonus and dividend methods suited to the circumstances of the enterprise;

(7) enjoying various preferential treatments prescribed by State policies;

(8) absorbing investment in shares from staff and workers and other enterprises, public institutions and individuals, operating jointly with other enterprises and public institutions, investing in other enterprises and public institutions, and holding shares in other enterprises;

(9) determining, in accordance with State provisions, the establishment of organs, the staffing, the forms of labor organization and the methods of employment of the enterprise, and recruiting and dismissing staff and workers;

(10) rewarding and punishing staff and workers.

Article 22 — A collective enterprise shall undertake the following obligations:

(1) abiding by State laws and regulations and accepting State plan guidance;

(2) paying taxes and fees in accordance with law;

(3) performing contracts in accordance with law;

(4) improving business management, promoting technological progress and enhancing economic efficiency;

(5) ensuring product quality and service quality and being responsible to users and consumers;

(6) implementing the safe-production system and carrying out labor-protection and environmental-protection measures;

(7) doing a good job of internal safety and security work of the enterprise;

(8) protecting the lawful rights and interests of staff and workers, respecting their democratic administration rights, improving working conditions, doing a good job of family-planning work, and raising the material and cultural living standards of staff and workers;

(9) strengthening ideological and political education, legal education, national defense education, scientific and cultural education and technical and business training for staff and workers, so as to raise the quality of the staff and workers.

Article 23 — A collective enterprise has the right, in accordance with State provisions, to voluntarily form, join and withdraw from an associated economic organization of collective enterprises, and to enjoy rights and undertake obligations in accordance with the provisions of the articles of association of the associated economic organization.

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Chapter IV — Staff and Workers and the Staff and Workers' (Representatives') Congress

Article 24 — Any person who files an application, acknowledges and abides by the articles of association of a collective enterprise and is recruited by the enterprise may become a staff member or worker of the collective enterprise.

Article 25 — Staff and workers shall, in accordance with the provisions of laws and regulations, enjoy the following rights in the collective enterprise:

(1) the right to elect and to stand for election to the various levels of management positions of the enterprise;

(2) participating in the democratic administration of the enterprise and supervising the various activities of the enterprise and the work of its management personnel;

(3) participating in labor and enjoying labor remuneration, labor protection, labor insurance, medical care and rest and leave;

(4) receiving vocational and technical education and training, and having professional and technical titles assessed in accordance with State provisions;

(5) resignation;

(6) enjoying retirement and old-age treatment;

(7) other rights.

Article 26 — Staff and workers shall perform the following obligations:

(1) abiding by State laws and regulations and the rules and regulations and labor discipline of the collective enterprise, engaging in labor with the attitude of being masters of the enterprise, and doing a good job of their own work;

(2) implementing the resolutions of the staff and workers' (representatives') congress and completing tasks;

(3) safeguarding the collective interests of the enterprise;

(4) diligently studying political, cultural and scientific and technological knowledge and continuously improving their own quality;

(5) other obligations prescribed by laws, regulations and the enterprise's articles of association.

Article 27 — A collective enterprise must establish and improve the staff and workers' (representatives') congress system:

(1) a collective enterprise with fewer than 100 persons shall establish a staff and workers' congress system;

(2) a collective enterprise with more than 300 persons shall establish a staff and workers' representatives' congress system;

(3) a collective enterprise with 100 to 300 persons shall establish either a staff and workers' congress or a staff and workers' representatives' congress system, as decided by the enterprise.

Representatives to the staff and workers' representatives' congress shall be elected by the staff and workers. The representatives shall be staff and workers who are progressive in thinking, active in work, close to the masses and capable of participating in democratic administration.

Article 28 — The staff and workers' (representatives') congress of a collective enterprise shall exercise the following functions and powers within the scope prescribed by State laws and regulations:

(1) formulating and amending the articles of association of the collective enterprise;

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(2) electing, removing, engaging and dismissing the factory director (manager) and deputy factory director (deputy manager) in accordance with State provisions;

(3) deliberating on the various motions submitted by the factory director (manager) and deciding on major issues of business management of the enterprise;

(4) deliberating and deciding on the wage forms, wage adjustment plans, bonus and dividend plans, staff housing allocation plans and other major matters relating to the living welfare of staff and workers;

(5) deliberating and deciding on the methods for rewarding and punishing staff and workers and other important rules and regulations of the enterprise;

(6) other functions and powers prescribed by laws, regulations and the enterprise's articles of association.

Article 29 — The staff and workers' (representatives') congress shall be convened regularly in accordance with the provisions of the enterprise's articles of association, but not fewer than twice each year.

Article 30 — The staff and workers' representatives' congress of a collective enterprise may establish a standing body to be responsible for the work of the congress between sessions.

The composition of personnel, the manner of selection, the scope of functions and powers and the name of the standing body shall be prescribed by the staff and workers' representatives' congress of the collective enterprise and reported to the higher-level administrative authority for the record.

Chapter V — The Factory Director (Manager)

Article 31 — A collective enterprise shall practice the factory director (manager) responsibility system. The factory director (manager) shall be responsible to the enterprise's staff and workers' (representatives') congress and is the legal representative of the collective enterprise.

Article 32 — The factory director (manager) shall be elected by, or recruited through, the enterprise's staff and workers' representatives' congress. The specific methods of election and recruitment shall be prescribed by the people's governments of provinces, autonomous regions and municipalities directly under the Central Government.

With respect to a collective enterprise established with investment by an associated economic organization of collective enterprises, its factory director (manager) may be appointed or removed by the associated economic organization.

With respect to a collective enterprise with diversified investors, where State investment reaches a certain proportion, its factory director (manager) may be appointed or removed by the higher-level administrative authority in accordance with the relevant State provisions.

Article 33 — The factory director (manager) shall satisfy the following conditions:

(1) understanding the relevant laws, regulations, principles and policies, and adhering to the socialist business orientation of the enterprise;

(2) being familiar with the business of the relevant trade, being good at business management, and having organizational and leadership ability;

(3) loving the collective, being clean and devoted to public duties, being close to the masses, and having a democratic style of work;

(4) other conditions prescribed by laws and regulations.

Article 34 — Within the scope prescribed by laws and regulations, the factory director (manager) shall exercise the following functions and powers:

(1) leading and organizing the daily production, business and administrative work of the enterprise;

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(2) presiding over the preparation of, and submitting to the staff and workers' (representatives') congress, the medium- and long-term development plan, the annual production and business plan and the fixed-asset investment plan of the enterprise;

(3) presiding over the preparation of, and submitting to the staff and workers' (representatives') congress, the plan for the establishment of organs of the enterprise, and deciding on the plan for adjusting labor organization;

(4) appointing, removing, engaging or dismissing mid-level administrative leading cadres of the enterprise in accordance with State provisions, unless otherwise provided by laws and regulations;

(5) putting forward the annual financial budget and final accounts plans and the profit distribution plan of the enterprise;

(6) putting forward the enterprise's economic responsibility system plan, wage adjustment plan, labor-protection measures plan, reward and punishment methods and other important rules and regulations;

(7) rewarding and punishing staff and workers;

(8) proposing, upon the occurrence of special circumstances, the convening of the staff and workers' (representatives') congress;

(9) other functions and powers prescribed by the enterprise's articles of association.

Article 35 — The factory director (manager) shall have the following duties:

(1) implementing the principles and policies of the Party and the State, abiding by State laws and regulations, and executing the resolutions of the staff and workers' (representatives') congress;

(2) organizing the staff and workers to complete the enterprise's production and business tasks and various economic and technical indicators, promoting the enterprise's technological progress, improving economic efficiency and enhancing the enterprise's development capability;

(3) strictly observing financial and economic discipline, adhering to democratic financial management, and periodically publishing the financial accounts to the staff and workers;

(4) protecting the lawful rights and interests of the enterprise and the legitimate rights of staff and workers within the enterprise;

(5) doing a good job of staff and workers' living welfare and gradually developing insurance such as old-age and unemployment insurance for staff and workers;

(6) organizing the implementation of safety and sanitary measures and realizing safe and civilized production;

(7) periodically reporting on work to the enterprise's staff and workers' (representatives') congress, listening to opinions and accepting supervision;

(8) other duties prescribed by laws, regulations and the enterprise's articles of association.

Chapter VI — Property Administration and Income Distribution

Article 36 — A collective enterprise shall, in accordance with the provisions of this Chapter, conduct asset and capital verification and clarify the ownership of its property.

Article 37 — The public accumulation of a collective enterprise shall be collectively owned by the working masses of the enterprise.

Article 38 — Investments by an associated economic organization of a collective enterprise shall be collectively owned by the working masses within the scope of the associated economic organization.

The mutual-aid and cooperation funds established by an associated economic organization of collective enterprises shall be used mainly for developing production and promoting common prosperity within the scope of the organization.

Article 39 — With respect to a collective enterprise established with the support of an enterprise, public institution, social organization or the like, its supporting funds may be handled in either of the following ways:

(1) treated as a loan to the supporting unit, to be repaid by the enterprise to the supporting unit in accordance with the method and within the time limit agreed upon by both parties;

(2) treated as an investment by the supporting unit in the enterprise, with the supporting unit participating in the enterprise's profit distribution in proportion to the ratio of its investment to the total assets of the enterprise.

The sources of supporting funds of enterprises, public institutions, social organizations and the like shall conform to the relevant provisions of the competent State finance department.

The property rights and financial relations between enterprises, public institutions, social organizations and the like and the collective enterprises established with their support shall be clearly delineated. The supporting unit shall not interfere with the business management activities of the collective enterprise, and the collective enterprise shall not depend on the supporting unit.

Article 40 — Shares of staff and workers shall be owned by the individual staff members and workers.

Article 41 — Investments by units and individuals outside the collective enterprise shall be owned by the investors.

Article 42 — Staff and worker shares and the various investments absorbed by a collective enterprise may be transferred or inherited by the investors in accordance with law.

Article 43 — A collective enterprise shall ensure the integrity of its property and shall rationally use and effectively operate the enterprise's property.

Article 44 — The income distribution of a collective enterprise shall follow the principle of giving consideration to the interests of the State, the collective and the individual.

Article 45 — A collective enterprise shall implement the relevant State financial and accounting systems, accept auditing supervision and strengthen internal financial management of the enterprise.

Article 46 — The after-tax profit of a collective enterprise shall be independently disposed of by the enterprise in accordance with law. The enterprise shall determine the proportions of the reserve fund, the public welfare fund, labor dividends and share dividends in accordance with State provisions.

Article 47 — The labor remuneration of the staff and workers of a collective enterprise shall adhere to the principle of distribution according to work. The specific forms and methods of distribution shall be determined by the enterprise itself.

Article 48 — Share dividends of a collective enterprise shall be linked to the enterprise's profits and losses. Where the enterprise makes a profit, dividends shall be distributed according to shares; where the enterprise sustains a loss, no dividend shall be distributed until the loss is made up.

Article 49 — A collective enterprise shall, in accordance with State provisions, set aside insurance funds such as old-age and unemployment insurance funds for its staff and workers. Insurance funds such as old-age and unemployment insurance funds for staff and workers shall, in accordance with State provisions, be set aside before the collection of income tax, be specially deposited and be used exclusively for their designated purposes.

Chapter VII — Relationship Between Collective Enterprises and the Government

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Article 50 — People's governments at all levels shall incorporate the development of the urban collective economy into their national economic and social development plans, provide support and guidance in all respects, and safeguard the sound development of the urban collective economy.

Article 51 — The competent authority of the State Council for the urban collective economy shall be responsible for the macro guidance and administration of the urban collective economy nationwide. Its principal duties are: drafting development policies, laws and regulations for the urban collective economy, coordinating major problems in the development of the urban collective economy nationwide, and organizing the relevant parties to supervise and inspect the implementation of policies and regulations concerning collective enterprises.

Article 52 — People's governments at or above the city level (including county-level cities; the same below) shall, according to the needs of the development of the urban collective economy, determine the guidance departments for urban collective enterprises, strengthen policy guidance for collective enterprises, coordinate problems in the development of the local urban collective economy, and organize the relevant parties to supervise and inspect the implementation of policies and regulations concerning collective enterprises.

Article 53 — The relevant trade administration departments of the government shall, in accordance with the provisions of laws and regulations and within their respective functions and duties, be responsible for the trade guidance and administration of collective enterprises in their respective trades.

Article 54 — Other relevant departments of people's governments at all levels shall supervise collective enterprises and provide services to them in accordance with law.

Article 55 — The State protects the lawful rights and interests of collective enterprises.

No government department or any other unit or individual may change the collective-ownership nature of a collective enterprise or damage its property ownership, may not impose apportionment of human, material or financial resources upon a collective enterprise, and may not interfere with the production, business and democratic administration of a collective enterprise.

Chapter VIII — Legal Liability

Article 56 — Where a collective enterprise commits any of the following acts, it shall be given an administrative penalty by the administrative department for industry and commerce in accordance with the relevant State laws and regulations:

(1) practicing fraud at the time of registration or failing to apply for alteration registration in accordance with the provisions;

(2) engaging in business activities in violation of the approved and registered items or beyond the approved and registered scope of business;

(3) taking advantage of acts such as division, merger, termination and liquidation to withdraw capital, conceal or privately divide property;

(4) other illegal acts.

Article 57 — Where a collective enterprise causes property loss or personal injury to users and consumers by producing or selling fake or inferior commodities, it shall bear liability for compensation; where the act constitutes a crime, criminal liability shall be pursued in accordance with law against the leading personnel and other directly responsible persons of the collective enterprise who bear direct responsibility.

Article 58 — Any unit or individual that, in violation of these Regulations, imposes apportionment upon a collective enterprise or embezzles or misappropriates the property of a collective enterprise shall make compensation. The leading personnel bearing direct responsibility and other directly responsible persons

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shall be given administrative sanctions by the relevant competent authorities according to the seriousness of the circumstances; where the act constitutes a crime, criminal liability shall be pursued in accordance with law.

Article 59 — Where leading personnel of a collective enterprise abuse their power and infringe upon the lawful rights and interests of staff and workers, and the circumstances are serious, they shall be given administrative sanctions by the higher-level administrative authority in accordance with its cadre administration authority; where they abuse their power and use public office for private gain to retaliate against and frame staff and workers, criminal liability shall be pursued in accordance with law.

Article 60 — Where leading personnel of a collective enterprise or staff members of the relevant government departments cause losses to the enterprise through work-related negligence, they shall be given administrative sanctions by the enterprise's higher-level administrative authority or the relevant government departments in accordance with cadre administration authority.

Where leading personnel of a collective enterprise or staff members of the relevant government departments are derelict in duty, thereby causing major losses to the property and interests of the collective enterprise, and the act constitutes a crime, criminal liability shall be pursued in accordance with law.

Article 61 — Where a collective enterprise violates the provisions of these Regulations on the conditions and procedures for the selection and removal of leading personnel of the collective enterprise, the higher-level administrative authority shall correct it and pursue the administrative liability of the directly responsible persons.

Where the higher-level administrative authority of a collective enterprise violates the provisions of these Regulations on the conditions and procedures for the selection and removal of leading personnel of the collective enterprise, the competent department at the next higher level shall correct it; where the circumstances are serious, the administrative liability of the directly responsible persons shall be pursued.

Article 62 — Where the order of a collective enterprise is disturbed, so that production, business or work cannot proceed normally or cannot proceed at all, the public security organ shall impose punishment in accordance with the Law of the People's Republic of China on Penalties for Public Security Administration; where the act constitutes a crime, criminal liability shall be pursued in accordance with law.

Chapter IX — Supplementary Provisions

Article 63 — Measures for the formation and administration of associated economic organizations of collective enterprises shall be formulated separately.

Article 64 — The administration of various companies under collective ownership shall be carried out in accordance with the relevant State laws and regulations on companies.

Article 65 — Collective-owned public institutions in cities and towns in the fields of culture, education, health and scientific research shall be handled by reference to these Regulations.

Measures for the administration of supply and marketing cooperatives shall be formulated separately.

Article 66 — Labor employment service collective enterprises shall follow the principles prescribed by these Regulations, and their specific administration measures shall be implemented in accordance with the Provisions on the Administration of Labor Employment Service Enterprises promulgated by the State Council.

Measures for the administration of welfare collective enterprises that concentrate on placing persons with disabilities shall be formulated separately in accordance with the principles of these Regulations.

Article 67 — Measures for the administration of collective enterprises established with the support of the military shall be formulated separately by the General Logistics Department of the Chinese People's

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Liberation Army in accordance with the principles prescribed by these Regulations.

Article 68 — The people's governments of provinces, autonomous regions and municipalities directly under the Central Government and the competent departments of the State Council for various trades may, in accordance with these Regulations and in light of the specific circumstances of their regions and trades, formulate rules for the implementation of these Regulations.

Article 69 — These Regulations shall enter into force as of January 1, 1992.

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