Regulations of the PRC on Village and Township Collective-Owned Enterprises

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

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Chapter I — General Provisions

Article 1 — These Regulations are formulated for the purpose of safeguarding the lawful rights and interests of township and village collective-owned enterprises and guiding their sound development.

Article 2 — These Regulations apply to enterprises established by peasant collectives of townships (including towns; the same below) and villages (including villagers’ groups; the same below).

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Agricultural production cooperatives, rural supply and marketing cooperatives and rural credit cooperatives are not governed by these Regulations.

Article 3 — Township and village collective-owned enterprises are a component of China's socialist public-ownership economy.

The State implements the policy of actively supporting, rationally planning, correctly guiding and strengthening administration with respect to township and village collective-owned enterprises.

Article 4 — The main tasks of township and village collective-owned enterprises are: developing commodity production and the service industry so as to meet the growing material and cultural needs of society; adjusting the rural industrial structure and rationally utilizing the rural labor force; supporting agricultural production and rural construction and increasing the State's fiscal revenue and the peasants' income; actively developing production for export and foreign exchange earnings; and providing supporting facilities and services for large industries.

Article 5 — The State protects the lawful rights and interests of township and village collective-owned enterprises, and prohibits any organization or individual from infringing upon their property.

Article 6 — Township and village collective-owned enterprises shall practice autonomous operation, independent accounting and sole responsibility for profits and losses.

Township and village collective-owned enterprises shall practice various forms of business responsibility systems.

Township and village collective-owned enterprises may absorb investment in shares on the premise of not changing the nature of collective ownership.

Article 7 — The State encourages and supports township and village collective-owned enterprises in adopting advanced and applicable science and technology and business management methods so as to accelerate the modernization of the enterprises.

Article 8 — The State encourages and protects township and village collective-owned enterprises in carrying out various forms of economic and technical cooperation in accordance with the principles of equality and mutual benefit, voluntariness and consultation, and equivalence and compensation.

Article 9 — The State encourages and supports township and village collective-owned enterprises in rationally utilizing natural resources in accordance with law and developing industries and products suited to local conditions and in line with State industrial policies and market demand, so as to increase the effective supply to society.

Article 10 — A township or village collective-owned enterprise that, upon examination in accordance with law, satisfies the conditions for legal-person status shall obtain legal-person status after registration, and its factory director (manager) shall be its legal representative.

Article 11 — Staff and workers of township and village collective-owned enterprises have the right to return to the peasant collective economic organizations to which they belong to engage in agricultural production.

Article 12 — The township enterprise administrative department of the State Council shall be in charge of township and village collective-owned enterprises nationwide. The township enterprise administrative departments of local people's governments shall be in charge of township and village collective-owned enterprises within their respective administrative regions (hereinafter referred to as "enterprises").

Chapter II — Establishment, Alteration and Termination of Enterprises

Article 13 — The establishment of an enterprise shall satisfy the following conditions:

(1) the products and services it provides are needed by society and conform to the provisions of State laws, regulations and policies;

(2) it has its own name, organizational structure and production and business premises;

(3) it has a defined scope of business;

(4) it has funds, equipment, employees and the necessary raw materials commensurate with its scale of production, business and services;

(5) it has the necessary conditions for labor hygiene and safe production and environmental protection measures;

(6) it conforms to the local township and village construction plan and rationally utilizes land.

Article 14 — To establish an enterprise, it is necessary, in accordance with laws and regulations, to obtain approval from the township enterprise administrative department of the people's government at the county level and the relevant departments prescribed by laws and regulations after examination by the people's government at the township level, and to complete registration with the administrative department for industry and commerce at the place where the enterprise is located by presenting the relevant approval documents. The enterprise may commence business only after it has been approved and has obtained a Business License of Enterprise Legal Person or a Business License, and shall complete tax registration with the tax authorities.

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

Article 15 — The division, merger, relocation, suspension of business or termination of an enterprise, as well as changes to its name and scope of business, shall be subject to verification and approval by the authority that originally approved the establishment of the enterprise, and alteration or deregistration formalities shall be completed with the local administrative department for industry and commerce and the tax authorities, and the bank where the enterprise has an account shall be notified.

Article 16 — Upon division, merger, suspension of business or termination of an enterprise, its property must be protected, and its creditor's rights and debts must be cleared up in accordance with law.

Article 17 — The bankruptcy of an enterprise shall be subject to bankruptcy liquidation, and the legal person shall repay the enterprise's creditors with the enterprise's property.

Chapter III — Owners and Operators of Enterprises

Article 18 — The property of an enterprise belongs to all peasants collectively within the scope of the township or village that established the enterprise, and the ownership of the enterprise's property shall be exercised by the township or village peasants' congress (peasants' representatives' meeting) or by the collective economic organization representing all peasants.

Where an enterprise practices a contract or lease system, or operates jointly with enterprises under other forms of ownership, the ownership of the enterprise's property shall remain unchanged.

Article 19 — The owners of an enterprise shall, in accordance with law, decide on the business orientation and business form of the enterprise and on the candidate for, or the method of selecting or recruiting, the factory director (manager); shall, in accordance with law, decide on the specific proportion of after-tax profit distributed between the enterprise and themselves; and shall have the right to make resolutions on the division, merger, relocation, suspension of business, termination and bankruptcy application of the enterprise.

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The owners of an enterprise shall provide services for the enterprise's production, supply and marketing, and shall respect the enterprise's autonomy.

Article 20 — With respect to an enterprise practicing the contract or lease system, the owners of the enterprise shall determine the operator through public bidding; where the conditions do not permit, the operator may also be selected through recruitment or recommendation.

Bidding may be conducted inside or outside the enterprise. Bidders may be business groups or individuals. After a business group wins the bid, it must determine the operator of the enterprise.

The owners of the enterprise shall conduct a comprehensive appraisal of the bidders and select the best.

Article 21 — With respect to an enterprise practicing the contract or lease system, the operator of the enterprise shall satisfy the following conditions:

(1) adhering to the Four Cardinal Principles and to reform and opening up, and abiding by the law and discipline;

(2) possessing the necessary cultural knowledge and professional and technical knowledge;

(3) possessing the necessary ability of enterprise business management;

(4) providing the necessary property guarantee or guarantor;

(5) other lawful conditions provided by the owners of the enterprise.

Article 22 — The operator of an enterprise is the factory director (manager) of the enterprise.

The enterprise shall practice the factory director (manager) responsibility system. The factory director (manager) shall be fully responsible for the enterprise and shall exercise functions and powers on behalf of the enterprise.

Article 23 — With respect to an enterprise practicing the contract or lease system, the conclusion of the contract or lease shall adhere to the principles of equality, voluntariness and consultation, and shall give consideration to the interests of the State, the collective and the individual.

Chapter IV — Rights and Obligations of Enterprises

Article 24 — Enterprises shall enjoy the following rights in their production and business activities:

(1) possessing and using the enterprise's assets and raising funds in accordance with State provisions;

(2) independently arranging production and business activities within the approved and registered scope;

(3) determining the establishment of internal organs and the staffing of the enterprise; recruiting and dismissing staff and workers in accordance with law, and determining wage forms and reward and punishment methods;

(4) having the right to sell the enterprise's products on their own, except as otherwise provided by the State Council;

(5) having the right to determine on their own the prices of the enterprise's products and labor services, except for prices controlled by the pricing department and the relevant competent departments as prescribed by the State Council;

(6) voluntarily participating in industry associations and product appraisal;

(7) voluntarily participating in various bidding activities in accordance with State provisions, applying for designated production of products, and obtaining production licenses;

(8) independently concluding economic contracts and carrying out economic and technical cooperation;

(9) developing and utilizing natural resources in accordance with law;

(10) utilizing foreign capital and introducing advanced technology and equipment in accordance with law, carrying out import and export trade and other foreign-related economic activities, and retaining the enterprise's foreign exchange income in accordance with State provisions;

(11) refusing apportionment and illegal fines, except where financial, material or human resources should be provided as prescribed by laws and regulations.

Article 25 — Enterprises shall perform the following obligations in their production and business activities:

(1) paying taxes in accordance with law;

(2) turning over agricultural-support funds and administration fees in accordance with the provisions of the State and of the people's governments of provinces, autonomous regions and municipalities directly under the Central Government;

(3) establishing and improving financial accounting, auditing and statistics systems in accordance with law, and preparing and submitting financial and statistical statements on schedule;

(4) protecting natural resources and the environment and preventing and controlling pollution;

(5) striving to reduce the consumption of raw materials and energy and developing products in line with State industrial policies;

(6) doing a good job of labor protection and practicing safe production;

(7) ensuring product quality and service quality;

(8) performing contracts in accordance with law;

(9) providing education to staff and workers in political thinking, scientific culture, technical business and professional ethics;

(10) abiding by other provisions of laws, regulations and policies.

Chapter V — Administration of Enterprises

Article 26 — Staff and workers of enterprises have the right to participate in the democratic administration of the enterprise and to criticize and lodge complaints against the factory director (manager) and other management personnel.

The staff and workers' congress or staff and workers' representatives' congress of an enterprise has the right to put forward opinions and suggestions on problems in the business management of the enterprise, and to appraise and supervise the factory director (manager) and other management personnel, and to safeguard the lawful rights and interests of the staff and workers.

Article 27 — Enterprises shall give consideration to the interests of the State, the collective and the individual, rationally arrange the ratio between accumulation and consumption, and practice the principle of "from each according to his ability, to each according to his work" with respect to staff and workers.

Male and female workers shall receive equal pay for equal work.

Article 28 — Enterprises shall sign labor contracts in accordance with law when recruiting staff and workers, and shall practice flexible forms and methods of employment.

Enterprises with high technical requirements shall gradually form specialized technical staff and worker teams.

Article 29 — Enterprises shall not recruit child laborers under the age of 16.

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Article 30 — Enterprises shall, in accordance with State provisions, insure with insurance companies the staff and workers engaged in highly dangerous operations.

Enterprises that have the conditions shall, by reference to the relevant State provisions, implement social insurance for their staff and workers.

Article 31 — Labor disputes occurring in enterprises may be handled in accordance with the Law of the People's Republic of China on Mediation and Arbitration of Labor Disputes.

Article 32 — The portion of an enterprise's after-tax profit retained by the enterprise shall not be less than 60 percent and shall be autonomously arranged by the enterprise, mainly used to increase the production development fund, carry out technological transformation and expand reproduction, and appropriately increase the welfare fund and the reward fund.

The portion of an enterprise's after-tax profit turned over to the owners of the enterprise shall be used mainly to support agricultural capital construction, agricultural technical services, rural public welfare undertakings, and the updating, transformation or development of new enterprises.

Article 33 — Enterprises shall, in accordance with the relevant State provisions, strengthen the various aspects of basic administration and contract administration of the enterprise.

Chapter VI — Relationship Between Enterprises and the Relevant Government Departments

Article 34 — The township enterprise administrative departments of people's governments at all levels shall, in accordance with State laws, regulations and policies, strengthen guidance, administration, supervision, coordination and services for enterprises:

(1) supervising and inspecting the implementation by enterprises of State laws, regulations and policies;

(2) formulating enterprise development plans and, in coordination with the relevant departments, formulating employment plans for the surplus rural labor force;

(3) in conjunction with the relevant departments, guiding the enterprise's administration of planning, statistics, finance, auditing, pricing, materials, quality, equipment, technology, labor, safe production and environmental protection;

(4) organizing and guiding the technological progress of enterprises and the education and training of staff and workers;

(5) providing economic and technical consultation and information services to enterprises;

(6) coordinating the relations between enterprises and the relevant parties and helping enterprises to carry out economic and technical cooperation;

(7) summarizing and promoting the experience of enterprise development;

(8) organizing and guiding the ideological and political work of enterprises and promoting the construction of socialist spiritual civilization in enterprises.

Article 35 — The relevant trade administration departments of people's governments at all levels shall, in accordance with the State's industrial policies and industry development plans, guide and supervise the development direction of enterprises; provide technical guidance, personnel training and economic and technical information services to enterprises; and guide, assist and supervise enterprises in carrying out labor protection, environmental protection and other work.

Article 36 — The relevant government departments shall create development conditions for enterprises that conform to State industrial policies and have good economic and social benefits:

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(1) the planning, materials and finance departments shall actively help solve the energy, raw materials and funds needed by enterprises; the energy and raw materials needed for products whose production is included in the State mandatory plan shall be supplied by the departments and units arranging the production tasks;

(2) in accordance with the relevant State provisions, support shall be given in terms of credit, energy, raw materials and transport to enterprises producing famous and high-quality products and export-earning products;

(3) creating conditions for enterprises to train and recruit specialized technical personnel and introduce advanced technology.

Chapter VII — Rewards and Penalties

Article 37 — Enterprises and individuals that achieve outstanding results in enterprise business management, scientific and technological progress, labor protection, environmental protection and ideological and political work shall be rewarded by the people's governments.

Article 38 — Where the product quality of an enterprise fails to reach the standard prescribed by the State, the owners of the enterprise and the competent department in charge of the enterprise shall order rectification within a prescribed time limit; where rectification is ineffective, they shall order the enterprise to suspend production or switch to other products, up to recommending that the relevant authority revoke the production license and cancel the business license.

Where an enterprise causes property loss or personal injury to users and consumers by producing or selling the products referred to in the preceding paragraph, it shall bear liability for compensation; where the act constitutes a crime, criminal liability shall be pursued in accordance with law.

Article 39 — Where the factory director (manager) of an enterprise infringes upon the lawful rights and interests of staff and workers, and the circumstances are serious, the owners of the enterprise shall give an administrative sanction; where the act constitutes a crime, criminal liability shall be pursued in accordance with law.

Article 40 — With respect to units and individuals that impose apportionment upon enterprises, enterprises may file complaints and reports with the auditing authorities or other relevant departments. Where the auditing authorities confirm that an act is apportionment, they shall notify the apportioning unit to cease the apportionment and to return the apportioned property within a prescribed time limit; with respect to the person in charge of, and the persons directly responsible for, the apportioning unit, the supervisory authorities or the relevant competent departments may give administrative sanctions according to the seriousness of the circumstances.

Article 41 — Where staff members of government departments are derelict in duty or abuse their power, thereby causing damage to the lawful rights and interests of enterprises, they shall be given administrative sanctions by their own units or the competent authorities at the next higher level; where the act constitutes a crime, criminal liability shall be pursued in accordance with law.

Article 42 — Where enterprises violate laws and regulations on finance, taxation, labor, industrial and commercial administration, pricing, resources, environmental protection and the like, the matter shall be handled in accordance with the relevant laws and regulations.

Chapter VIII — Supplementary Provisions

Article 43 — These Regulations shall be interpreted by, and their implementation organized by, the township enterprise administrative department of the State Council.

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Article 44 — The people’s governments of provinces, autonomous regions and municipalities directly under the Central Government may formulate measures for implementation in accordance with these Regulations.

Article 45 — These Regulations shall enter into force as of July 1, 1990.

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