



# Laws of the People's Republic of China

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## CRIMINAL LAW

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### Criminal Law of the People's Republic of China

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(Adopted at the Second Session of the Fifth National People's Congress

on July 1, 1979, revised at the Fifth Session of the Eighth National People's Congress on March 14, 1997) (Editor's Note: For the revised text, see the Amendment to the Amendment to Criminal Law of the People's Republic of China promulgated by Order No.27 of the President of the People's Republic of China on December 25, 1999)

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Part One General Provisions

Chapter I The Tasks, Basic Principles and Scope of Application of the  
Criminal Law

**Article 1** This Law is formulated with a view to punishing crimes and protecting the people, and in accordance with the Constitution, and in the light of the concrete experiences in fighting against crimes and the actual circumstances.

**Article 2** The tasks of the Criminal Law of the People's Republic of China are to use criminal punishments to fight against all criminal acts in order to defend the security of the State; to defend the political power of the people's dictatorship and socialist system; to protect property owned by the State and the property collectively owned by the working people; to protect the citizens' privately owned property; to protect the citizens' rights of the person and their democratic and other rights; to maintain public order and economical order, and to safeguard the smooth progress of the cause of the socialist revolution and socialist construction.

**Article 3** Where an act is expressly defined in laws as a criminal act, it shall be determined and punished as a criminal act in accordance with the law; where an act is not expressly defined in the laws as a criminal act, it shall not be determined and punished as a criminal act.

**Article 4** Anyone who commit a crime shall be equal in applying the law. No one is privileged to be beyond the law.

**Article 5** The lightness or heaviness of the punishments shall be in accordance with the criminal acts and the criminal responsibility of the criminals.

**Article 6** This Law is applicable to anyone who commits a crime within the territory of the People's Republic of China, unless the case is covered by special legal provisions.

This Law is also applicable to anyone who commits a crime on board a ship or an aircraft of the People's Republic of China.

If the criminal act or its consequence takes place within the territory of the People's Republic of China, the crime shall be deemed to have been committed within the territory of the People's Republic of China.

**Article 7** This Law is applicable to the citizens of the People's Republic of China who commit crimes prescribed in this Law outside the territory of the People's Republic of China; however, they may not be investigated if for those crimes this Law prescribes a maximum punishment of fixed-term imprisonment of not more than three years.

This Law is applicable to state functionaries and servicemen of the People's Republic of China who commit crimes outside the territory of the People's Republic of China.

**Article 8** This Law may be applicable to any foreigner who commits a crime outside the territory of the People's Republic of China, against the state of the People's Republic of China or against its citizens, if for that crime this Law prescribes a minimum punishment of fixed-term imprisonment of not less than three years; however, this does not apply to a crime that is not punishable according to the law of the place where it was committed.

**Article 9** This Law is applicable to the crimes prescribed in the international treaties concluded or acceded to by the People's Republic of China and over which the People's Republic of China has criminal jurisdiction within its obligation in accordance with the treaties.

**Article 10** If any person commits a crime outside the territory of the People's Republic of China for which according to this Law he would bear criminal responsibility, he may still be dealt with according to this Law, even if he has already been tried in a foreign country. However, if he has already received criminal punishment in the foreign country, he may be exempted from punishment or given a mitigated punishment.

**Article 11** The criminal responsibility of foreigners who enjoy diplomatic privileges and immunities shall be resolved through diplomatic channels.

**Article 12** If an act committed after the founding of the People's Republic of China and before the entry into force of this Law was not deemed a crime under the laws in force at the time, those laws shall apply. If the act was deemed a crime under the laws in force at that time and is subject to prosecution under the provisions of Section 8, Chapter IV of the General Provisions of this Law, criminal responsibility shall be investigated according to those laws. However, if this Law does not deem it a crime or imposes a lighter punishment, this Law shall apply.

The effective judgments made in accordance with the laws in force at that time before the entry into force of this Law, shall keep their effectiveness.

Chapter II Crimes

## Section 1 Crimes and Criminal Responsibility

**Article 13** A crime refers to an act that endangers the sovereignty and territorial integrity and security of the state; dismembers the state and subverts the political power of the people's dictatorship and overthrows the socialist system; disrupts social order and economic order; violates property owned by the state or collectively owned by the working people; violates the citizens' privately owned property or infringes upon the citizens' rights of the person and their democratic and other rights; and any other act that endangers society and is punishable according to law. However, an act that is clearly of minor importance and little harm shall not be considered a crime.

**Article 14** An intentional crime refers to a crime committed by a person who clearly knows that his act will produce socially dangerous consequences but who wishes or allows such consequences to occur.

Criminal responsibility shall be borne for intentional crimes.

**Article 15** A negligent crime refers to a crime committed by a person who should have foreseen that his act would possibly produce socially dangerous consequences but who fails to do so through negligence or, having foreseen the consequences, readily believes that they can be avoided, the result being that these consequences do occur.

Criminal responsibility shall be borne for negligent crimes only when the law so provides.

**Article 16** If an act in fact results in harmful consequences due to unavoidable or unforeseeable causes rather than intent or negligence, it shall not be a crime.

**Article 17** Any person who has reached the age of 16 and who commits a crime shall bear criminal responsibility.

Any person who has reached the age of 14 but not the age of 16 and who commits homicide, intentionally injuring another person resulting in serious bodily injury or death, rape, robbery, selling narcotic drugs, arson, causing explosion, or spreading poisons, shall bear criminal responsibility.

Any person who has reached the age of 14 but not the age of 18 and who commits a crime shall be given a lighter or mitigated punishment.

If a person is not punished because he has not reached the age of 16, the head of his family or his guardian shall be ordered to discipline and educate him. When necessary, he may also be taken in by the government for reeducation.

**Article 18** If a mental patient causes dangerous consequences at a time when he is unable to recognize or control his own conduct, and such a circumstance is confirmed by a forensic doctor, he shall not bear criminal responsibility, but his family members or guardian shall be ordered to keep him under strict surveillance and arrange for his medical treatment. When necessary, he may also be arranged for medical treatment under coercion by

the government.

Any person whose mental illness is of an intermittent nature shall bear criminal responsibility if he commits a crime when he is in a normal mental state.

Any mental patient who does not lose completely the ability to recognize or control his own conduct and commits a crime shall bear criminal responsibility, but he may be given a lighter or mitigated punishment.

Any intoxicated person who commits a crime shall bear criminal responsibility.

**Article 19** Any deaf-mute or blind person who commits a crime may be given a lighter or mitigated punishment or be exempted from punishment.

**Article 20** Where a person conducts an act to stop an unlawful infringement in order to avert an immediate and unlawful infringement of the state's interest or of the public interest or of his own or another person's rights of the person, or property rights, or other rights, resulting in harm to the unlawful infringer, such an act shall be justifiable defence, and criminal responsibility shall not be borne for such an act.

Criminal responsibility shall be borne if justifiable defence apparently exceeds the limits of necessity and causes serious harm; however, a mitigated punishment or exemption from punishment shall be given.

Where a defence is conducted to an immediate violent crime of committing physical assault, committing homicide, robbery, rape, kidnapping, and other crimes seriously endangering the security of a person, and it causes bodily injury or death to the unlawful infringer, such an act shall not be defence that exceeds the limits of necessity, and criminal responsibility shall not be borne for such an act.

**Article 21** Criminal responsibility shall not be borne for an act that a person is compelled to commit in an emergency to avert an immediate danger to the state's interest or the public interest or to his own or another person's rights of the person or property rights or other rights, and that causes harm.

Criminal responsibility shall be borne if an act committed in an emergency to avert danger exceeds the limits of necessity and causes undue harm; however, a mitigated punishment or exemption from punishment shall be given.

The provisions of the first paragraph of this Article with respect to averting danger to oneself shall not apply to a person who is charged with specific responsibility in his post or profession.

Section 2 Preparation for a Crime, Criminal Attempt and Discontinuation of a Crime

**Article 22** Preparation for a crime refers to the preparation of the instruments or the creation of the conditions for a crime.

An offender who prepares for a crime may, in comparison with one who completed the crime, be given a lighter or mitigated punishment or be exempted from punishment.

**Article 23** A criminal attempt refers to a case where an offender has already begun to commit a crime but is prevented from completing it for reasons independent of his will.

An offender who attempts to commit a crime may, in comparison with one who completed the crime, be given a lighter or mitigated punishment.

**Article 24** Discontinuation of a crime refers to cases where, in the process of committing a crime, the offender voluntarily quits continuing the crime or voluntarily and effectively prevents the consequences of the crime from occurring.

Where an offender who discontinues a crime and causes no harm, exempted from punishment shall be given; where an offender causes harm, a mitigated punishment shall be given.

### Section 3 Joint Crimes

**Article 25** A joint crime refers to an intentional crime committed by two or more persons jointly.

A negligent crime committed by two or more persons jointly shall not be punished as a joint crime; those who should bear criminal responsibility shall be individually punished according to the crimes they have committed.

**Article 26** A principal criminal refers to any person who organizes and leads a criminal group in carrying out criminal activities or plays a principal role in a joint crime.

A criminal group refers to any relatively stable criminal organization which is composed of more than three persons for the purpose of committing a crime jointly.

A ringleader who organizes and leads a criminal group shall be given a punishment according to all the crimes the group has committed.

A principal criminal unless otherwise stipulated in the third paragraph shall be given a punishment according to all the crimes that he participates in or organizes or commands.

**Article 27** An accomplice refers to any person who plays a secondary or auxiliary role in a joint crime.

An accomplice shall be given a lighter or mitigated punishment or be exempted from punishment.

**Article 28** A person who is compelled to participate in a crime shall, according to the circumstances of his crime, be given a mitigated punishment or be exempted from punishment.



**Article 29** A person who instigates others to commit a crime shall be punished according to the role he has played in the joint crime. Anyone who instigates a person under the age of 18 to commit a crime shall be given a heavier punishment.

If the instigated person has not committed the instigated crime, the instigator may be given a lighter or mitigated punishment.

#### Section 4 Crimes Committed by a Unit

**Article 30** A company, enterprise, institution, organ, or public organization that conducts an act harmful to society, where such an act is stipulated as a crime, shall bear criminal responsibility.

**Article 31** A unit which commits a crime shall be punished with a fine, and the person(s) directly in charge and other person(s) directly involved in the crime shall be given a punishment. Where Specific Provisions of this Law or other laws stipulate otherwise, such stipulation shall be applied.

Chapter III Punishments

#### Section 1 Types of Punishments

**Article 32** Punishments are divided into principal punishments and supplementary punishments.

**Article 33** The principal punishments are as follows:

- (1) public surveillance;
- (2) criminal detention;
- (3) fixed-term imprisonment;
- (4) life imprisonment; and
- (5) the death penalty.

**Article 34** The supplementary punishments are as follows:

- (1) fines;
- (2) deprivation of political rights; and
- (3) confiscation of property.

Supplementary punishments may be imposed independently.

**Article 35** Deportation may be imposed independently or supplementarily to a foreigner who commits a crime.

**Article 36** If a victim has suffered economic losses as a result of a crime, the criminal shall, in addition to receiving a criminal sanction according to law, be sentenced to make compensation for the economic

losses in the light of the circumstances.

If a criminal who bears civil responsibility and is punished with a fine in the meantime, has no enough property to pay off, or is punished with confiscation of property, he shall first bear responsibility of civil compensation to the victim.

**Article 37** If the circumstances of a person's crime are minor and do not require punishment, he may be exempted from criminal sanctions; however, he may, according to the different circumstances of each case, be reprimanded or ordered to make a statement of repentance, offer an apology, pay compensation for the losses or be subject to administrative punishment or administrative sanctions by the competent department.

## Section 2 Public Surveillance(\*1)

**Article 38** The term of public surveillance shall not be less than three months and not more than two years.

Where a criminal is sentenced to public surveillance, his sentence shall be executed by a public security organ.

**Article 39** A criminal who is sentenced to public surveillance must observe the following rules during the term in which his sentence is being executed:

(1) observe laws and administrative regulations, submit to supervision;

(2) forbidden to exercise the rights of freedom of speech, of the press, of assembly, of association, of procession and of demonstration without approval of the public organ;

(3) report on his own activities according to the demand of the organ executing the public surveillance;

(4) observe the stipulation on meeting with guests by the organ executing the public surveillance; and

(5) report and obtain approval from the organ executing public surveillance for departure from the county or city where he lives or change in residence.

Criminals sentenced to public surveillance shall, while engaged in labour, receive equal pay for equal work.

**Article 40** Upon the expiration of a term of public surveillance, the executing organ shall immediately announce the termination of public surveillance to the criminal sentenced to public surveillance and to his unit or the masses of the place of his residence.

**Article 41** A term of public surveillance shall be counted from the date the judgment begins to be executed; if the criminal is held in custody before the execution of the judgment, each day spent in custody shall be considered as two days of the term sentenced.

### Section 3 Criminal Detention

**Article 42** A term of criminal detention shall not be less than 1 month and not more than 6 months.

**Article 43** Where a criminal is sentenced to criminal detention, his sentence shall be executed by the public security organ in the vicinity.

During the period of execution, a criminal sentenced to criminal detention may go home for one to two days each month; an appropriate remuneration may be given to those who participate in labour.

**Article 44** A term of criminal detention shall be counted from the date the judgment begins to be executed; if the criminal is held in custody before the execution of the judgment, each day in custody shall be considered as one day of the term sentenced.

### Section 4 Fixed-Term Imprisonment and Life Imprisonment

**Article 45** A term of fixed-term imprisonment, unless otherwise stipulated in Article 50 and Article 69, shall not be less than 6 months and not more than 15 years.

**Article 46** A criminal sentenced to fixed-term imprisonment or life imprisonment shall serve his sentence in prison or another place for execution. Anyone who is able to work shall participate in labour, and accepts education and reform.

**Article 47** A term of fixed-term imprisonment shall be counted from the date the judgment begins to be executed; if the criminal is held in custody before the execution of the judgment, each day in custody shall be considered as one day of the term sentenced.

### Section 5 The Death Penalty

**Article 48** The death penalty shall only be applied to criminals who have committed the most heinous crimes. If the immediate execution of a criminal punishable by death is not deemed necessary, a two-year suspension of execution may be pronounced simultaneously with the imposition of the death sentence.

All death sentences except for those that according to law should be decided by the Supreme People's Court, shall be submitted to the Supreme People's Court for approval. Death sentences with a suspension of execution may be decided or approved by a higher people's court.

**Article 49** The death penalty shall not be imposed on persons who had not reached the age of 18 at the time the crime was committed or to women who are pregnant at the time of trial.

**Article 50** If a person sentenced to death with a suspension of execution does not commit an intentional crime during the period of suspension, his punishment shall be commuted to life imprisonment upon the expiration of that two-year period; if he performs great meritorious service, his punishment

shall be commuted to fixed-term imprisonment of not less than 15 years and not more than 20 years upon the expiration of that two-year period; if it is verified that he has committed an intentional crime, the death penalty shall be executed upon the approval of the Supreme People's Court.

**Article 51** The term of suspension of execution of a death penalty shall be counted from the date the judgment becomes final. The term of a fixed-term imprisonment that is commuted from a death penalty with suspension of execution shall be counted from the date of expiration of the term of suspension of execution of a death.

#### Section 6 Fines

**Article 52** The amount of any fine imposed shall be determined according to the circumstances of the crime.

**Article 53** A fine may be paid in a lump sum or in installments within the time limit specified in the judgment. If a fine is not paid upon the expiration of that time limit, the payment shall be compelled. If a person is unable to pay all the fine, a people's court shall, when it finds that the person subjected to execution has any other property, pursue the payment at any time. If a person has true difficulties in paying because of an unavoidable disaster, the fine may be reduced or remitted according to the circumstances.

#### Section 7 Deprivation of Political Rights

**Article 54** Deprivation of political rights refers to deprivation of the following rights:

- (1) the right to vote and to stand for election;
- (2) the rights of freedom of speech, of the press, of assembly, of association, of procession, and of demonstration;
- (3) the right to hold a position in a state organ; and
- (4) the right to hold a leading position in any state-owned company or enterprise, institution or people's organization.

**Article 55** A term of deprivation of political rights shall not be less than one year and not more than five years, except as stipulated in Article 57 of this Law.

If a person sentenced to public surveillance is deprived of political rights as a supplementary punishment, the term of deprivation of political rights shall be the same as the term of public surveillance, and the punishments shall be executed simultaneously.

**Article 56** Criminals who commit crimes of endangering the state security shall be sentenced to deprivation of political rights as a supplementary punishment; Criminals who commit crimes of intentional homicide, rape, arson, causing explosion, spreading poisons, robbery and other crimes which seriously undermine public order may also be sentenced to

deprivation of political rights as a supplementary punishment.

If deprivation of political rights is imposed independently, stipulation of the Specific Provisions of this Law shall be applied.

**Article 57** Criminals who are sentenced to death or to life imprisonment shall be deprived of political rights for life.

If a death penalty with a suspension of execution is commuted to a fixed-term imprisonment, or a life imprisonment is commuted to a fixed-term imprisonment, the term of the supplementary punishment of deprivation of political rights shall be changed to not less than three years and not more than ten years.

**Article 58** A term of deprivation of political rights as a supplementary punishment shall be counted from the date on which imprisonment or criminal detention ends or from the date on which parole begins. Deprivation of political rights shall of course be in effect during the period in which the principal punishment is being executed.

Criminals who are sentenced to deprivation of political rights shall observe laws and administrative regulations and relevant stipulations on supervision and administration promulgated by the Department of Public Security under the State Council, submit to supervision; and shall not exercise the rights of freedom stipulated in Article 54 of this Law.

## Section 8 Confiscation of Property

**Article 59** Confiscation of property refers to the confiscation of part or all of the property personally owned by a criminal. When all of the property of a criminal is confiscated, necessities of life for the criminal and his dependent family members shall be left out.

When a sentence of confiscation of property is imposed, property that the criminal's family members own or should own shall not be subject to confiscation.

**Article 60** If it is necessary to use a confiscated property to repay legitimate debts that the criminal incurred before his property is confiscated, such debts shall be paid at the request of the creditors.

## Chapter IV The Concrete Application of Punishments

### Section 1 Sentencing

**Article 61** When sentencing a criminal, a punishment shall be imposed based on the facts, nature and circumstances of the crime, the degree of harm done to society and the relevant provisions of this Law.

**Article 62** In cases where the circumstances of a crime call for a heavier or a lighter punishment under the provisions of this Law, the criminal shall be sentenced to a punishment within the limits of the prescribed punishment.

**Article 63** In cases where the circumstances of a crime call for a

mitigated punishment under the provisions of this Law, the criminal shall be sentenced to a punishment less than the prescribed punishment.

Even if the circumstances of a crime do not warrant a mitigated punishment under the provisions of this Law, the criminal may, upon approval of the Supreme People's Court, be sentenced to a punishment less than the prescribed punishment according to the special particulars of the case.

**Article 64** All property illegally obtained by a criminal shall be recovered, or compensation shall be ordered. Legal property of the victim shall be returned. Contrabands and possessions of the criminal that were used in the crime shall be confiscated. The property confiscated and fine shall be turned over to the State Treasury, and shall not be misappropriated or disposed without authorization.

## Section 2 Recidivists

**Article 65** If a criminal commits another crime punishable by fixed-term imprisonment or heavier penalty within five years after serving his sentence of not less than fixed-term imprisonment or receiving a pardon, he is a recidivist and shall be given a heavier punishment. However, this shall not apply to cases of negligent crime.

For criminals who are paroled, the period stipulated in the preceding paragraph shall be counted from the date the parole expires.

**Article 66** A criminal who has committed a crime of endangering the state's security at any time after serving his sentence or receiving a pardon shall, if he commits another crime of endangering the state's security, be dealt with as a recidivist.

## Section 3 Voluntary Surrender and Rendering Meritorious Service

**Article 67** Voluntary Surrender refers to the case that anyone who voluntarily surrenders himself to a judicial organ after committing a crime, and truthfully confesses his crime. A criminal who conducts voluntary surrender may be given a lighter or mitigated punishment. Those whose crimes are relatively minor may be exempted from punishment.

If a suspected criminal or defendant under compulsory measure or criminal who serves a sentence truthfully confesses his other crimes that is unknown to a judicial organ, he shall be dealt with as voluntary surrender.

**Article 68** A criminal who is verified that he discloses another person's crime, or provides key clues that lead to solve another case or renders other meritorious service may be given a lighter or mitigated punishment. Those who renders great meritorious service may be given a mitigated punishment or be exempted from punishment.

Those who not only conducts voluntary surrender but also renders great meritorious service shall be given a lighter punishment or be exempted from punishment.

## Section 4 Combined Punishment for Several Crimes

**Article 69** For a criminal who commits several crimes before a judgment is pronounced, unless he is sentenced to death or life imprisonment, his term of punishment shall be decided in such a way that it may not exceed the total of the terms for all the crimes and must be longer than the maximum term for any one of the crimes, depending on the circumstances of each case. However, the term of public surveillance may not exceed three years, the term of criminal detention may not exceed one year, and fixed-term imprisonment may not exceed twenty years.

If among the crimes there are any for which a supplementary punishment is imposed, the supplementary punishment must still be executed.

**Article 70** If after a judgment has been pronounced but before the punishment has been completely executed it is discovered that before the judgment was pronounced the criminal committed another crime for which he was not sentenced, a judgment shall also be rendered for the newly discovered crime; the punishment to be executed shall be determined on the basis of the punishments imposed in the former and latter judgments and according to the provisions of Article 69 of this Law. Any portion of the term that has already been served shall count towards fulfilment of the term imposed by the latest judgment.

**Article 71** If after a judgment has been pronounced but before the punishment has been completely executed the criminal again commits a crime, another judgment shall be rendered for the newly committed crime; the punishment to be executed shall be decided on the basis of the punishment that remains to be executed for the former crime and the punishment imposed for the latter crime and according to the provisions of Article 69 of this Law.

## Section 5 Suspension of Sentence

**Article 72** A suspension of sentence may be granted to a criminal sentenced to criminal detention or to fixed-term imprisonment of not more than three years if, according to the circumstances of his crime and his demonstration of repentance, suspension of the sentence will not result in further harm to society.

If a supplementary punishment has been imposed on a criminal whose sentence has been suspended, the supplementary punishment must still be executed.

**Article 73** The probation period for suspension of criminal detention shall be not less than the term originally decided and not more than one year, but it may not be less than two months.

The probation period for suspension of fixed-term imprisonment shall be not less than the term originally decided and not more than five years, but it may not be less than one year.

The probation period for suspension of sentence shall be counted from the date the judgment is made final.

**Article 74** Suspension of sentence shall not be applied to recidivists.

**Article 75** A criminal whose sentence has been suspended shall observe following provisions:

- (1) observe laws and administrative regulations, submit to supervision;
- (2) report his own activities according to observing organs' stipulations;
- (3) observe observing organs' stipulations on meeting with guests; and
- (4) report and obtain approval from observing organs for any departure from the city or county where he lives or change in residence.

**Article 76** A criminal whose sentence has been suspended shall, during the probation period for suspension, observed by the public security organ, and the unit to which he belongs or a basic-level organization shall take concerted action. If the cases stipulated in Article 77 of this Law do not occur, the punishment originally decided shall not be executed upon the expiration of the probation period for suspension, and such a fact shall be declared in public.

**Article 77** During the probation period for suspension, if a criminal whose sentence has been suspended commits further crime or, is found that he committed another crime for which he was not sentenced, the suspension shall be revoked and a judgment shall also be rendered for the newly committed crime or newly discovered crime, and the punishment to be executed shall be decided on the basis of the punishment for the former and latter crimes and according to the provisions of Article 69 of this Law.

A criminal whose sentence has been suspended shall, if he violates a law or a regulation or relevant provisions concerning supervision and administration on suspension promulgated by the Department of Public Security under the State Council during the probation period for suspension, and the circumstance of such violation is severe, suspension shall be revoked and punishment originally decided shall be executed.

## Section 6 Commutation of Punishment

**Article 78** A criminal sentenced to public surveillance, criminal detention, fixed-term imprisonment or life imprisonment may have his punishment commuted if he observes the rules of prison conscientiously, accepts education and reform, and shows true repentance or performs meritorious service while serving his sentence. Those who perform any of following great meritorious service shall have punishment commuted:

- (1) prevent other persons from committing serious crimes;
- (2) bring accusations with respect to the serious crimes within or outside the prison, and such accusation is verified;
- (3) conduct invention, creation or great technical innovation;
- (4) risk life to save others in routine production and life;



(5) make outstanding performance in resisting natural disaster or in removing serious accident; or

(6) provide other great contributions to the state and society.

After commutation, the term of punishment actually to be served by those sentenced to public surveillance, criminal detention or fixed-term imprisonment may not be less than half of the term originally decided; for those sentenced to life imprisonment, it may not be less than ten years.

**Article 79** Commutation of punishment of a criminal shall be put forward in the form of the proposal document concerning commutation of punishment by the executing organ towards an intermediate people's court or a people's court at higher level. The people's courts shall form a collegial panel to hold a trial, and decide commutation of punishment for those who show true repentance or have fact of performing meritorious service. No commutation shall be decided unless by a legal procedure.

**Article 80** A term of fixed-term imprisonment that is commuted from a life imprisonment shall be counted from the date the order of commutation is issued.

#### Section 7 Parole

**Article 81** Criminals sentenced to fixed-term imprisonment who have served more than half of the term of their original sentence or criminals sentenced to life imprisonment who have served not less than ten years of their term may be granted parole if they observe rules of prison conscientiously, accept education and reform, and show true repentance, and will no longer cause harm to society after parole. If special circumstances exist, and upon approval of the Supreme People's Court, the above restrictions relating to the term served may be disregarded.

Recidivists and criminals sentenced to fixed-term imprisonment of more than ten years or life imprisonment for violent crimes such as committing homicide, causing explosion, robbery, rape and kidnapping shall not be granted parole.

**Article 82** Parole of a criminal shall be decided according to the procedure stipulated in Article 79 of this Law. No parole shall be granted unless by a legal procedure.

**Article 83** The probation period for parole in the case of a fixed-term imprisonment shall be equal to the portion of the term that has not been completed; the probation period for parole in the case of life imprisonment shall be ten years.

The probation period for parole shall be counted from the date the criminal is released on parole.

**Article 84** A criminal who is granted parole shall observe following provisions:

(1) observe laws and administrative regulations, submit to supervision;

(2) report his own activities according to the stipulations of the supervising organs;

(3) observe the stipulations of meeting with guests promulgated by the supervising organs; and

(4) report and obtain approval from the supervising organs for any departure from the city or county where he lives or change in residence.

**Article 85** A criminal who is granted parole shall be subject to supervision by a public security organ during the probation period for parole. If the circumstance stipulated in Article 86 of this Law does not occur, the punishment to which he was originally sentenced shall be considered to have been completely executed upon the expiration of the probation period for parole; and such a fact shall be declared in public.

**Article 86** If a criminal who is granted parole does commit further crime during the probation period for parole, the parole shall be revoked and combined punishment for several crimes shall be decided according to Article 71 of this Law.

During the probation period for parole, if a criminal who is granted parole is found that before the judgment was announced he committed another crime for which he was not sentenced, parole shall be revoked and combined punishment for several crimes shall be decided according to Article 70 of this Law.

A criminal who is granted parole shall, if he violates a law or an administrative regulation, or a stipulation on supervision and administration concerning parole promulgated by the Department of Public Security under the State Council during the probation period for parole, and such an act does not constitute a further crime, parole shall be revoked according to the legal procedure, and the criminal shall be sent to prison for the execution of the unexecuted punishment.

## Section 8 Limitation

**Article 87** Crimes shall not be prosecuted if the following periods have elapsed:

(1) five years, when the maximum prescribed punishment is fixed-term imprisonment of less than five years;

(2) ten years, when the maximum prescribed punishment is fixed-term imprisonment of not less than five years but less than ten years;

(3) fifteen years, when the maximum prescribed punishment is fixed-term imprisonment of not less than ten years; and

(4) twenty years, when the maximum prescribed punishment is life imprisonment or death. If after twenty years it is considered that a crime must be prosecuted, the matter must be submitted to the Supreme People's Procuratorate for approval.

**Article 88** No limitation on the period for prosecution shall be imposed with respect to criminals who escape from investigation or trial after a people's procuratorate or public security organ or state security organ places the case on file and conducts investigation, or a people's court handles the case.

No limitation on the period for prosecution shall be imposed if a victim puts forward accusation during a limitation period for prosecution, and a people's court or people's procuratorate or public security organ shall place the case on file but fails to do so.

**Article 89** The limitation period for prosecution shall be counted from the date of the crime; if the criminal act is of a continual or continuous nature, it shall be counted from the date the criminal act is terminated.

If further crime is committed during a limitation period for prosecution, the limitation period for prosecution of the former crime shall be counted from the date the latter crime is committed.

#### Chapter V Other Provisions

**Article 90** Where the provisions of this Law cannot be completely applied in national autonomous areas, the people's congresses of those autonomous regions or the provinces concerned may formulate adoptive or supplementary provisions based on the political, economic and cultural characteristics of the local nationalities and the basic principles stipulated in this Law, and these provisions shall go into effect after they have been submitted to and approved by the Standing Committee of the National People's Congress.

**Article 91** "Public property" as mentioned in this Law refers to the following:

- (1) property owned by the state;
- (2) property owned collectively by working people; and

(3) property by social donation and property as specific-purpose fund all of which are used for helping the poor or for other causes of public welfare.  
? Private property that is being managed, used or transported by the state organs, state-owned companies or enterprises, collective-owned enterprises and people's organizations shall be treated as public property.

**Article 92** "Citizens' privately owned property" as mentioned in this Law refers to the following:

- (1) citizens' lawfully earned income, savings, houses and other means of livelihood;
- (2) any means of production that are under individual or family ownership according to law;
- (3) legal property owned by individual household and private enterprises; and

(4) shares, stocks, bonds and other property owned by individuals according to law.

**Article 93** "State functionaries" as mentioned in this Law refers to personnel of state organs who are engaged in public service according to law.

Personnel of state-owned companies or enterprises or institutions and people's organizations who are engaged in public service and personnel who are appointed and sent by state organs, state-owned companies or enterprises or institutions to non-state-owned companies or enterprises or institutions or mass organizations to carry out public service, and other personnel who are engaged in public service according to law, shall be treated as state functionaries.

**Article 94** "Judicial functionaries" as mentioned in this Law refers to staff who have the functions of investigation, prosecution, adjudication and supervision and management.

**Article 95** "Serious injuries" as mentioned in this Law refers to any of the following:

(1) injuries resulting in loss of a person's use of a limb or in disfigurement;

(2) injuries resulting in loss of a person's hearing, sight or the function of any other organ; and

(3) other injuries that cause grave harm to a person's physical health.

**Article 96** "To violate the state stipulations" as mentioned in this Law refers to violation of laws and decisions enacted by the National People's Congress and its Standing Committee, and of administrative regulations enacted by the State Council or administrative measures adopted by the State Council or decisions and orders issued by the State Council.

**Article 97** "Ringleader" as mentioned in this Law refers to any criminal who has the role of organizing, planning or directing a criminal group or a crowd assembled to commit a crime.

**Article 98** "To be handled only upon complaint" as mentioned in this Law means that a case shall only be handled if the victim brings a complaint. If the victim is unable to bring a complaint because of coercion or intimidation, a people's procuratorate or a close relative of the victim may bring his complaint.

**Article 99** "Not less than", "not more than" and "within" as mentioned in this Law all include the given figure.

**Article 100** Any person who was given a criminal punishment shall, when joining the army or getting a job, report truthfully that he was ever given a criminal punishment to relevant units, and shall not conceal the fact.

**Article 101** The General Provisions of this Law are applicable to other laws with provisions for criminal punishments, unless otherwise provided in

other laws.

## Part Two Specific Provisions

### Chapter I Crimes of Endangering the State Security

**Article 102** Whoever colludes with a foreign state in jeopardizing the sovereignty, territorial integrity and security of the People's Republic of China shall be sentenced to life imprisonment or fixed-term imprisonment of not less than ten years.

Whoever colludes with an agency or organization or individual outside China and commits the crime stipulated in the preceding paragraph shall be punished according to the provisions of the preceding paragraph.

**Article 103** Ringleaders who organize, scheme for or carry out dismembering the state and undermining the unification of the state and those whose crimes are severe shall be sentenced to life imprisonment or fixed-term imprisonment of not less than ten years. Active participants shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years. Other participants shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights.

Whoever incites dismembering the state and undermining the unification of the state shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention, public surveillance or deprivation of political rights. Ringleaders or those whose crimes are severe shall be sentenced to fixed-term imprisonment of not less than five years.

**Article 104** Ringleaders who organize, scheme for or carry out armed rebellion or armed riot and those whose crimes are severe shall be sentenced to life imprisonment or fixed-term imprisonment of not less than ten years. Active participants shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years. Other participants shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights.

Whoever instigates, forces, lures, or bribes a state functionary or a member of the armed forces, the people's police or the people's militia to conduct armed rebellion or armed riot shall be given a heavier punishment according to the provisions of the preceding paragraph.

**Article 105** Ringleaders who organize, scheme for or carry out subverting the state's political power and overthrowing the socialist system and those whose crimes are severe shall be sentenced to life imprisonment or fixed-term imprisonment of not less than ten years. Active participants shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years. Other participants shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights.

Whoever incites subverting the state's political power and overthrowing the socialist system through starting a rumour or slander or by other means shall be sentenced to fixed-term imprisonment of not more than five years,

criminal detention, public surveillance or deprivation of political rights. Ringleaders or those whose crimes are severe shall be sentenced to fixed-term imprisonment of not less than five years.

**Article 106** Whoever colludes with an agency or organization or individual outside China and carries out any crime stipulated in the provisions of Article 103, Article 104 or Article 105 in this Chapter shall be given a heavier punishment according to the provisions of relevant Article.

**Article 107** Person(s) who directly bear the responsibility of an agency or organization or individual within or outside China shall, if the agency or organization or individual subsidizes an organization or individual within China in carrying out a crime stipulated in Article 102, Article 103, Article 104 or Article 105 in this Chapter, be sentenced to fixed-term imprisonment of not more than five years, criminal detention, public surveillance or deprivation of political rights; if the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years.

**Article 108** Whoever defects to the enemy and turns traitor shall be sentenced to fixed-term imprisonment of not less three years and not more than ten years; if the circumstances are serious or the case concerns the leading of members of the armed forces, the people's police or the people's militia to defect to the enemy and turn traitor, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment.

**Article 109** A state functionary who, during the time when he is on duty, leaves his post and flees the country and turns traitor, or flees and turns traitor outside China, and endangers the state's security of the People's Republic of China, shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention, public surveillance or deprivation of political rights; if the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years.

A state functionary who holds state secrets and commits the crime stipulated in the preceding paragraph shall be given a heavier punishment according to the provisions of the preceding paragraph.

**Article 110** Whoever conducts any of the following acts of espionage and endangers the state's security shall be sentenced to fixed-term imprisonment or life imprisonment; if the circumstances are relatively minor, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years:

(1) joining a espionage organization or accepting tasks from a espionage organization and its agent; and

(2) directing the enemy to any bombing or shelling target.

**Article 111** Whoever steals, spies on, buys or illegally provides state secrets or intelligence for an agency or organization or people outside China shall be sentenced to fixed-term imprisonment of not less than five years and

not more than ten years; if the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment; if the circumstances are relatively minor, the offender shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention, public surveillance or deprivation of political rights.

**Article 112** Whoever supplies arms, equipment or military materials to aid the enemy during wartime shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment; if the circumstances are relatively minor, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years.

**Article 113** If any crime of endangering the state security mentioned above in this Chapter, except those mentioned in the second paragraph of Articles 103, Article 105, Article 107 and Article 109, causes especially serious harm to the state and the people and the circumstances are especially flagrant, the death penalty may be imposed.

Whoever commits any of the crimes mentioned in this Chapter may concurrently be sentenced to confiscation of property.  
Chapter II Crimes of Endangering Public Security

**Article 114** Whoever sets fires, breaches dikes, causes explosions, spreads poisons or uses other dangerous means to sabotage factories, mines, oilfields, harbours, rivers, water sources, warehouses, dwellings, forests, farms, threshing grounds, pastures, important pipelines, public buildings or other public or private property and thereby endangers public security, if serious consequences have not yet resulted, shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years.

**Article 115** Whoever sets fires, breaches dikes, causes explosions, spreads poisons or uses other dangerous techniques resulting in serious human injury or death or great loss of public or private property shall be sentenced to fixed-term imprisonment of not less than ten years, life imprisonment or death.

Whoever negligently commits the crime mentioned in the preceding paragraph shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years; if the circumstances are relatively minor, the offender shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

**Article 116** Whoever sabotages trains, motor vehicles, trams, ships or aircraft in a manner that is sufficient to put trains, motor vehicles, trams, ships or aircraft in danger of overturning or being destroyed, if serious consequences have not yet resulted, shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years.

**Article 117** Whoever sabotages railroads, bridges, tunnels, highways, airports, waterways, lighthouses or signs or conducts other damaging activities in a manner that is sufficient to put trains, motor vehicles, trams, ships or aircraft in danger of overturning or being destroyed, if serious consequences have not yet resulted, shall be sentenced to fixed-term

imprisonment of not less than three years and not more than ten years.

**Article 118** Whoever sabotages electric power or gas facilities or other inflammable or explosive equipment and thereby endangers public security, if serious consequences have not yet resulted, shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years.

**Article 119** Whoever sabotages a means of transport, transportation facilities, electric power facilities, gas facilities, or inflammable or explosive equipment and thereby causes serious consequences shall be sentenced to fixed-term imprisonment of not less than ten years, life imprisonment or death.

Whoever negligently commits the crime mentioned in the preceding paragraph shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years; if the circumstances are relatively minor, the offender shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

**Article 120** Whoever organizes, leads and actively participates in terroristic organization shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years. Other participants shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance.

Whoever commits the crime mentioned in the preceding paragraph and concurrently commits homicide, causing explosion, kidnapping or other crimes shall be punished according to the provisions of combined punishment for several crimes.

**Article 121** Whoever hijacks any aircraft by means of violence, intimidation or in any other manner shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment. Any hijacker who causes serious bodily injury to or death of any other person, or serious damage to the aircraft, shall be sentenced to death.

**Article 122** Whoever hijacks any ship or motor vehicle by means of violence, intimidation or in any other manner shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years; If serious consequences have been caused, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment.

**Article 123** Whoever exercises violence to any person in a aircraft in flight and endangers the safety of flight, if serious consequences have not yet resulted, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; the offender who causes serious consequences shall be sentenced to fixed-term imprisonment of not less than five years.

**Article 124** Whoever sabotages broadcast and television facilities or public telecommunications facilities and thereby endangers public security shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years; if serious consequences have resulted, the offender shall be sentenced to fixed-term imprisonment of



not less than seven years.

Whoever negligently commits the crime mentioned in the preceding paragraph shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years; if the circumstances are relatively minor, the offender shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

**Article 125** Whoever illegally manufactures, trades in, transports, posts or stores guns, ammunition or explosives shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years; If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than ten years, life imprisonment or death.

Whoever illegally trades in or transports nuclear materials shall be punished according to provisions of the preceding paragraph.

Any unit which commits a crime mentioned in the preceding two paragraphs shall be sentenced to a fine, and concurrently persons directly in charge and other persons directly responsible for the crime of the unit shall be punished according to the provisions of the first paragraph.

**Article 126** If an enterprise engaged in manufacturing or selling of guns which is designated or defined according to law violates regulations on management of guns and commits any of the following acts, it shall be sentenced to a fine, and concurrently persons directly in charge and other persons directly responsible for the crimes shall be sentenced to fixed-term imprisonment of not more than five years; if the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years; if the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment:

(1) manufacturing or assigning and selling guns exceeding the limit or not according to the limit for the purpose of illegal sale;

(2) manufacturing guns without numbers or with same number or false number for the purpose of illegal sale; and

(3) illegally selling guns or selling the guns for export in China.

**Article 127** Whoever steals or forcibly seizes guns, ammunition or explosives shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years; if the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than ten years, life imprisonment or death.

Whoever robs guns, ammunition or explosives, or steals or forcibly seizes the guns, ammunition or explosives of state organs, members of the armed forces, the police or the people's militia shall be sentenced to fixed-term imprisonment of not less than ten years, life imprisonment or death.

**Article 128** Whoever, in violation of regulations on control of guns, holds illegally or keeps in secret guns or ammunition shall be sentenced to

fixed-term imprisonment of not more than three years, criminal detention or public surveillance; if the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

If a person who is allocated a gun for public service according to law illegally leases or lends his gun, he shall be punished according to the provisions of the preceding paragraph.

If a person who is allocated a gun according to law illegally leases or lends his gun and causes serious consequences, he shall be punished according to the provisions of the first paragraph.

Any unit which commits any crime mentioned in the first or second paragraph shall be sentenced to a fine, and concurrently persons directly in charge and persons directly responsible for the crime shall be punished according to the provisions of the first paragraph.

**Article 129** If a person who is allocated a gun for public service loses his gun and fails to report and thereby causes serious consequences, he shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

**Article 130** Whoever illegally carries guns, ammunition, knives under control or explosive, inflammable, radioactive, poisonous or corrosive materials, and enters into public places or public transportation means, and endangers public security with serious circumstances, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance.

**Article 131** If an airman violates the rules and regulations and thereby causes a serious flight accident resulting in serious consequences, he shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if crash of an aircraft or injury or death has resulted, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

**Article 132** If a person who works in a railway enterprise violates the rules and regulations and thereby causes a railway transportation accident resulting in serious consequences, he shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if especially serious consequences have resulted, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

**Article 133** Whoever violates the regulations on control of communications or transportation and thereby causes a serious accident resulting in serious bodily injury or death or serious losses to public or private property, he shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the offender flees after causing a communication or transportation accident or has other especially flagrant circumstances, he shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years; if his fleeing causes another person's death, he shall be sentenced to fixed-term imprisonment of not less than seven years.

**Article 134** If any staff member or worker of a factory, mine, forestry centre, construction enterprise or other enterprise or institution disobeys management and violates the rules and regulations or forces workers to work in a hazardous way in violation of the rules and thereby causes a serious accident involving injury or death or other serious consequences, he shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the circumstances are especially flagrant, he shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

**Article 135** If a factory, mine, forestry centre, construction enterprise or other enterprise or institution whose labour safety facilities do not conform to the state's stipulations fails to take measures to hidden peril of the accident after relevant departments, or staff members or workers of relevant units put forward a demand, and thereby causes a serious accident involving injury or death or other serious consequences, persons directly in charge shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the circumstances are especially flagrant, he shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

**Article 136** If anyone violates the regulations on the control of explosive, inflammable, radioactive, poisonous or corrosive materials and thereby causes a serious accident during the production, storage, transportation or use of those materials, and serious consequences result, he shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the consequences are especially serious, he shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

**Article 137** If a building unit, design unit, construction unit or project supervision unit violates the state's stipulations and lowers the project's quality standard and thereby causes a serious accident, persons directly responsible for it shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and concurrently to a fine; if the consequences are especially serious, he shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years, and concurrently to a fine.

**Article 138** If it is clearly known that schoolhouses or facilities for education or schooling are in danger but no measures are taken or no reports are conducted in time thereby causing a serious accident involving injury or death, persons directly responsible for it shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

**Article 139** If any person or unit violates regulations on fire control and refuses to take remedy measures after a fire control supervision organ told him or it to do so, and thereby causes serious consequences, persons directly responsible for them shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the consequences are especially serious, he shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

## Chapter III Crimes of Undermining the Socialist Market Economic Order

### Section 1 Crimes of Production and Sale of Fake or Substandard Commodities

**Article 140** Where a producer or seller mixes impurities or imitations into a product, or passes a fake product off as a genuine one, or passes a defective product off as a high-quality one, or passes a substandard product off as a standard one, if the sum obtained through sale amounts to not less than 50,000 yuan but less than 200,000 yuan, the offender shall be sentenced to fixed-term imprisonment of not more than two years or criminal detention, and concurrently or independently be sentenced to a fine of not less than half of the sum obtained through sale and not more than twice of that. If the sum obtained through sale amounts to not less than 200,000 yuan but less than 500,000 yuan, the offender shall be sentenced to fixed-term imprisonment of not less than two years and not more than seven years, and concurrently be sentenced to a fine of not less than half of the sum obtained through sale and not more than twice of that. If the sum obtained through sale amounts to not less than 500,000 yuan but less than 2,000,000 yuan, the offender shall be sentenced to fixed-term imprisonment of not less than seven years, and concurrently be sentenced to a fine of not less than half of the sum obtained through sale and not more than twice of that. If the sum obtained through sale amounts to not less than 2,000,000 yuan, the offender shall be sentenced to fixed-term imprisonment of fifteen years or life imprisonment, and concurrently be sentenced to a fine of not less than half of the sum obtained through sale and not more than twice of that or confiscation of property.

**Article 141** Whoever produces or sells fake medicine in a manner that is sufficient to cause serious harm to human health shall be sentenced to fixed-term imprisonment of not more three years or criminal detention, and concurrently or independently be sentenced to a fine of not less than half of the sum obtained through sale and not more than twice of that; if the offence causes serious harm to human health, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years, and concurrently be sentenced to a fine of not less than half of the sum obtained through sale and not more than twice of that; if the offence causes death of a person or any other especially serious harm to human health, the offender shall be sentenced to fixed-term imprisonment of not less than ten years, life imprisonment or death, and concurrently be sentenced to a fine of not less than half of the sum obtained through sale and not more than twice of that or confiscation of property.

"Fake medicine" mentioned in this Article refers to a medicine or a non-medical substance to be categorized as or handled as fake medicine in accordance with the provisions of the Pharmaceutical Administration Law of the People's Republic of China.

**Article 142** Whoever produces or sells medicine of inferior quality and causes serious harm to human health shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years, and concurrently be sentenced to a fine of not less than half of the sum obtained through sale and not more than twice of that. If the consequences are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and concurrently be sentenced to a fine of not less than half of the sum obtained through sale and not more

than twice of that or confiscation of property.

"Medicine of inferior quality" mentioned in this Article refers to a medicine to be categorized as a medicine of inferior quality in accordance with the provisions of the Pharmaceutical Administration Law of the People's Republic of China.

**Article 143** Whoever produces or sells food that does not conform to hygiene standards in a manner that is sufficient to cause a serious food-poisoning accident or any serious disease caused by food-borne bacteria shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine of not less than half of the sum obtained through sale and not more than twice of that. If the offence causes serious harm to human health, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years, and concurrently be sentenced to a fine of not less than half of the sum obtained through sale and not more than twice of that. If the consequences are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than seven years or life imprisonment, and concurrently be sentenced to a fine of not less than half of the sum obtained through sale and not more than twice of that or confiscation of property.

**Article 144** Whoever mixes the food to be produced or sold with toxic or harmful non-food stuffs, or sells the food mixed with toxic or harmful non-food stuffs that he knows clearly, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and concurrently or independently be sentenced to a fine of not less than half of the sum obtained through sale and not more than twice of that sum. If the offence causes a serious food-poisoning accident or any serious disease caused by food-borne bacteria, thus seriously harming human health, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years, and concurrently be sentenced to a fine of not less than half of the sum obtained through sale and not more than twice of the sum. If the offence causes death to a person or especially serious harm to human health, the offender shall be punished according to the provisions of Article 141 of this Law.

**Article 145** Whoever produces medical appliances or medical hygiene materials that do not conform to the national or trade standards safeguarding human health, or sells such appliances or materials while clearly knowing their inconformity to the national or trade standards safeguarding human health, and thereby causes serious harm to human health, shall be sentenced to fixed-term imprisonment of not more than five years, and concurrently be sentenced to a fine of not less than half of the sum obtained through sale and not more than twice of the sum. If the consequences are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years, and concurrently be sentenced to a fine of not less than half of the sum obtained through sale and not more than twice of the sum; the offender whose circumstances are especially flagrant shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and concurrently be sentenced to a fine of not less than half of the sum obtained through sale and not more than twice of the sum or confiscation of property.

**Article 146** Whoever produces electrical appliances, pressure containers, explosive or inflammable products or any other products that do not conform to the national or trade standards safeguarding the safety of person or property, or sells such products while clearly knowing their inconformity to the national or trade standards safeguarding the safety of person or property, thereby causing serious consequences, shall be sentenced to fixed-term imprisonment of not more than five years, and concurrently be sentenced to a fine of not less than half of the sum obtained through sale and not more than twice of the sum. If the consequences are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years, and concurrently be sentenced to a fine of not less than half of the sum obtained through sale and not more than twice of the sum.

**Article 147** Whoever produces fake pesticides, fake animal pharmaceuticals or fake chemical fertilizers, or sells pesticides, animal pharmaceuticals, chemical fertilizers or seeds while clearly knowing that such products are fake or no longer effective, or any producer or seller passes substandard pesticides, animal pharmaceuticals, chemical fertilizers or seeds off as those up to standard and thereby causes considerable losses to production, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine of not less than half of the sum obtained through sale and not more than twice of the sum. If the offence causes serious losses to production, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years, and concurrently be sentenced to a fine of not less than half of the sum obtained through sale and not more than twice of the sum. If the offence causes especially serious losses to production, the offender shall be sentenced to fixed-term imprisonment of not less than seven years or life imprisonment, and concurrently be sentenced to a fine of not less than half of the sum obtained through sale and not more than twice of the sum or confiscation of property.

**Article 148** Whoever produces cosmetics that do not conform to hygiene standards or sells such products while clearly knowing their inconformity to hygiene standards and thereby causes serious consequences shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine of not less than half of the sum obtained through sale and not more than twice of the sum.

**Article 149** Whoever produces or sells the products mentioned in from Article 141 to Article 148 of this Section and does not yet constitute a crime mentioned in any of the Articles, and with the sum obtained through sale amounting to 50,000 yuan, shall be decided a crime and given a punishment according to the provisions of Article 140 of this Section.

Whoever produces or sells the products mentioned in from Article 141 to Article 148 of this Section and constitutes a crime mentioned in one of the Articles, and in the meantime also constitutes a crime mentioned in Article 140 of this Section, shall be decided a crime and given a punishment according to the Article with a heavier punishment.

**Article 150** If a unit commits a crime mentioned in from Article 140 to Article 148 of this Section, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the

crime shall be punished according to the provisions of a relevant Article.

## Section 2 Crimes of Smuggling

**Article 151** Whoever smuggles weapons, ammunition, nuclear materials or counterfeit currency shall be sentenced to fixed-term imprisonment of not less than seven years, and concurrently be sentenced to a fine or confiscation of property. If the circumstances are relatively minor, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years, and concurrently be sentenced to a fine.

Whoever smuggles cultural relics, gold, silver or other precious metals forbidden by the state from being exported, or precious and rare species of wildlife forbidden by the state from being imported and exported as well as the products thereof, shall be sentenced to fixed-term imprisonment of not less than five years, and concurrently be sentenced to a fine. If the circumstances are relatively minor, the offender shall be sentenced to fixed-term imprisonment of not more than five years, and concurrently be sentenced to a fine.

Whoever smuggles precious and rare species of plants forbidden by the state from being imported and exported and the products thereof shall be sentenced to fixed-term imprisonment of not more than five years, and concurrently or independently be sentenced to a fine. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years, and concurrently be sentenced to a fine.

Whoever commits any crime mentioned in the first and second paragraphs, if the circumstances are especially serious, shall be sentenced to life imprisonment or death, and concurrently be sentenced to confiscation of property.

If a unit commits any crime mentioned in this Article, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be punished according to the provisions of the relevant paragraph of this Article.

**Article 152** Whoever, for the purpose of making profits or dissemination, smuggles pornographic movies, videotapes, magnetic tapes, pictures, publications or other pornographic articles shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years, and concurrently be sentenced to a fine. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and concurrently be sentenced to a fine or confiscation of property. If the circumstances are relatively minor, the offender shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently be sentenced to a fine.

If a unit commits a crime mentioned in the preceding paragraph, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be punished according to the provisions of the preceding paragraph.

**Article 153** Whoever smuggles goods and articles not specified in Article 151, Article 152, Article 347 shall be punished according to the following provisions in the light of the seriousness of the circumstances:

(1) Whoever smuggles goods and articles of which the tax payable evaded amounts to not less than 500,000 yuan shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and concurrently be sentenced to a fine of not less than the tax payable and not more than five times of the sum or confiscation of property. If the circumstances are especially serious, the offender shall be punished according to the provisions of the fourth paragraph of Article 151 of this Law.

(2) Whoever smuggles goods and articles of which the tax payable evaded amounts to not less than 150,000 yuan and not more than 500,000 yuan shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years, and concurrently be sentenced to a fine of not less than the tax payable and not more than five times of the sum. If the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and concurrently be sentenced to a fine of not less than the tax payable and not more than five times of the sum or confiscation of property.

(3) Whoever smuggles goods and articles of which the tax payable evaded amounts to not less than 50,000 yuan and not more than 150,000 yuan shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently be sentenced to a fine of not less than the tax payable and not more than five times of the sum.

If a unit commits a crime mentioned in the preceding paragraph, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years. If the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than ten years.

Whoever repeatedly smuggles and goes unpunished shall be punished according to the accumulated tax payable of the smuggled goods and articles.

**Article 154** Whoever commits any of the following acts of smuggling that constitutes a crime according to the provisions of this Section shall be decided a crime and punished according to the provisions of Article 153 of this Law:

(1) without approval by the Customs and without having paid the overdue customs duties, selling for profits without authorization, within the territory of China, authorized imported bonded goods such as materials supplied by foreign clients for processing, parts supplied by them for assembly or raw or processed materials, parts, finished products or equipment for compensation trade; or

(2) without approval by the Customs and without having paid the overdue customs duties, selling for profits without authorization, within the



territory of China, imported goods and articles specially designated for the reduction of or exemption from duties.

**Article 155** Whoever commits any of the following acts shall be deemed to have committed the crime of smuggling and shall be punished according to the provisions of this Section:

(1) directly and illegally purchasing from smugglers articles forbidden by the state from being imported or directly and illegally purchasing from smugglers other smuggled imported goods and articles, involving relatively large quantities or values; or

(2) transporting, purchasing and selling in inland seas and territorial waters articles forbidden by the state from being imported or exported or goods and articles subject to state restrictions on import and export, involving relatively large quantities and values and without legal certifications; or

(3) evading the supervision and administration by the Customs and transporting the solid waste from abroad into China.

**Article 156** Whoever conspires with criminals committing smuggling by offering them loans, funds, account numbers, invoices or certificates, or by providing them with such conveniences as transportation, storage or mailing, shall be deemed as an accomplice in the crime of smuggling and punished as such.

**Article 157** Whoever shields smuggling with armed force shall be given a heavier punishment according to the provisions of the first and fourth paragraphs of Article 151 of this Law.

Whoever, by means of violence or threat, resists the seizure of smugglers or smuggled goods shall be punished for crimes of smuggling and of preventing state personnel from carrying out their functions according to law as stipulated in Article 277 of this Law and in accordance with the provisions regarding the combined punishment for several crimes.

Section 3 Crimes of Impairing Order of Administering upon Companies and Enterprises

**Article 158** Whoever, in the course of application for registration of company, reports falsely registered capital by using false documents of certificate or in other method of swindling, deceives the authorities in charge of registration of company, and goes through the procedures of registration shall, if the amount of registered capital reported falsely is huge or consequences are serious or other serious circumstances exist, be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine of not less than 1% of the sum of registered capital reported falsely and not more than 5% of the sum.

If a unit commits a crime mentioned in the preceding paragraph, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be sentenced to fixed-term

imprisonment of not more than three years or criminal detention.

**Article 159** A company initiator or shareholder who violates the provisions of the Company Law and invests falsely in the method of not delivering currency, material objects, or not transferring property rights, or draws back the capital after a company is established shall, if the amount involved is huge or consequences are serious or other serious circumstances exist, be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and concurrently or independently be sentenced to a fine of not less than 2% of the sum of the capital provided falsely or drawn back and not more than 10% of the sum.

If a unit commits a crime mentioned in the preceding paragraph, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

**Article 160** Whoever conceals important facts or fabricates important false contents in the prospectuses on share offer, documents of subscription for shares or measures on raising bonds for a company or enterprise, and issues shares or bonds for a company or enterprise shall, if the amount involved is huge, or consequences are serious or other serious circumstances exist, be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and concurrently or independently be sentenced to a fine of not less than 1% of the sum of the fund raised illegally and not more than 5% of the sum.

If a unit commits a crime mentioned in the preceding paragraph, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

**Article 161** If a company provides the shareholders and the general public with false financial and accounting statements or financial and accounting statements in which it conceals important facts, persons directly in charge and other persons directly responsible for the crime of the company shall, if interests of shareholders or other persons are seriously harmed, be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine of not less than 20,000 yuan and not more than 200,000 yuan.

**Article 162** If a company or enterprise, in the course of liquidation, hides property, records falsely in the balance sheet or detailed list of property or, distributes property of the company or enterprise before payment of debts, persons directly in charge and other persons directly responsible for the crime shall, if interests of creditors or other persons are seriously harmed, be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and concurrently or independently be sentenced to a fine of not less than 20,000 yuan and not more than 200,000 yuan.

**Article 163** Whoever from the staff of a company or enterprise takes advantage of his office to extort or accept illegally property from others and makes profits for others shall, if the amount involved is relatively huge, be sentenced to fixed-term imprisonment of not more than

five years or criminal detention. If the amount involved is huge, the offender shall be sentenced to fixed-term imprisonment of not less than five years, and may concurrently be sentenced to confiscation of property.

Whoever from the staff of a company or enterprise, in the course of economic activities, accepts whatever kind of rebate or commission in violation of the state's stipulations, and takes possession of it, shall be punished according to the provisions of the preceding paragraph.

If personnel of a state-owned company or enterprise who is engaged in public service and personnel who is appointed and sent by a state-owned company or enterprise to a non-state-owned company or enterprise to carry out public service conducts an act mentioned in the preceding two paragraphs, he shall be decided a crime and punished according to the provisions of Article 385 or Article 386 of this Law.

**Article 164** Whoever offers property to the staff of a company or enterprise in order to make illegal profits shall, if the amount involved is relatively huge, be sentenced to fixed-term imprisonment of not more than three years or criminal detention. If the amount involved is huge, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years, and concurrently be sentenced to a fine.

If a unit commits a crime mentioned in the preceding paragraph, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be punished according to the provisions of the preceding paragraph.

The briber who confesses actively his bribery before being prosecuted may be given a mitigated punishment or be exempted from punishment.

**Article 165** Whoever from directors or managers of a state-owned company or enterprise takes advantage of his office to make business which is the same as that of the company or enterprise in which he takes office for himself or for others, and obtains illegally interests shall, if the amount involved is huge, be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine. If the amount involved is especially huge, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years, and concurrently be sentenced to a fine.

**Article 166** Whoever from the staff of a state-owned company, enterprise or institution takes advantage of his office to commit any of the following acts shall, if a heavy loss of state's interests is caused, be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine. If a especially heavy loss of the state's interests is caused, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years, and concurrently be sentenced to a fine:

(1) assigning his relatives and friends to do profit-making business of his unit;

(2) purchasing goods at a price which is obviously higher than the market price from the units run or managed by his relatives and friends or selling goods at a price which is obviously lower than the market price to the units run or managed by his relatives and friends; or

(3) purchasing substandard goods from the units run or managed by his relatives and friends.

**Article 167** Whoever from the persons directly in charge of a state-owned company, enterprise or institution, in the course of signing or fulfilling contracts, is defrauded because of serious neglect of duty, and causes the interests of the state to suffer a heavy loss shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention. If he causes the interests of the state to suffer a especially heavy loss, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

**Article 168** Whoever from the persons directly in charge of a state-owned company or enterprise engages in malpractice for the benefit of his friends, causes bankruptcy or serious losses to the state-owned company or enterprise and causes the interests of the state to suffer a heavy loss shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

**Article 169** Whoever from the persons directly in charge of a state-owned company or enterprise or its competent authorities at higher level engages in malpractice for the benefit of his friends, converts the state-owned assets into shares at a low price or sells them at a low price, and causes the interests of the state to suffer a heavy loss, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention. If he causes the interests of the state to suffer a especially heavy loss, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

#### Section 4 Crimes of Undermining order of Administering upon Banking

**Article 170** Whoever counterfeits currency shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years, and concurrently be sentenced to a fine of not less than 50,000 yuan and not more than 500,000 yuan. Any of the following categories of persons shall be sentenced to fixed-term imprisonment of not less than ten years, life imprisonment or death, and concurrently be sentenced to a fine of not less than 50,000 yuan and not more than 500,000 yuan or confiscation of property:

- (1) those principal criminals of a currency counterfeit group;
- (2) those with an especially huge amount of counterfeited currency; or
- (3) those with other especially serious circumstances.

**Article 171** Whoever sells or purchases counterfeited currency or transports knowingly counterfeited currency shall, if the amount involved is relatively huge, be sentenced to fixed-term imprisonment of not more than

three years or criminal detention, and concurrently be sentenced to a fine of not less than 20,000 yuan and not more than 200,000 yuan. If the amount involved is huge, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years, and concurrently be sentenced to a fine of not less than 50,000 yuan and not more than 500,000 yuan. If the amount involved is especially huge, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and concurrently be sentenced to a fine of not less than 50,000 yuan and not more than 500,000 yuan or confiscation of property.

Whoever from the staff of a bank or other financial institution purchases counterfeited currency or takes advantage of his position to exchange currency with counterfeited currency shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years, and concurrently be sentenced to a fine of not less than 20,000 yuan and not more than 200,000 yuan. If the amount involved is especially huge or there are other serious circumstances, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and concurrently be sentenced to a fine of not less than 20,000 yuan and not more than 200,000 yuan or confiscation of property. If the circumstances are relatively minor, the offender shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine of not less than 10,000 yuan and not more than 100,000 yuan.

Whoever counterfeits currency and sells or transports the counterfeited currency shall be decided a crime and given a heavier punishment according to the provisions of Article 170 of this Law.

**Article 172** Whoever holds or uses knowingly counterfeited currency shall, if the amount involved is relatively huge, be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine of not less than 10,000 yuan and not more than 100,000 yuan. If the amount involved is huge, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years, and concurrently sentenced to a fine of not less than 20,000 yuan and not more than 200,000 yuan. If the amount involved is especially huge, the offender shall be sentenced to fixed-term imprisonment of not less than ten years, and concurrently be sentenced to a fine of not less than 50,000 yuan and not more than 500,000 yuan or confiscation of property.

**Article 173** Whoever alters currency shall, if the amount involved is relatively huge, be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine of not less than 10,000 yuan and not more than 100,000 yuan. If the amount involved is huge, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years, and concurrently be sentenced to a fine of not less than 20,000 yuan and not more than 200,000 yuan.

**Article 174** Whoever establishes a commercial bank or other financial institution without authorization by the People's Bank of China shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine of not

less than 20,000 yuan and not more than 200,000 yuan. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years, and concurrently be sentenced to a fine of not less than 50,000 yuan and not more than 500,000 yuan.

Whoever forges, alters or transfers an operating permit of a commercial bank or other financial institution shall be punished according to the provisions of the preceding paragraph.

If a unit commits any crime mentioned in the preceding two paragraphs, the unit shall be sentenced to a fine, and persons directly in charge and persons directly responsible for the crime shall be punished according to the provisions of the first paragraph.

**Article 175** Whoever illegally procures a credit loan from a financial institution and transfers it to another person in high interest for the purpose of making profits through transferring a loan shall, if the amount of unlawful earnings is relatively huge, be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently be sentenced to a fine of not less than the unlawful earnings and not more than five times of the sum. If the amount of unlawful earnings is huge, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years, and concurrently be sentenced to a fine of not less than the unlawful earnings and not more than five times of the sum.

If a unit commits a crime mentioned in the preceding paragraph, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

**Article 176** Whoever illegally absorbs savings deposits from the general public or absorbs savings deposits from the general public in disguised form and thereby disturbs the financial order shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine of not less than 20,000 yuan and not more than 200,000 yuan. If the amount involved is huge or there are other serious circumstances, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years, and concurrently be sentenced to a fine of not less than 50,000 yuan and not more than 500,000 yuan.

If a unit commits a crime mentioned in the preceding paragraph, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be punished according to the provisions of the preceding paragraph.

**Article 177** Any of the following categories of persons who forges or alters financial documents shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and concurrently or independently be sentenced to a fine of not less than 20,000 yuan and not more than 200,000 yuan. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years, and concurrently be sentenced to a fine of not less than

50,000 yuan and not more than 500,000 yuan. If the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and concurrently be sentenced to a fine of not less than 50,000 yuan and not more than 500,000 yuan or confiscation of property:

(1) those who forge or alter promissory bills, notes of exchange and checks;

(2) those who forge or alter other bank settlement receipts such as commission collection receipts, remittance receipts and bank deposit receipts;

(3) those who forge or alter letters of credit or attached notes or documents; or

(4) those who forge credit cards.

If a unit commits a crime mentioned in the preceding paragraph, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be punished according to the provisions of the preceding paragraph.

**Article 178** Whoever forges or alters treasury bills or other securities issued by the state shall, if the amount involved is relatively huge, be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine of not less than 20,000 yuan and not more than 200,000 yuan. If the amount involved is huge, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years, and concurrently be sentenced to a fine of not less than 50,000 yuan and not more than 500,000 yuan. If the amount involved is especially huge, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and concurrently be sentenced to a fine of not less than 50,000 yuan and not more than 500,000 yuan or confiscation of property.

Whoever forges or alters stocks or bonds issued by a company or an enterprise shall, if the amount involved is relatively huge, be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine of not less than 10,000 yuan and not more than 100,000 yuan. If the amount involved is huge, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years, and concurrently be sentenced to a fine of not less than 20,000 yuan and not more than 200,000 yuan.

If a unit commits any crime mentioned in the preceding two paragraphs, the unit shall be sentenced to a fine, and the persons directly in charge and other persons directly responsible for the crime shall be punished according to the provisions of the preceding two paragraphs.

**Article 179** Whoever, without approval by the relevant administrative authorities, issues stocks or bonds of a company or an enterprise shall, if the amount involved is huge or the consequences are serious or other serious circumstances exist, be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and concurrently or independently

be sentenced to a fine of not less than 1% of the capital collected illegally and not more than 5% of the sum.

If a unit commits a crime mentioned in the preceding paragraph, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be sentenced to fixed-term imprisonment of not less than five years or criminal detention.

**Article 180** Anyone in the know of inside information of securities transaction or anyone obtaining illegally inside information of securities transaction, before the information concerning issue of securities, transaction of securities or other information of great impact on the price of specified securities is made public, buys or sells the securities or reveals the information, if the circumstances are serious, shall be fixed-term imprisonment of not more than five years or criminal detention, and concurrently or independently be sentenced to a fine of not less than unlawful earnings and not more than five times of the sum. If the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years, and concurrently be sentenced to a fine of not less than unlawful earnings and not more than five times of the sum.

If a unit commits a crime mentioned in the preceding paragraph, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

The range of inside information shall be defined according to the provisions of laws and administrative regulations.

The range of persons in the know shall be defined according to the provisions of laws and administrative regulations.

**Article 181** Whoever fabricates and disseminates false information of impact on transaction of securities, disturbs the transaction market of securities and causes serious consequences, shall be sentenced fixed-term imprisonment of not more than five years or criminal detention, and concurrently or independently be sentenced to a fine of not less than 10,000 yuan and not more than 100,000 yuan.

Whoever from the staff of a stock exchange or a securities company, or from the staff of the securities institute or securities administrative department intentionally provides false information or forges, alters or destroys transaction records, inveigles investors into buying or selling securities, and causes serious consequences, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and concurrently or independently be sentenced to a fine of not less than 10,000 yuan and not more than 100,000 yuan. If the circumstances are especially flagrant, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years, and concurrently be sentenced to a fine of not less than 20,000 yuan and not more than 200,000 yuan.

If a unit commits any crime mentioned in the preceding two paragraphs,



the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

**Article 182** Any of the following categories of persons who rigs the transaction price of securities and obtains unjustified profits or shifts risks shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and concurrently or independently be sentenced to a fine of not less than unlawful earnings and not more than five times of the sum:

(1) independently or conspiringly, centralizing funds or stocks held to form advantages or taking advantage of information to conduct jointly or continuously buying or selling in order to rig the transaction price of securities;

(2) in collaboration with others and in line with the time, price and method agreed upon in advance, performing mutually securities transaction or buying or selling mutually securities not being held yet, in order to affect the transaction price of securities or the transaction volume of securities;

(3) behaving as the sole transaction partner and performing transaction in which the buyer is the seller and the ownership over securities has not been transferred, in order to affect the transaction price of securities or the transaction volume of securities; or

(4) rigging the transaction price of securities in other ways.

If a unit commits a crime mentioned in the preceding paragraph, the unit shall be sentenced to a fine, and persons directly in charge and other persons responsible for the crime shall be sentenced fixed-term imprisonment of not more than five years or criminal detention.

**Article 183** Whoever from the staff of an insurance company takes advantage of his duty's convenience to draw up intentionally an insurance accident which never happens and to give an adjustment in order to defraud the insurance money and take possession of it, shall be decided a crime and punished according to the provisions of Article 271 of this Law.

Whoever from the staff of a state-owned insurance company and from the persons who are appointed and sent by an state-owned insurance company to a non-state-owned insurance company to perform public service conducts any of the acts mentioned in the preceding paragraph, shall be decided a crime and punished according to the provisions of Article 382 or Article 383 of this Law.

**Article 184** Whoever from the staff of a bank or other financial institution, in the course of the financial business activities, extorts or accepts illegally another person' property and seeks profits for another person, or violates the state's stipulations and accepts whatever kind of rebate or commission and takes possession of it, shall be decided a crime and punished according to the provisions of Article 163 of this Law.

Whoever from the staff of a state-owned financial institution and from

the persons who are appointed and sent by a state-owned financial institution to a non-state-owned financial institution to perform public service commits any of the acts mentioned in the preceding paragraph, shall be decided a crime and punished according to the provisions of Article 385 or Article 386 of this Law.

**Article 185** Whoever from the staff of a bank or other financial institution takes advantage of his duty's convenience and misappropriates his unit's or the client's funds, shall be decided a crime and punished according to the provisions of Article 272 of this Law.

Whoever from the staff of a state-owned financial institution and from the persons who are appointed and sent by a state-owned financial institution to a non-state-owned financial institution to perform public service commits any of the acts mentioned in the preceding paragraph, shall be decided a crime and punished according to the provisions of Article 384 of this Law.

**Article 186** Whoever from the staff of a bank or other financial institution violates the stipulations of a law or an administrative regulation and issues a credit loan or a guaranteed loan to his parties with more favorable conditions than to other borrowers for the same kind of loans shall, if a relatively huge loss is caused, be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and concurrently be sentenced to a fine of not less than 10,000 yuan and not more than 100,000 yuan. If a major loss is caused, the offender shall be sentenced to fixed-term imprisonment of not less than five years, and concurrently be sentenced to a fine of not less than 20,000 yuan and not more than 200,000 yuan.

Whoever from the staff of a bank or other financial institution violates the stipulations of a law or an administrative regulation and issues a loan to another person than his parties shall, if a major loss is caused, be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and concurrently be sentenced to a fine of not less than 10,000 yuan and not more than 100,000 yuan. If an especially major loss is caused, the offender shall be sentenced to fixed-term imprisonment of not less than five years, and concurrently be sentenced to a fine of not less than 20,000 yuan and not more than 200,000 yuan.

If a unit commits any crime mentioned in the preceding two paragraphs, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be punished according to the provisions of the preceding two paragraphs.

The range of parties shall be defined according to the Commercial Bank Law of the People's Republic of China and relevant financial regulations.

**Article 187** Whoever from the staff of a bank or other financial institution, for the purpose of making profits and by the means of absorbing the funds of clients without entering into the account books, uses the funds for lending or issuing loans shall, if a major loss is caused, be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and concurrently be sentenced to a fine of not less than 20,000 yuan and not more than 200,000 yuan. If an especially major loss is caused,

the offender shall be sentenced to fixed-term imprisonment of not less than five years, and concurrently be sentenced to a fine of not less than 50,000 yuan and not more than 500,000 yuan.

If a unit commits a crime mentioned in the preceding paragraph, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be punished according to the provisions of the preceding paragraph.

**Article 188** Whoever from the staff of a bank or other financial institution violates stipulations and offers others a letter of credit or other certificates of guarantee, negotiable instruments, certificates of deposit or certificates of credit status shall, if a relatively huge loss is caused, be sentenced to fixed-term imprisonment of not more than five years or criminal detention. If a major loss is caused, the offender shall be sentenced to fixed-term imprisonment of not less than five years.

If a unit commits a crime mentioned in the preceding paragraph, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be punished according to the provisions of the preceding paragraph.

**Article 189** Whoever from the staff of a bank or other financial institution, in the course of business activities of negotiable instruments, accepts, pays for or guarantees the negotiable instruments that do not conform to the Negotiable Instruments Law shall, if a major loss is caused, be sentenced to fixed-term imprisonment of not more than five years or criminal detention. If an especially major loss is caused, the offender shall be sentenced to fixed-term imprisonment of not less than five years.

If a unit commits a crime mentioned in the preceding paragraph, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be punished according to the provisions of the preceding paragraph.

**Article 190** Any state-owned company, enterprise or other state-owned unit who violates the state's stipulations and deposits foreign exchange outside China without authorization or illegally transfers foreign exchange from China to the outside shall, if the circumstances are serious, be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be concurrently sentenced to fixed-term imprisonment of not more than five years or criminal detention.

**Article 191** Whoever conducts any of the following acts clearly knowing that the money is unlawful earnings and their profits obtained from drug-related crimes, crimes committed by groups in the nature of criminal syndicates or crimes of smuggling, and for the purpose of covering up or concealing its source and nature shall, with the unlawful earnings obtained from the crimes above-mentioned and their profits confiscated, be sentenced to fixed-term imprisonment of not more than five years, and concurrently or independently be sentenced to a fine of not less than 5% of the sum of money laundered and not more than 20% of the sum. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years, and concurrently be sentenced to a

fine of not less than 5% of the sum of money laundered and not more than 20% of the sum:

(1) providing funds accounts;

(2) assisting in transforming the property into cash or financial bills;

? (3) assisting in transferring funds by means of transferring accounts or other means of settling accounts;

(4) assisting in remitting funds to any place outside China; or

(5) by other means covering up or concealing the source and nature of unlawful earnings from crimes and profits thereof.

If a unit commits a crime mentioned in the preceding paragraph, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

## Section 5 Crimes of Financial Fraud

**Article 192** Whoever collects capital illegally by means of swindling for the purpose of illegal possession shall, if the amount involved is relatively huge, be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and concurrently be sentenced to a fine of not less than 20,000 yuan and not more than 200,000 yuan. If the amount involved is huge or other serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years, and concurrently be sentenced to a fine of not less than 50,000 yuan and not more than 500,000 yuan. If the amount involved is especially huge or other especially serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and concurrently be sentenced to a fine of not less than 50,000 yuan and not more than 500,000 yuan or confiscation of property.

**Article 193** Any of the following categories of persons who, for the purpose of illegal possession, swindles a loan of a bank or other financial institution shall, if the amount involved is relatively huge, be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and concurrently be sentenced to a fine of not less than 20,000 yuan and not more than 200,000 yuan. If the amount involved is huge or other serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years, and concurrently be sentenced to a fine of not less than 50,000 yuan and not more than 500,000 yuan. If the amount involved is especially huge or other especially serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and concurrently be sentenced to a fine of not less than 50,000 yuan and not more than 500,000 yuan or confiscation of property:

(1) those who fabricate false reasons such as introduction of funds or projects;

(2) those who use false economic contracts;

(3) those who use false documents of certification;

(4) those who use false property certificates as guarantee or guarantee repeatedly by exceeding the value of security; or

(5) those who swindle loans by other means.

**Article 194** Any of the following categories of persons who conducts swindling activities of financial bills shall, if the amount involved is relatively huge, be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and concurrently be sentenced to a fine of not less than 20,000 yuan and not more than 200,000 yuan. If the amount involved is huge or other serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years, and concurrently be sentenced to a fine of not less than 50,000 yuan and not more than 500,000 yuan. If the amount involved is especially huge or other especially serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and concurrently be sentenced to a fine of not less than 50,000 yuan and not more than 500,000 yuan or confiscation of property:

(1) those who knowingly use forged or altered promissory bills, notes of exchange or checks;

(2) those who knowingly use invalid promissory bills, notes of exchange or checks;

(3) those who falsely use other's promissory bills, notes of exchange or checks as their own;

(4) those who issue bounced checks or checks on which signatures are inconsistent with their reserved ones to defraud property; or

(5) those drawers of promissory bills or notes of exchange who issue the promissory bills or notes of exchange without security of funds or produce a false record on the bills or notes to defraud property.

Whoever uses forged or altered other bank settlement receipts such as commission collection receipts, remittance receipts and bank deposit receipts shall be punished according to the provisions of the preceding paragraph.

**Article 195** Any of the following categories of persons who conducts swindling activities of letters of credit shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and concurrently be sentenced to a fine of not less than 20,000 yuan and not more than 200,000 yuan. If the amount involved is huge or other serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years, and concurrently be sentenced to a fine of not less than 50,000 yuan and not more than 500,000 yuan. If the amount involved is especially huge or other especially serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and concurrently be sentenced to a fine of not less than 50,000 yuan and not more than 500,000 yuan or confiscation of

property:

(1) those who use forged or altered letters of credit or attached notes or documents;

(2) those who use invalid letters of credit;

(3) those who defraud letters of credit; or

(4) those who conduct swindling activities of letters of credit by other means.

**Article 196** Any of the following categories of persons who conducts swindling activities of credit cards shall, if the amount involved is relatively huge, be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and concurrently be sentenced to a fine of not less than 20,000 yuan and not more than 200,000 yuan. If the amount involved is huge or other serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years, and concurrently be sentenced to a fine of not less than 50,000 yuan and not more than 500,000 yuan. If the amount involved is especially huge and other especially serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and concurrently be sentenced to a fine of not less than 50,000 yuan and not more than 500,000 yuan or confiscation of property:

(1) those who use forged credit cards;

(2) those who use invalid credit cards;

(3) those who falsely use other's credit cards as their own; or

(4) those who overdraw through malice.

"To overdraw through malice" mentioned in the preceding paragraph refers to an act that a card holder overdraws by exceeding the sum limit or time limit as prescribed for the purpose of illegal possession and fails to return the money after the bank which issued the card urges him to pay it.

Whoever steals and uses a credit card shall be decided a crime and punished according to the provisions of Article 264 of this Law.

**Article 197** Whoever uses forged or altered treasury bills or other securities issued by the state to conduct swindling activities shall, if the amount involved is relatively huge, be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and concurrently be sentenced to a fine of not less than 20,000 yuan and not more than 200,000 yuan. If the amount involved is huge or other serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years, and concurrently be sentenced to a fine of not less than 50,000 yuan and not more than 500,000 yuan. If the amount involved is especially huge or other especially serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and concurrently be sentenced to a fine of not less than

50,000 yuan and not more than 500,000 yuan or confiscation of property.

**Article 198** Any of the following categories of persons who conducts swindling activities of insurance shall, if the amount involved is relatively huge, be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and concurrently be sentenced to a fine of not less than 10,000 yuan and not more than 100,000 yuan. If the amount involved is huge or other serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years, and concurrently be sentenced to a fine of not less than 20,000 yuan and not more than 200,000 yuan. If the amount involved is especially huge and other especially serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than ten years, and concurrently be sentenced to a fine of not less than 20,000 yuan and not more than 200,000 yuan or confiscation of property:

(1) those insurance policy holders who intentionally fabricate the object of insurance to defraud the insurance money;

(2) those insurance policy holders, insurants or beneficiaries who fabricate false reasons for or exaggerate the degree of loss on an insurance accident which has happened to defraud the insurance money;

(3) those insurance policy holders, insurants or beneficiaries who fabricate an insurance accident which never happens to defraud the insurance money;

(4) those insurance policy holders or insurants who intentionally cause an insurance accident with property loss to defraud the insurance money; or

(5) those insurance policy holders or beneficiaries who intentionally cause death, injury, disability or disease of the insurants to defraud the insurance money.

Whoever commits any act listed in Item 4 or Item 5 of the preceding paragraph which also constitutes another crime shall be punished in accordance with the provisions regarding combined punishment for several crimes.

If a unit commits any crime mentioned in the first paragraph, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention. If the amount involved is huge or other serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years. If the amount involved is especially huge or other especially serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than ten years.

Any expert witness, witness or property adjuster of an insurance accident who intentionally provides false documents of certification and provides conditions for others to swindle shall be punished as an accomplice of insurance swindling.

**Article 199** Whoever commits a crime mentioned in Article 192, Article

194 or Article 195 of this Section shall, if the amount involved is especially huge and an especially heavy loss of the interests of the state and the people is caused, be sentenced to life imprisonment or death, and concurrently be sentenced to confiscation of property.

**Article 200** If a unit commits a crime mentioned in Article 192, Article 194 or Article 195 of this Section, the unit shall be sentenced to a fine, and the persons directly in charge and other persons directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention. If the amount involved is huge or other serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years. If the amount involved is especially huge or other especially serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment.

#### Section 6 Crimes of Endangering Taxes Collection and Administration

**Article 201** Any taxpayer who fails to pay, or underpays the amount of tax payable by means of forging, altering, concealing, or destroying accounting books or vouchers for the accounts without authorization, or overstating expenses, or omitting or understating incomes in accounting books, or refusing to fill a tax declaration after notification by the tax authorities, or filling a false tax declaration shall, if the amount of tax evaded accounts for not less than 10% of the amount of tax payable and not more than 30% of the sum and the amount of tax evaded is not less than 10,000 yuan and not more than 100,000 yuan, or if he commits tax evasion again after having been twice subjected to administrative sanctions by the tax authorities for tax evasion, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently be sentenced to a fine of not less than the amount of tax evaded and not more than five times the sum. If the amount of tax evaded accounts for not less than 30% of the amount of tax payable and the amount of tax evaded is not less than 100,000 yuan, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years, and concurrently be sentenced to a fine of not less than the amount of tax evaded and not more than five times of the sum.

Any withholding agent who, by means specified in the preceding paragraph, fails to pay, or underpays the tax which has been withheld or collected shall, if the amount involved accounts for not less than 10% of the amount of tax payable and is not less than 10,000 yuan, be punished according to the provisions of the preceding paragraph.

Whoever has repeatedly committed any act mentioned in the preceding two paragraphs without having been subjected to punishment shall be punished on the basis of the accumulated amount.

**Article 202** Whoever refuses to pay tax with resort to violence or threat shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently be sentenced to a fine of not less than the amount of tax he has refused to pay and not more than five times of the sum. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven



years, and concurrently be sentenced to a fine of not less than the amount of tax he has refused to pay and not more than five times of the sum.

**Article 203** Where any taxpayer who has not paid the tax due adopts the means of transferring or concealing his property, thus resulting in the tax authorities' inability to pursue the payment of tax in arrears, he shall, if the amount involved is not less than 10,000 yuan and not more than 100,000 yuan, be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine of not less than the amount of tax in arrears and not more than five times of the sum. If the amount involved is not less than 100,000 yuan, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years, and concurrently be sentenced to a fine of not less than the amount of tax in arrears and not more than five times of the sum.

**Article 204** Whoever obtains fraudulently from the state a tax refund for exports by filling a false export declaration or other deceptive means shall, if the amount involved is relatively huge, be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and concurrently be sentenced to a fine of not less than the amount of the tax refund which has been fraudulently obtained and not more than five times of the sum. If the amount involved is huge or other serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years, and concurrently be sentenced to a fine of not less than the amount of the tax refund which has been fraudulently obtained and not more than five times of the sum. If the amount involved is especially huge and other especially serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and concurrently be sentenced to a fine of not less than the amount of the tax refund which has been fraudulently obtained and not more than five times of the sum or confiscation of property.

Any taxpayer who obtains fraudulently the tax he has paid by deceptive means mentioned in the preceding paragraph shall be decided a crime and punished according to the provisions of Article 201 of this Law. The part that the amount of the tax which has been fraudulently obtained exceeds the tax he has paid shall be handled according to the provisions of the preceding paragraph.

**Article 205** Whoever falsely fills out value-added tax invoices or falsely fills out other kinds of invoices used for obtaining fraudulently tax refunds on exported items or tax deduction shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently be sentenced to a fine of not less than 20,000 yuan and not more than 200,000 yuan. If the amount involved in the falsification of the invoices is relatively huge or other serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years, and concurrently be sentenced to a fine of not less than 50,000 yuan and not more than 500,000 yuan. If the amount involved in the falsification of the invoices is huge or other especially serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and concurrently be sentenced to a fine of not less than 50,000 yuan and not more than 500,000 yuan or confiscation of property.

Whoever commits an act mentioned in the preceding paragraph and obtains fraudulently tax from the state shall, if the amount involved is especially huge and the circumstances are especially serious, and if the state has therefore suffered especially great losses, be sentenced to life imprisonment or death, and concurrently be sentenced to confiscation of property.

If a unit commits a crime mentioned in this Article, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention. If the amount involved in the falsification of the invoices is relatively huge or other serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years. If the amount involved in the falsification of the invoices is huge or other especially serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment.

"To falsely fill out value-added tax invoices or falsely fill out other kinds of invoices used for obtaining fraudulently tax refunds on exported items or tax deduction" refers to any action involving falsely filling out the invoices for oneself or for any other person, allowing any other person to falsely fill out the invoices for oneself, or introducing any other person to the action of falsely filling out the invoices.

**Article 206** Whoever counterfeits value-added tax invoices or sells counterfeited value-added tax invoices shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently be sentenced to a fine of not less than 20,000 yuan and not more than 200,000 yuan. If the amount involved is relatively huge or other serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years, and concurrently be sentenced to a fine of not less than 50,000 yuan and not more than 500,000 yuan. If the amount involved is huge or other especially serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and concurrently be sentenced to a fine of not less than 50,000 yuan and not more than 500,000 yuan or confiscation of property.

Whoever counterfeits and sells counterfeited value-added tax invoices shall, if the amount involved is especially huge, the circumstances are especially serious and the economic order has been thereby undermined seriously, be sentenced to life imprisonment or death, and concurrently be sentenced to confiscation of property.

If a unit commits a crime mentioned in this Article, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance. If the amount involved is relatively huge or other serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years. If the amount involved is huge or other especially serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment.

**Article 207** Whoever illegally sells value-added tax invoices shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently be sentenced to a fine of not less than 20,000 yuan and not more than 200,000 yuan. If the amount involved is relatively huge, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years, and concurrently be sentenced to a fine of not less than 50,000 yuan and not more than 500,000 yuan. If the amount involved is huge, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and concurrently be sentenced to a fine of not less than 50,000 yuan and not more than 500,000 yuan or confiscation of property.

**Article 208** Whoever illegally purchases value-added tax invoices or purchases counterfeited value-added tax invoices shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and concurrently or independently be sentenced to a fine of not less than 20,000 yuan and not more than 200,000 yuan.

Whoever illegally purchases value-added tax invoices or purchases counterfeited value-added tax invoices and then falsely fills out or sells such invoices shall be decided a crime and punished according to the provisions of Article 205, Article 206 or Article 207 of this Law.

**Article 209** Whoever counterfeits or makes without authorization other kinds of invoices which may be used for obtaining fraudulently tax refunds on exported items or tax deduction, or sells such invoices, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently be sentenced to a fine of not less than 20,000 yuan and not more than 200,000 yuan. If the amount involved is huge, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years, and concurrently be sentenced to a fine of not less than 50,000 yuan and not more than 500,000 yuan. If the amount involved is especially huge, the offender shall be sentenced to fixed-term imprisonment of not less than seven years, and concurrently be sentenced to a fine of not less than 50,000 yuan and not more than 500,000 yuan or confiscation of property.

Whoever counterfeits or makes without authorization any other kinds of invoices than those mentioned in the preceding paragraph or sells such invoices shall be sentenced to fixed-term imprisonment of not more than two years, criminal detention or public surveillance, and concurrently or independently be sentenced to a fine of not less than 10,000 yuan and not more than 50,000 yuan. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than two years and not more than seven years, and concurrently be sentenced to a fine of not less than 50,000 yuan and not more than 500,000 yuan.

Whoever illegally sells any other kinds of invoices which may be used for obtaining fraudulently tax refunds on exported items or tax deduction shall be punished according to the provisions of the first paragraph.

Whoever illegally sells any other kinds of invoices than those mentioned in the third paragraph shall be punished according to the provisions of the second paragraph.

**Article 210** Whoever steals value-added tax invoices or any other kinds of invoices which may be used for obtaining fraudulently tax refunds on exported items or tax deduction shall be decided a crime and punished according to the provisions of Article 264 of this Law.

Whoever obtains value-added tax invoices or any other kinds of invoices which may be used for obtaining fraudulently tax refunds or tax deduction through deceptive means shall be decided a crime and punished according to the provisions of Article 266 of this Law.

**Article 211** If a unit commits any crime mentioned in Article 201, Article 203, Article 204, Article 207, Article 208 or Article 209 of this Section, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be punished according to the respective provisions of these articles.

**Article 212** If anyone commits any crime mentioned in from Article 201 to Article 205 and is sentenced to a fine or confiscation of property, he shall be pursued by the tax authorities for the payment of tax or tax refunds which has been obtained fraudulently before the execution of the punishment above-mentioned.

## Section 7 Crimes of Infringing upon Intellectual Property Rights

**Article 213** Whoever uses a trademark identical with another person's registered trademark on the same kind of goods without permission from the owner of the registered trademark shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine. If the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years, and concurrently be sentenced to a fine.

**Article 214** Whoever knowingly sells goods bearing counterfeited registered trademarks shall, if the sum obtained through sale is relatively huge, be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine. If the sum obtained through sale is huge, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years, and concurrently be sentenced to a fine.

**Article 215** Whoever forges or makes without authorization representations of registered trademarks of another person or sells representations of registered trademarks which are forged or made without authorization shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently or independently be sentenced to a fine. If the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years, and concurrently be sentenced to a fine.

**Article 216** Whoever forges another person's patent shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be

sentenced to a fine.

**Article 217** Any of the following categories of persons who infringes upon copyright for the purpose of reaping profits shall, if the amount of illegal gains is relatively huge or other serious circumstances exist, be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine. If the amount of illegal gains is huge or other especially serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years, and concurrently be sentenced to a fine:

(1) reproducing and distributing, without the permission of the copyright owner, his written works, musical works, cinematic works, television works, video works, computer software and other works;

(2) publishing a book of which another person has the exclusive publishing right;

(3) reproducing and distributing, without the permission of the phonogram or videogram producer, the phonogram or videogram produced by him; or

(4) producing and selling a work of art bearing the forged signature of another person.

**Article 218** Whoever sells, for the purpose of reaping profits, those which he well knows are infringing reproductions specified in Article 217 of this Law shall, if the amount of his illegal gains is huge, be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine.

**Article 219** Any of the following categories of persons who infringes upon commercial secrets shall, if the offence causes another person who enjoys the rights of the commercial secrets to suffer heavy losses, be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine. If the offence causes especially serious consequences, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years, and concurrently be sentenced to a fine:

(1) acquiring commercial secrets of another person who enjoys the rights by stealing, lure, force or other improper means;

? (2) revealing, using or permitting other persons to use the commercial secrets of another person who enjoys the rights of the secrets by means specified in the preceding paragraph; or

(3) revealing, using or permitting other persons to use another person's commercial secrets which are held by him contrary to his promise or to the demands by the person who enjoys the rights involving protection of the commercial secrets.

Whoever acquires, uses or reveals another person's commercial secrets knowing well or oughting to know the acts listed in the preceding paragraph shall be punished as an act of infringement upon commercial secrets.

"Commercial secrets" mentioned in this Article refers to the practical technical information and management information which is unknown by the public, can bring economic profits to the person who enjoys the rights, and the person who enjoys the rights has taken classified measures.

"The person who enjoys the rights" mentioned in this Article refers to the owner of a commercial secret or user of a commercial secret who is permitted by the owner of the commercial secret.

**Article 220** If a unit commits any crime mentioned in from Article 213 to Article 219 of this Section, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be punished according to the respective provisions of these articles.

## Section 8 Crimes of Disturbing Market Order

**Article 221** Whoever fabricates and disseminates false facts to impair another person's commercial reputation or merchandise prestige shall, if a heavy loss of another person is caused or other serious circumstances exist, be sentenced to fixed-term imprisonment of not more than two years or criminal detention, and concurrently or independently be sentenced to a fine.

**Article 222** Any advertiser, advertising operator or advertising releaser takes advantage of advertisements to conduct false propaganda on merchandise or service in violation of the state's stipulations shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than two years or criminal detention, and concurrently or independently be sentenced to a fine.

**Article 223** Any bidder who informs mutually the quoted price of a bid in collaboration to harm the interests of the bid inviter or another bidder shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine.

Any bidder and bid inviter who act in collaboration in bidding and harm the legal interests of the state, collective or citizen shall be punished according to the provisions of the preceding paragraph.

**Article 224** Any of the following categories of persons who, in the course of signing or fulfilling contracts and for the purpose of illegal possession, obtains fraudulently property of the other party shall, if the amount involved is relatively huge, be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine. If the amount involved is huge or other serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years, and concurrently be sentenced to a fine. If the amount involved is especially huge or other especially serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and concurrently be sentenced to a fine or confiscation of property:

(1) those who sign contracts in the name of a false unit or another person;

(2) those who use forged, altered or invalid bills or other false certificates of property rights as guarantee;

(3) those who are unable to fulfil contracts practically but trap the other party to go on signing or fulfilling contracts by means of fulfilling in advance petty contracts or fulfilling partly contracts;

(4) those who flee after receiving the goods, payment for goods, payment in advance or guaranteed property; or

(5) those who obtain fraudulently property of the other party by other means.

**Article 225** Any of the following categories of persons who, in violation of the state's stipulations, engages in illegal business activities and disturbs the market order shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and concurrently or independently be sentenced to a fine of not less than the amount of illegal gains and not more than five times of the sum. If the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years, and concurrently be sentenced to a fine of not less than the amount of illegal gains and not more than five times of the sum or confiscation of property:

(1) without authorization, buying or selling monopolized articles or other articles of exclusive sale as prescribed by laws or regulations;

(2) buying or selling import or export licences, import or export origin certificates or other business licences or approval documents as prescribed by laws or regulations; or

(3) other illegal business activities which disturb seriously the market order.

**Article 226** Whoever, by means of violence or threat, buys or sells goods, or forces others to provide or accept service shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine.

**Article 227** Whoever counterfeits tickets for vehicles or ships, postage stamps or other valuable tickets or resells such tickets shall, if the amount involved is relatively huge, be sentenced to fixed-term imprisonment of not more than two years, criminal detention or public surveillance, and concurrently or independently be sentenced to a fine of not less than the sum of the tickets and not more than five times of the sum. If the amount involved is huge, the offender shall be sentenced to fixed-term imprisonment of not less than two years and not more than seven years, and concurrently be sentenced to a fine of not less than the sum of the tickets and not more than five times of the sum.

Whoever resells tickets for vehicles or ships shall, if the circumstances

are serious, be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently or independently be sentenced to a fine of not less than the sum of the tickets and not more than five times of the sum.

**Article 228** Whoever, for the purpose of making profits and in violation of laws or regulations on land administration, illegally transfers or resells rights for land use shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine of not less than 5% of the sum obtained through transfer or sale of rights for land use and not more than 20% of the sum. If the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years, and concurrently be sentenced to a fine of 5% of the sum obtained through transfer or sale of rights for land use and not more than 20% of the sum.

**Article 229** Any person in an intermediary organization who bears the duty such as evaluation of assets, examination of assets, examination of certificates, accounting, auditing, legal service, etc., but provides intentionally false certificates shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and concurrently be sentenced to a fine.

Any person specified in the preceding paragraph who extorts another person's property or accepts illegally another person's property and commits a crime mentioned in the preceding paragraph shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years, and concurrently be sentenced to a fine.

Any person specified in the first paragraph who neglects his duty seriously and provides certificates which are seriously inconsistent with the facts shall, if serious consequences have resulted, be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine.

**Article 230** Whoever, in violation of the Law on Import and Export Commodity Inspection, evades commodity inspection and without applying for inspection markets or uses import commodities which are subject to the statutory inspection or without applying for inspection and obtaining certificates of inspection exports commodities which are subject to statutory inspection shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine.

**Article 231** If a unit commits any crime mentioned in from Article 221 to Article 230 of this Section, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be punished according to the respective provisions of these articles.

Chapter IV Crimes of Infringing upon the Rights of the Person and the Democratic Rights of Citizens

**Article 232** Whoever intentionally commits homicide shall be sentenced



to death, life imprisonment or fixed-term imprisonment of not less than ten years; if the circumstances are relatively minor, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years.

**Article 233** Whoever negligently causes death of another person shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years. If the circumstances are relatively minor, the offender shall be sentenced to fixed-term imprisonment of not more than three years. Where this Law has other provisions, such provisions shall prevail.

**Article 234** Whoever intentionally inflicts bodily injury upon another person shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance.

Whoever, by committing the crime mentioned in the preceding paragraph, causes severe bodily injury to another person shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years. If he causes a person's death or causes severe bodily injury resulting in severe deformity to another person by especially cruel means, he shall be sentenced to fixed-term imprisonment of not less than ten years, life imprisonment or death. Where this Law has other provisions, such provisions shall prevail.

**Article 235** Whoever negligently injures another person and causes him severe bodily injury shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention. Where this Law has other provisions, such provisions shall prevail.

**Article 236** Whoever rapes a woman by force, threat or other means shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years.

Whoever has sexual relations with a girl under the age of 14 shall be deemed to have committed rape and shall be given a heavier punishment.

Any of the following categories of persons who rapes a woman or has sexual relations with a girl shall be sentenced to fixed-term imprisonment of not less than ten years, life imprisonment or death:

(1) those who rape a woman or have sexual relations with a girl with flagrant circumstances;

(2) those who rape several women or have sexual relations with several girls;

(3) those who, in a public place, rape a woman in public;

(4) two or more persons who rape the same victim in succession; or

(5) those who cause severe bodily injury or death of the victim or cause other serious consequences.

**Article 237** Whoever acts indecently towards or insults a woman by force,

threat or other means shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

Whoever, by means of gathering a crowd or in the public place and in public, commits the crime mentioned in the preceding paragraph shall be sentenced to fixed-term imprisonment of not less than five years.

Whoever acts indecently towards a child shall be given a heavier punishment according to the provisions of the preceding two paragraphs.

**Article 238** Whoever unlawfully detains another person or deprives another person of his personal freedom shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights. If circumstances of hitting or insulting another person exist, the offender shall be given a heavier punishment.

Whoever, by committing the crime mentioned in the preceding paragraph, causes severe bodily injury to another person shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years. If he causes death of another person, he shall be sentenced to fixed-term imprisonment of not less than ten years. If another person's deformity or death is caused by violence, the offender shall be decided a crime and punished according to the provisions of Article 234 or Article 232 of this Law.

Whoever, for the purpose of extorting the payment of debts, unlawfully distrains or detains another person shall be punished according to the provisions of the preceding two paragraphs.

Whoever from the staff of a state organ takes advantage of his office to commit a crime mentioned in the preceding three paragraphs shall be given a heavier punishment according to the provisions of the preceding three paragraphs.

**Article 239** Whoever kidnaps another person for the purpose of extorting money or kidnaps another person as hostage shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and concurrently be sentenced to a fine or confiscation of property. If the offender causes death of the kidnapped person or kills the kidnapped person, he shall be sentenced to death, and concurrently be sentenced to confiscation of property.

Whoever steals an infant or a baby for the purpose of extorting money shall be punished according to the provisions of the preceding paragraph.

**Article 240** Whoever abducts and traffics in a woman or a child shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years, and concurrently be sentenced to a fine. Under any of the following circumstances, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and concurrently be sentenced to a fine or confiscation of property. If the circumstances are especially serious, the offender shall be sentenced to death, and concurrently be sentenced to confiscation of property:

(1) being a ringleader of a group engaged in the abduction of and trafficking in women or children;

(2) abducting and trafficking in three or more women and/or children;

(3) raping the woman who is abducted and trafficked in;

(4) enticing or forcing the woman who is abducted and trafficked in to engage in prostitution, or selling such woman to any other person or persons who will force the woman to engage in prostitution;

(5) for the purpose of selling the victim, kidnapping a woman or a child by means of violence, threat or anaesthesia;

(6) for the purpose of selling the victim, stealing an infant or a baby;

(7) causing severe bodily injury or death or other serious consequences of the woman or child who is abducted and trafficked in or of their relatives;  
or

(8) selling a woman or a child out of the territory of China.

"Abducting and trafficking in a woman or a child" refers to any act of abducting, kidnapping, buying, trafficking in, fetching or sending, or transferring a woman or a child for the purpose of selling the victim.

**Article 241** Whoever buys a woman or a child who is abducted and trafficked in shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance.

Whoever buys a woman who is abducted and trafficked in and has sexual relations with her against her will shall be decided a crime and punished according to the provisions of Article 236 of this Law.

Whoever buys a woman or a child who is abducted and trafficked in and illegally deprives her/him of her/his personal freedom or restricts her/his personal freedom or commits any criminal act of injuring or insulting shall be decided a crime and punished according to the relevant provisions of this Law.

Whoever buys a woman or a child who is abducted and trafficked in and commits any criminal act as prescribed in the second or third paragraph shall be punished according to the provisions regarding combined punishment for several crimes.

Whoever buys a woman or a child who is abducted and trafficked in and sells the victim afterwards shall be decided a crime and punished according to the provisions of Article 240 of this Law.

Whoever, having bought a woman or a child who is abducted and trafficked in, does not obstruct the woman from returning to her original place of residence according to her will, or does not maltreat the child nor obstruct his or her rescue, may be exempted from being investigated for criminal responsibility.

**Article 242** Whoever obstructs by violence or threat state functionaries from rescuing a woman or a child who has been bought shall be decided a crime and punished according to the provisions of Article 277 of this Law.

? Any ringleader who obstructs, by means of gathering a crowd, state functionaries from rescuing a woman or a child who has been bought shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention. Any other participant who adopts the means of violence or threat shall be punished according to the provisions of the preceding paragraph.

**Article 243** Whoever fabricates facts to implicate another person on false charges in order that another person is prosecuted as a criminal shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance. If serious consequences are caused, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years.

Any state functionary who commits a crime mentioned in the preceding paragraph shall be given a heavier punishment.

Where it is not a case of intentional false accusation but rather a case of mistaken complaint or unsubstantiated accusation, the provisions of the preceding two paragraphs shall not apply.

**Article 244** If any employing unit, in violation of laws or regulations on labour administration, forces employees to work by means of deprivation of personal freedom, and if the circumstances are serious, persons directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine.

**Article 245** Whoever unlawfully subjects another person to a bodily search or a search of his residence or unlawfully intrudes into another person's residence shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Any judicial functionary who exercises his power improperly and commits a crime mentioned in the preceding paragraph shall be given a heavier punishment.

**Article 246** Whoever, by means of violence or by other means, insults in public another person or fabricates facts to slander another person shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights.

The crime mentioned in the preceding paragraph shall be handled only upon complaint, except where serious harm has been done to the public order and to the interests of the state.

**Article 247** Any judicial functionary who extorts by torture a confession from a suspect of crime or a defendant or extorts, by means of violence,

testimony from a witness shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention. If another person's deformity or death is caused, the offender shall be given a heavier punishment according to the provisions of Article 234 or Article 232 of this Law.

**Article 248** Whoever from the supervising or administering persons of a supervising or administering organ such as a prison, bridewell or house of detention subjects prisoners or internees to battery or corporal punishment shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years or criminal detention. If the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years. If deformity or death of another person is caused, the offender shall be decided a crime and given a heavier punishment according to the provisions of Article 234 or Article 232 of this Law.

Any supervising or administering person who instigates prisoners or internees to subject other prisoners or internees to battery or corporal punishment shall be punished according to the provisions of the preceding paragraph.

**Article 249** Whoever incites national hatred or national discrimination shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights. If the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years.

**Article 250** If a publication carries contents involving discriminating or insulting minority nationalities, persons directly responsible for the crime shall, if the circumstances are flagrant and serious consequences are caused, be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance.

**Article 251** Any state functionary who unlawfully deprives a citizen of his freedom of religious belief or infringes upon the customs and habits of minority nationalities shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than two years or criminal detention.

**Article 252** Whoever conceals, destroys or unlawfully opens another person's letters, infringing upon the citizen's right to freedom of correspondence shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than one year or criminal detention.

**Article 253** Any postal worker who opens, conceals or destroys mails or telegrams without authorization shall be sentenced to fixed-term imprisonment of not more than two years or criminal detention.

Whoever steals property while committing the crime mentioned in the preceding paragraph shall be decided a crime and given a heavier punishment according to the provisions of Article 264 of this Law.

**Article 254** Any state functionary who abuses his power, using his public

offices for private gain, in order to retaliate against or frame complainants, petitioners, critics or accusers or incriminate them on false charges shall be sentenced to fixed-term imprisonment of not more than two years or criminal detention. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than two years and more than seven years.

**Article 255** Any leader of a company, an enterprise, institution, organ or a public organization attacks or retaliates against accountants or statisticians who perform duties according to law and refuse the acts which are contrary to the Accounting Law or Statistics Law shall, if the circumstances are flagrant, be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

**Article 256** Whoever, in the course of electing the representatives of people's congresses at various levels or leading persons of state organs, undermines the election or prevents the voters or representatives from exercising their rights of electing or standing for election by means of violence, threat, deception, bribe, counterfeiting electing documents or reporting falsely votes shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years, criminal detention or deprivation of political rights.

**Article 257** Whoever forcibly interferes with another person's freedom of marriage shall be sentenced to fixed-term imprisonment of not more than two years or criminal detention.

If anyone committing the crime mentioned in the preceding paragraph causes his victim's death, he shall be sentenced to fixed-term imprisonment of not less than two years and not more than seven years.

? The crime mentioned in the first paragraph of this Article shall be handled only upon complaint.

**Article 258** Whoever has a spouse and commits bigamy or whoever marries another person while clearly knowing that the other has a spouse shall be sentenced to fixed-term imprisonment of not more than two years or criminal detention.

**Article 259** Whoever cohabits with or marries a person while clearly knowing that the person is the spouse of a member of the armed forces in active service shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Whoever takes advantage of his office or subordinate relation and has sexual relation, by means of threat, with the wife of a member of the armed forces in active service shall be decided a crime and punished according to the provisions of Article 236 of this Law.

**Article 260** Whoever maltreats a member of his family shall, if the circumstances are flagrant, be sentenced to fixed-term imprisonment of not more than two years, criminal detention or public surveillance.

If anyone committing the crime mentioned in the preceding paragraph causes serious injury or death to the victim, he shall be sentenced to fixed-term

imprisonment of not less than two years and not more than seven years.

The crime mentioned in the first paragraph of this Article shall be handled only upon complaint.

**Article 261** Whoever refuses his proper duty to support an aged person, minor, sick person or any other person who can not live independently shall, if the circumstances are flagrant, be sentenced to fixed-term imprisonment of not more than five years, criminal detention or public surveillance.

**Article 262** Whoever abducts a boy or girl under the age of 14, thereby cutting the child off from his family or guardian, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

Chapter V Crimes of Property Violation

**Article 263** Whoever takes public or private property by force, threat or other methods shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years, and concurrently be sentenced to a fine. Whoever commits any of the following acts shall be sentenced to fixed-term imprisonment of not less than ten years, life imprisonment or death, and concurrently be sentenced to a fine or confiscation of property:

- (1) entering a house owned by others and committing robbery;
- (2) committing robbery in a means of public transport;
- (3) robbing a bank or other financial institution;
- (4) committing robbery for several times or committing robbery in which the offender obtains a large amount of property;
- (5) causing serious injury or death to another person while committing robbery;
- (6) committing robbery by passing himself off as a servicemen or a policeman;
- (7) holding a gun to commit robbery; or
- (8) robbing military supplies or goods and materials that are allocated for emergencies, disaster relief or social relief.

**Article 264** Whoever steals a relatively large amount of public or private property or steals property for several times shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently or independently be sentenced to a fine. If the amount involved is huge or other serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years, and concurrently be sentenced to a fine. If the amount involved is especially huge or other especially serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and concurrently be sentenced to a fine or confiscation of property. Whoever commits any of the

following acts shall be sentenced to life imprisonment or death, and concurrently be sentenced to confiscation of property:

(1) stealing property from a financial institution, and obtaining a especially huge amount of property; or

(2) stealing rare and precious cultural relics with serious circumstances.

**Article 265** Whoever, for the purpose of making profits, connects secretly with communication lines of another person or duplicates telecommunication codes of another person or, uses the telecommunication equipment or facilities while clearly knowing that they are connected secretly or duplicated shall be decided a crime and punished according to the provisions of Article 264 of this Law.

**Article 266** Whoever swindles a relatively huge amount of public or private property shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently or independently be sentenced to a fine. If the amount involved is huge or other serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years, and concurrently be sentenced to a fine. If the amount involved is especially huge or other especially serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and concurrently be sentenced to a fine or confiscation of property. Where this Law has other provisions, such provisions shall prevail.

**Article 267** Whoever seizes forcibly a relatively huge amount of public or private property shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently or independently be sentenced to a fine. If the amount involved is huge or other serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years, and concurrently be sentenced to a fine. If the amount involved is especially huge or other especially serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and concurrently be sentenced to a fine or confiscation of property.

Whoever holds lethal weapons to seize forcibly property shall be decided a crime and punished according to the provisions of Article 263 of this Law.

**Article 268** Any ringleader or other active participant who gets together a crowd to commit open plunder of public or private property shall, if the amount involved is relatively huge or other serious circumstances exist, be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently be sentenced to a fine. If the amount involved is huge or other especially serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years, and concurrently be sentenced to a fine.

**Article 269** If anyone commits a crime of theft, fraud or forcible seizure and uses or threatens to use violence on the spot in order to conceal booty,



resist detention or arrest or destroy criminal evidence, he shall be decided a crime and punished according to the provisions of Article 263 of this Law.

**Article 270** Whoever illegally takes possession of another person's property which is taken care of by him for the person shall, if the amount involved is relatively huge and the offender refuses to return it, be sentenced to fixed-term imprisonment of not more than two years, criminal detention or a fine. If the amount involved is huge or other serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than two years and not more than five years, and concurrently be sentenced to a fine.

Whoever illegally takes possession of property which is lost or buried underground by another person shall, if the amount involved is relatively huge and the offender refuses to return it, be punished according to the provisions of the preceding paragraph.

The crime mentioned in this Article shall be handled only upon complaint.

**Article 271** Whoever from the staff of a company, an enterprise or other unit takes advantage of his office to illegally take possession of property of his unit shall, if the amount involved is relatively huge, be sentenced to fixed-term imprisonment of not more than five years or criminal detention. If the amount involved is huge, the offender shall be sentenced to fixed-term imprisonment of not less than five years, and may concurrently be sentenced to confiscation of property.

If anyone from the staff of a state-owned company, enterprise or other unit who performs public service or from the persons who are appointed and sent by a state-owned company, enterprise or other unit to a non-state-owned company, enterprise or other unit to perform public service commits an act mentioned in the preceding paragraph, he shall be decided a crime and punished according to the provisions of Article 382 or Article 383 of this Law.

**Article 272** Whoever from the staff of a company, enterprise or other unit takes advantage of his office to misappropriate his unit's funds for himself or to lend them to others shall, if the amount involved is relatively huge and the offender fails to return them within three months or, if the funds are returned within three months, but the amount involved is relatively huge and the money is used for profit-making activities or illegal activities, be sentenced to fixed-term imprisonment of not more than three years or criminal detention. If the offender misappropriates a huge amount of funds of his unit, or fails to return them though the amount involved is relatively huge, he shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years.

If anyone from the staff of a state-owned company, enterprise or other unit who performs public service or from the persons who are appointed and sent by a state-owned company, enterprise or other unit to a non-state-owned company, enterprise or other unit to perform public service commits an act mentioned in the preceding paragraph shall be decided a crime and punished according to the provisions of Article 384 of this Law.

**Article 273** Anyone directly responsible for the act of misappropriation

of funds or articles which are allocated for disaster relief, emergencies, flood-control, care to disabled servicemen and families of revolutionary martyrs and servicemen, care to the poor, resettlement of residents or social relief shall, if the circumstances are serious and major harm to the interests of the state and the people has resulted, be sentenced to fixed-term imprisonment of not more than three years or criminal detention. If the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

**Article 274** Whoever extorts money or other public or private property by blackmail shall, if the amount involved is relatively huge, be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance. If the amount involved is huge or other serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years.

**Article 275** Whoever intentionally destroys public or private property shall, if the amount involved is relatively huge or other serious circumstances exist, be sentenced to fixed-term imprisonment of not more than three years, criminal detention or a fine. If the amount involved is huge or other especially serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

**Article 276** Whoever, for purpose of retaliation or from spite or other personal motives, destroys machinery or equipment, cruelly injures or slaughters draught animals or uses other means to sabotage production or business operations, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

Chapter VI Crimes of Obstructing the Administration of Public Order

#### Section 1 Crimes of Disturbing the Public Order

**Article 277** Whoever, by means of force or threat, obstructs a state functionary from carrying out his functions according to law shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or a fine.

Whoever, by means of force or threat, obstructs a representative of the National People's Congress or local people's congresses at various levels from carrying out his functions according to law shall be punished according to the provisions of the preceding paragraph.

Whoever, during a natural disaster or unexpected incident, by means of force or threat, obstructs any person from the staff of the Red Cross from carrying out his functions according to law shall be punished according to the provisions of the first paragraph.

Whoever intentionally obstructs a state security organ or a public security organ from carrying out the tasks of state security without resorting to force or threat shall, if serious consequences are caused, be punished

according to the provisions of the first paragraph.

**Article 278** Whoever incites the masses to resist enforcement of state's laws or administrative regulations shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights. If serious consequences are caused, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

**Article 279** Whoever poses as a state functionary in order to practise fraud shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years.

Whoever poses as a people's policeman in order to practise fraud shall be given a heavier punishment according to the provisions of the preceding paragraph.

**Article 280** Whoever forges, alters, buys or sells, steals, forcibly seizes or destroys the official documents, certificates or seals of a state organ shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years.

Whoever forges seals of a company, enterprise, institution, or people's organization shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights.

Whoever forges or alters identity cards of residents shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

**Article 281** Whoever illegally produces, buys or sells uniforms for the people's police, licence plates for police vehicles or other special-use signs or police equipment shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently or independently be sentenced to a fine.

If a unit commits a crime mentioned in the preceding paragraph, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be punished according to the provisions of the preceding paragraph.

**Article 282** Whoever, by means of stealing, prying or buying, obtains illegally state secrets shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or

deprivation of political rights. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

Whoever illegally holds documents, materials or other articles involving state most confidential or classified information and refuses to explain their sources and uses shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance.

**Article 283** Whoever illegally produces or sells spy apparatus for special use of wiretapping or photographing secretly shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance.

**Article 284** Whoever illegally uses apparatus for special use of wiretapping or photographing secretly shall, if serious consequences are caused, be sentenced to fixed-term imprisonment of not more than two years, criminal detention or public surveillance.

**Article 285** Whoever, in violation of state's stipulations, invades a computer information system involving the fields of state affairs, national defence construction or most advanced science and technology shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

**Article 286** Whoever, in violation of state's stipulations, deletes, amends, adds or disturbs functions of a computer information system and causes the computer information system's inability to work normally shall, if serious consequences exist, be sentenced to fixed-term imprisonment of not more than five years or criminal detention. If especially serious consequences exist, the offender shall be sentenced to fixed-term imprisonment of not less than five years.

Whoever, in violation of state's stipulations, conducts operations of deletion, amendment or addition towards data or application programmes which are stored, disposed of or transmitted in a computer information system shall, if serious consequences exist, be punished according to the provisions of the preceding paragraph.

Whoever intentionally makes or disseminates computer virus or other destructive programmes and affects the normal operation of a computer information system shall, if serious consequences exist, be punished according to the provisions of the first paragraph.

**Article 287** Whoever uses a computer to practise a financial fraud, theft, embezzlement, misappropriation of public money, to steal state secrets or to commit other crimes shall be decided a crime and punished according to the relevant provisions of this Law.

**Article 288** Whoever, in violation of state's stipulations, without authorization establishes or uses a wireless radio station, or without authorization occupies frequency and refuses to stop his act after being ordered to stop and disturbs the normal operation of wireless communication shall, if serious consequences are caused, be sentenced to fixed-term

imprisonment of not more than three years, criminal detention or public surveillance, and concurrently or independently be sentenced to a fine.

If a unit commits a crime mentioned in the preceding paragraph, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be punished according to the provisions of the preceding paragraph.

**Article 289** Whoever gathers a crowd for "beating, smashing and looting" and causes deformity or death to another person shall be decided a crime and punished according to the provisions of Article 234 or Article 232 of this Law. If articles of public or private property are destroyed or forcibly taken, the ringleaders shall be decided a crime and punished according to the provisions of Article 263 of this Law, in addition to being ordered to provide restitution or compensation.

**Article 290** Where an assembled crowd disturbs public order, if the circumstances are so serious that work, production, business, education or scientific research cannot be conducted and serious losses are caused, the ringleaders shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years, other active participants shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights.

Where an assembled crowd assaults state organs and makes it impossible for the organs to conduct their work and serious losses are caused, the ringleaders shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years; other active participants shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention, public surveillance or deprivation of political rights.

**Article 291** Where an assembled crowd disturbs order at stations, wharves, civil airports, marketplaces, public parks, theatres, cinemas, exhibition halls, sports grounds or other public places, or an assembled crowd blocks traffic or undermines traffic order or resists or obstructs public security administration personnel of the state from carrying out their duties according to law, if the circumstances are serious, the ringleaders shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention or public surveillance.

**Article 292** Where an assembled crowd engages in affrays, the ringleaders and other active participants shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance. If any of the following acts exists, the ringleaders and other active participants shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years:

- (1) gathering a crowd to engage in affrays for several times;
- (2) gathering a crowd to engage in affrays involving many persons and on large scale and causing a flagrant social influence;
- (3) in public places or on main traffic roads, gathering a crowd to engage in affrays and causing a serious disturbance of social order; or

(4) gathering a crowd to engage in affrays with weapons.

Whoever gathers a crowd to engage in affrays and causes serious injury or death to another person shall be decided a crime and punished according to the provisions of Article 234 or Article 232 of this Law.

**Article 293** Whoever commits any of the following acts of creating disturbance and undermines social order shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention or public surveillance:

(1) beating another person at will and with flagrant circumstances;

(2) pursuing, intercepting or abusing another person with flagrant circumstances;

(3) extorting forcibly or at will, destroying or possessing and using public or private property with serious circumstances; or

(4) in public places, booing and hooting and making trouble and causing serious disturbance of public places.

**Article 294** Whoever organizes, leads and actively participates in an organization of criminal syndicate which conducts an organized activities of offences or crimes by violence, threat or other means, plays the tyrant in a locality, perpetrates all kinds of evils, bullies and oppresses or cruelly injures or kills common people, and seriously undermines the economic and social order shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years, other participants shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights.

Whoever from the staff of an organization of criminal syndicate abroad comes to the People's Republic of China to absorb members for his organization shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years.

Whoever commits any crime mentioned in the preceding two paragraphs and commits another crime shall be punished according to the provisions of combined punishment for several crimes.

Whoever from the staff of state organs protects an organization with characters of criminal syndicate or connives at such an organization's committing activities of offences or crimes shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or deprivation of political rights; if the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years.

**Article 295** Whoever passes on means of crime shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention or public surveillance. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years. If the circumstances are especially serious, the offender shall be sentenced to

life imprisonment or death.

**Article 296** In a case where no application has been made for an assembly, a procession or a demonstration according to law or no permission for the application has been granted or where it is conducted not in accordance with the starting and finishing time, places and routes permitted by the competent authorities, while the order of dismissal is disobeyed and public order seriously undermined, persons in charge of the assembly, procession or demonstration and other persons directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention, public surveillance or deprivation of political rights.

**Article 297** Whoever, in violation of the provisions of law, participates in an assembly, a procession or a demonstration carrying weapons, controlled cutting tools or explosives shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention public surveillance or deprivation of political rights.

**Article 298** Whoever disturbs, breaks into or undermines by other means an assembly, a procession or a demonstration held in accordance with law and causes disturbance of public order shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention, public surveillance or deprivation of political rights.

**Article 299** Whoever desecrates the National Flag or the National Emblem of the People's Republic of China by publicly and wilfully burning, mutilating, scrawling on, defiling, or trampling upon it shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights.

**Article 300** Whoever organizes or uses superstitious sects or secret societies or evil religious organizations, or uses feudal superstition to undermine enforcement of the state's laws or administrative regulations shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years. If the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than seven years.

Whoever organizes or uses superstitious sects or secret societies or evil religious organizations, or uses feudal superstition to deceive another person and causes death of the person shall be punished according to the provisions of the preceding paragraph.

Whoever organizes or uses superstitious sects or secret societies or evil religious organizations, or uses feudal superstition to rape a woman or defraud property shall be decided a crime and punished respectively according to the provisions of Article 236 and Article 266 of this Law.

**Article 301** Where an assembled crowd commits licentious activities, the ringleaders or other persons who participate for several times shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention or public surveillance.

Whoever lures a minor to join a crowd engaging in licentious activities shall be given a heavier punishment according to the provisions of the preceding paragraph.

**Article 302** Whoever steals or insults a corpse shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance.

**Article 303** Whoever, for the purpose of profit, assembles a crowd to engage in gambling, establishes a place for gambling or makes gambling his profession shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently be sentenced to a fine.

**Article 304** Any postal worker who neglects his duty seriously and delays intentionally delivery of mails shall, if the offence causes heavy losses to public property and the interests of the state or the people, be sentenced to fixed-term imprisonment of not more than two years or criminal detention.

## Section 2 Crimes of Impairing Judicial Activities

**Article 305** If, in the course of criminal procedures, any witness, expert witness, recorder or interpreter intentionally gives false evidence or makes a false expert evaluation, record or translation concerning circumstances that bear an important relation to a case, in order to frame another person or conceal criminal evidence, he shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

**Article 306** If, in the course of criminal procedures, any defender or agent ad litem destroys or forges evidence, assists the party concerned in destroying or forging evidence, threatens or lures witnesses to, contrary to the facts, change testimony or provide false evidence, he shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

Where the testimony or other evidence provided, produced or cited by a defender or an agent ad litem is substantiated but not forged intentionally, such a case shall not be deemed as a crime of forgery of evidence.

**Article 307** Whoever, by violence, threat, bribe or other means, hinders a witness from providing evidence or incites another person to provide false evidence shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

Whoever assists a party concerned to destroy or forge evidence shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years or criminal detention.



Any judicial functionary who commits a crime mentioned in the preceding two paragraphs shall be given a heavier punishment.

**Article 308** Whoever carries on retaliatory attacks against a witness shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

**Article 309** Whoever gathers a crowd to make trouble in or assault a tribunal or beats a judicial functionary, disturbs seriously the order of tribunal, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or a fine.

**Article 310** Whoever, while clearly knowing that another person has committed a crime, provides a concealed place or property for him, assists him in fleeing or provides false evidence to protect him shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance; if the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years.

Conspirators to a crime mentioned in the preceding paragraph shall be punished as for a joint crime.

**Article 311** Whoever, while clearly knowing that another person has committed a crime of espionage, and when a state security organ inquires him about relevant circumstances and collects relevant evidence from him, refuses to provide them shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance.

**Article 312** Whoever, while clearly knowing that it is booty obtained through a crime, conceals, transfers, purchases or sells it for the criminal shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently or independently be sentenced to a fine.

**Article 313** Whoever refuses to carry out legally effective judgments or orders of people's courts while he has ability to do so shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years, criminal detention or a fine.

**Article 314** Whoever conceals, transfers, sells or intentionally destroys the property that has been sealed up, distrained or frozen by a judicial organ shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years, criminal detention or a fine.

**Article 315** Any criminal who commits any of the following acts of undermining the supervising and administering order after being held in custody according to law shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years:

- (1) beating the persons in charge of supervision and administration;

(2) organizing other persons under supervision and administration to undermine order of supervision and administration;

(3) gathering a crowd to make trouble, disturbing the normal order of supervision and administration; or

(4) beating or corporally punishing, or inciting another person to beat or corporally punish other prisoners or internees.

**Article 316** Any criminal, defendant or suspect for a crime who escapes after being held in custody according to law shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

Whoever seizes by force a criminal, defendant or suspect for a crime who is escorted on the way shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years; if the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than seven years.

**Article 317** Any ringleader who organizes others to flee from a prison or any active participant shall be sentenced to fixed-term imprisonment of not less than five years, and other participants shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

Any ringleader who flees from a prison by insurrection or raids a prison by means of gathering a crowd and holding tools or any active participant shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment; if the circumstances are especially serious, the offender shall be sentenced to death; other participants shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years.

### Section 3 Crimes of Impairing Regulations of National Boundary (Borderline)

**Article 318** Whoever organizes other persons to secretly cross the national boundary (borderline) shall be sentenced to fixed-term imprisonment of not less than two years and not more than seven years, and concurrently be sentenced to a fine. If anyone commits any of the following acts, he shall be sentenced to fixed-term imprisonment of not less than seven years or life imprisonment, and concurrently be sentenced to a fine or confiscation of property:

(1) being a ringleader of a group which organizes other persons to secretly cross the national boundary (borderline);

(2) organizing other persons to secretly cross the national boundary (borderline) for many times or organizing many persons to secretly cross the national boundary (borderline);

(3) causing severe bodily injury or death to the organized persons;

(4) depriving or limiting the organized persons' personal freedom;

(5) resisting the inspection by means of force or threat;

(6) getting a huge amount of illegal income; or

(7) having other especially serious circumstances.

Whoever commits a crime mentioned in the preceding paragraph and commits other criminal acts of killing, injuring, raping or selling the organized persons, or killing or injuring the inspectors shall be punished according to the provisions of combined punishment for several crimes.

**Article 319** Whoever, in the name of labour export, foreign trade or others, deceptively gets passports, visas or other exit certificates for the use of organizing other persons to secretly cross the national boundary (borderline) shall be sentenced to fixed-term imprisonment of not more than three years and concurrently be sentenced to a fine; if the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years and concurrently be sentenced to a fine.

If a unit commits a crime mentioned in the preceding paragraph, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be punished according to the provisions of the preceding paragraph.

**Article 320** Whoever provides other persons with forged or altered passports, visas or other exit and entry certificates, or sells passports, visas or other exit and entry certificates shall be sentenced to fixed-term imprisonment of not more than five years and concurrently be sentenced to a fine; if the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years and concurrently be sentenced to a fine.

**Article 321** Whoever transports other persons to secretly cross the national boundary (borderline) shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention or public surveillance, and concurrently be sentenced to a fine. If anyone commits any of the following acts, he shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years, and concurrently be sentenced to a fine:

(1) transporting other persons for many times or transporting many persons;

(2) using vessels, vehicles and other traffic means which are lack of necessary safe conditions and it is sufficient to cause severe consequences;

(3) getting a huge amount of illegal income; or

(4) having other especially serious circumstances.

Whoever causes severe bodily injury or death to the transported person during the transportation, or resists the inspection by means of violence or threat shall be sentenced to fixed-term imprisonment of not less than seven years and concurrently be sentenced to a fine.

Whoever commits any crime mentioned in the preceding two paragraphs and commits other criminal acts of killing, injuring, raping or selling the transported persons or killing or injuring the inspectors shall be punished according to the provisions of combined punishment for several crimes.

**Article 322** Whoever, in violation of laws and regulations of national boundary (borderline), secretly crosses the national boundary (borderline) shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than one year, criminal detention or public surveillance, and concurrently be sentenced to a fine.

**Article 323** Whoever intentionally damages the boundary tablets, boundary markers or permanent survey indicators along the national border shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

#### Section 4 Crimes of Impairing Regulations of Cultural Relics

**Article 324** Whoever intentionally damages precious cultural relics under state protection or cultural relics of the designated major sites to be protected at the national level or of sites to be protected for their historical and cultural value at the level of province shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine; if the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years and concurrently be sentenced to a fine.

Whoever intentionally damages historic sites or scenic spots under state protection shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and concurrently or independently be sentenced to a fine.

Whoever negligently damages precious cultural relics under state protection or cultural relics of the designated major sites to be protected at the national level or of sites to be protected for their historical and cultural value at the level of province shall, if serious consequences have resulted, be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

**Article 325** Whoever, in violation of laws and administrative regulations on protection of cultural relics, sells or denotes without authorization to foreigners precious cultural relics in his collection which are forbidden by the state from being exported shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and may concurrently be sentenced to a fine.

If a unit commits a crime mentioned in the preceding paragraph, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be punished according to the provisions of the preceding paragraph.

**Article 326** Whoever, for the purpose of profit, resells the cultural relics which are forbidden by the state from being sold or bought shall,

if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than five years or criminal detention and concurrently be sentenced to a fine; if the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years and concurrently be sentenced to a fine.

If a unit commits a crime mentioned in the preceding paragraph, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be punished according to the provisions of the preceding paragraph.

**Article 327** Where a state-owned museum, library or other unit, in violation of laws or administrative regulations on protection of cultural relics, sells or denotes without authorization cultural relics in collections protected by the state to a non-state-owned unit or an individual, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

**Article 328** Whoever excavates and robs a site of ancient culture or ancient tomb of historical, artistic or scientific value shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years and concurrently be sentenced to a fine; if the circumstances are relatively minor, the offender shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently be sentenced to a fine. If anyone commits any of the following acts, he shall be sentenced to fixed-term imprisonment of not less than ten years, life imprisonment or death, and concurrently be sentenced to a fine or confiscation of property:

(1) excavating and robbing a site of ancient culture or ancient tomb which is designated as major sites to protected for their historical and cultural value at the national level or at the provincial level;

(2) being the ringleader of a gang engaged in excavating and robbing sites of ancient culture or ancient tombs;

(3) excavating and robbing sites of ancient culture or ancient tombs for many times; or

? (4) excavating a site of ancient culture or ancient tomb and robbing valuable cultural relics therein, or causing serious damage to valuable cultural relics therein.

Whoever excavates and robs fossils of ancient human being or ancient spined animals of scientific value shall be punished according to the provisions of the preceding paragraph.

**Article 329** Whoever seizes forcibly or steals state-owned archives shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

Whoever, in violation of the provisions of the Archives Law, sells or transfers without authorization state-owned archives shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more

than three years or criminal detention.

If anyone commits an act mentioned in the preceding two paragraphs and the act concurrently constitutes another crime mentioned in this Law, he shall be punished according to the provisions with a heavier punishment.

## Section 5 Crimes of Endangering Public Health

**Article 330** Whoever, in violation of the provisions of the Law on the Prevention and Treatment of Infectious Diseases, commits any of the following acts and causes the spread or a great risk of the spread of an A Class infectious disease shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the consequences are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years:

(1) failure on the part of a water supply unit to conform to the hygienic standards for drinking water set by the state;

(2) refusal to give disinfection treatment, according to the sanitary requirements proposed by a health and anti-epidemic agency, to sewage, wastes and feces contaminated with the pathogen of infectious diseases;

(3) approving or conniving at the taking of jobs by patients of infectious diseases, pathogen carriers or suspected patients of infectious diseases which they are prohibited from doing by the health administrative department under the State Council because of the likelihood of causing a spread of infectious diseases; or

(4) refusal to execute preventive and control measures proposed by a health and anti-epidemic agency according to the Law on Prevention and Treatment of Infectious Diseases.

If a unit commits any crime mentioned in the preceding paragraph, the unit shall be sentenced to a fine, and the persons directly in charge and other persons directly responsible for the crime shall be punished according to the provisions of the preceding paragraph.

The range of A Class infectious diseases shall be defined according to the Law of People's Republic of China on Prevention and Treatment of Infectious Diseases and relevant provisions of the State Council.

**Article 331** Any person engaged in the experimentation, storage, carrying or transportation of bacterial strains and virus strains of infectious diseases who, in violation of the relevant provisions of the health administrative department under the State Council, causes a spread of the bacterial strains or virus strains of an infectious disease shall, if serious consequences have resulted, be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the consequences are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

**Article 332** Whoever, in violation of the provisions on frontier health and quarantine, causes the spread or a great risk of the spread of a

quarantinable infectious disease shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine.

If a unit commits any crime mentioned in the preceding paragraph, the unit shall be sentenced to a fine, and the persons directly in charge and other persons directly responsible for the crime shall be punished according to the provisions of the preceding paragraph.

**Article 333** Whoever organizes illegally other persons to sell blood shall be sentenced to fixed-term imprisonment of not more than five years and concurrently be sentenced to a fine. Anyone who forces other persons by means of violence or threat to sell blood shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years, and concurrently be sentenced to a fine.

Whoever commits any crime mentioned in the preceding paragraph and causes injury to others shall be decided a crime and punished according to the provisions of Article 234 of this Law.

**Article 334** Whoever illegally collects or provides blood or, makes or provides blood product that does not conform to the standard set by the state and is definitely harmful to human health shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and concurrently be sentenced to a fine; if great harm to human health has been caused, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years and concurrently be sentenced to a fine; if the consequences are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and concurrently be sentenced to a fine or confiscation of property.

If a unit who collects or provides blood or makes or provides blood product upon approval by the state's competent department does not conduct examinations according to provisions or violates other operational provisions, and thereby causes consequences of endangering another person's health, the unit shall be sentenced to a fine, and the persons directly in charge and other persons directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

**Article 335** Whoever from the medical staff, because of serious negligence of his duties, causes death or serious damage to the person who goes to see him shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

**Article 336** Anyone who illegally makes a diagnosis or gives treatment without a qualification for a doctor shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently or independently be sentenced to a fine. If great injury has been caused to the patients' health, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years and concurrently be sentenced to a fine. If he causes the patients' death, he shall be sentenced to fixed-term

imprisonment of not less than ten years and concurrently be sentenced to a fine.

Anyone who, without a qualification for a doctor and without authorization, conducts an operation of restoring oviduct or spermatic duct after birth control measures have been taken, an operation of false birth control or an operation of ending gestation or, takes off utensils of birth control in the womb shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently or independently be sentenced to a fine. If he does great injury to the patient's physical health, he shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years and concurrently be sentenced to a fine. If he causes the patients' death, he shall be sentenced to fixed-term imprisonment of not less than ten years and concurrently be sentenced to a fine.

**Article 337** Whoever, in violation of the provisions of the Law on the Entry and Exit Animal and Plant Quarantine, escapes from animal and plant quarantine and thereby causes epidemic situations of animal and plant shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine.

If a unit commits the crime mentioned in the preceding paragraph, the unit shall be sentenced to a fine, and the persons directly in charge and other persons directly responsible for the crime shall be punished according to the provisions of the preceding paragraph.

## Section 6 Crimes of Undermining Protection of Environmental Resources

**Article 338** Whoever, in violation of the state's stipulations, discharges, dumps or disposes radioactive wastes, wastes of carrying infectious pathogens, poisonous substances or other dangerous substances to land, water or air, and causes a serious accident of environmental pollution shall, if the offence causes serious consequences of great losses of public or private property or bodily injury or death of another person, be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine; if the consequences are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years, and concurrently be sentenced to a fine.

**Article 339** Whoever, in violation of the state's stipulations, dumps, piles up or disposes solid wastes abroad inside China shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention and concurrently be sentenced to a fine. If the offence causes a serious environmental pollution accident and heavy losses to public or personal property or does great injury to people's health, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years and concurrently be sentenced to a fine. If the consequences are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than ten years and concurrently be sentenced to a fine.

Whoever takes the liberty to import solid wastes as raw materials without



approval by relevant departments under the State Council and causes a serious environmental pollution accident shall, if the offence causes heavy losses to public or personal property or causes great injury to people's physical health, be sentenced to fixed-term imprisonment of not more than five years or criminal detention and concurrently be sentenced to a fine; if the consequences are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years and concurrently be sentenced to a fine.

Whoever in the name of utilizing raw materials imports solid wastes that cannot be utilized as raw materials shall be deemed a crime and punished according to the provisions of Article 155 of this law.

**Article 340** Whoever, in violation of laws or administrative regulations on the protection of aquatic resources, fishes for aquatic products in an area where fishing is prohibited, during a period when fishing is prohibited or using implements or methods that are prohibited shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or a fine.

**Article 341** Whoever illegally catches or kills the species of wildlife under special state protection which are rare or near extinction, or illegally purchases, transports or sells the species of wildlife under special state protection which are rare or near extinction and their products shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention and concurrently be sentenced to a fine; if the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years and concurrently be sentenced to a fine; if the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than ten years and concurrently be sentenced to a fine or confiscation of property.

Whoever, in violation of game laws or regulations, hunts in a game reserve, during a period when hunting is prohibited or using implements or methods that are prohibited, thereby damaging wildlife resources shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or a fine.

**Article 342** Whoever, in violation of laws or regulations on land administration, illegally occupies cultivated land and uses it for other purpose shall, if the amount involved is relatively huge and the offence causes serious damage to a large amount of cultivated land, be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and concurrently or independently be sentenced to a fine.

**Article 343** Whoever, in violation of the provisions of the Mineral Resources Law, mines without a mining licence, enters without authorization and mines in mining areas that the state has planned to develop, in mining areas with ores of significant value to the national economy, or in other's mining areas, or exploits special kinds of minerals that the state has prescribed for protective exploitation, and refuses to stop mining after he is ordered to do so shall, if the offence causes damage to mineral resources, be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently or independently be

sentenced to a fine. If the offence causes serious damage to mineral resources, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years and concurrently be sentenced to a fine.

Whoever, in violation of the provisions of the Mineral Resources Law, exploits mineral resources in a destructive way and causes heavy damage to mineral resources shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and concurrently be sentenced to a fine.

**Article 344** Whoever, in violation of the provisions of the Forestry Law, illegally cuts down or destroys rare and precious trees shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently be sentenced to a fine; if the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years, and concurrently be sentenced to a fine.

**Article 345** Whoever illegally cuts down trees, bamboo, etc. shall, if the amount involved is relatively huge, be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently or independently be sentenced to a fine; if the amount involved is huge, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years, and concurrently be sentenced to a fine; if the amount involved is especially huge, the offender shall be sentenced to fixed-term imprisonment of not less than seven years and concurrently be sentenced to a fine.

Whoever, in violation of the provisions of the Forestry Law, denudes forests or other woodlands shall, if the amount involved is relatively huge, be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently or independently be sentenced to a fine; if the amount involved is huge, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years, and concurrently be sentenced to a fine.

Whoever, for the purpose of profit, illegally purchases forest trees which are clearly known by him to be cut down or denuded in forest areas shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently or independently be sentenced to a fine; if the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years and concurrently be sentenced to a fine.

Whoever illegally cuts down or denudes forests or other woodlands in the nature reservation regions at the national level shall be given a heavier punishment.

**Article 346** If a unit commits any crime mentioned in the provisions from Article 338 to Article 345 of this Section, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be punished according to the provisions of respective articles of this Section.

## Section 7 Crimes of Smuggling, Trafficking in, Transporting and Manufacturing Narcotic Drugs

**Article 347** Whoever smuggles, traffics in, transports or manufactures narcotic drugs, regardless of how much the quantity is, shall be investigated for criminal responsibility and given criminal punishment.

Whoever smuggles, traffics in, transports or manufactures narcotic drugs, and commits any of the following acts shall be sentenced to fixed-term imprisonment of fifteen years, life imprisonment or death, and concurrently be sentenced to confiscation of property:

(1) smuggling, trafficking in, transporting or manufacturing opium of not less than 1,000 grams, or heroin or methyl benzedrine of not less than 50 grams or other narcotic drugs of large quantities;

(2) being ringleaders of gangs engaged in smuggling, trafficking in, transporting or manufacturing of narcotic drugs;

(3) shielding with arms the smuggling, trafficking in, transporting or manufacturing of narcotic drugs;

(4) violently resisting inspection, detention or arrest with serious circumstances; or

(5) involved in organized international drug trafficking.

Whoever smuggles, traffics in, transports or manufactures opium in a quantity of not less than 200 grams and not more than 1,000 grams, or heroin or methyl benzedrine of not less than 10 grams and not more than 50 grams or other narcotic drugs of relatively huge quantities shall be sentenced to fixed-term of imprisonment of not less than seven years and concurrently be sentenced to a fine.

Whoever smuggles, traffics in, transports or manufactures opium of not more than 200 grams, or heroin or methyl benzedrine of not more than 10 grams or other narcotic drugs of small quantities shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently be sentenced to a fine; if the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years and concurrently be sentenced to a fine.

If a unit commits any crime mentioned in the second, third or fourth paragraph, the unit shall be sentenced to a fine, and the persons directly in charge and other persons directly responsible for the crime shall be punished according to respective provisions in the preceding paragraphs.

Whoever makes use of minors or aids and abets them to smuggle, traffic in, transport or manufacture narcotic drugs, or sells narcotic drugs to them shall be given a heavier punishment.

With respect to persons who have smuggled, trafficked in, transported or manufactured narcotic drugs for many times and have not been dealt with, the

quantity of narcotic drugs thus involved shall be computed accumulatively.

**Article 348** Whoever illegally possesses opium of not less than 1,000 grams, or heroin or methyl benzedrine of not less than 50 grams, or any other narcotic drugs of large quantities shall be sentenced to fixed-term imprisonment of not less than seven years or life imprisonment, and concurrently be sentenced to a fine. Whoever illegally possesses opium of not less than 200 grams but not more than 1,000 grams, or heroin or methyl benzedrine of not less than 10 grams but not more than 50 grams, or any other narcotic drugs of relatively large quantities shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently be sentenced to a fine. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years and concurrently be sentenced to a fine.

**Article 349** Whoever shields offenders engaged in smuggling, trafficking in, transporting or manufacturing narcotic drugs, or whoever harbours, transfers or covers up, for such offenders, narcotic drugs or their pecuniary and other gains from such criminal activities, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance; if the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years.

Any anti-narcotic drugs personnel or other state functionary who screens or shields offenders engaged in smuggling, trafficking in, transporting or manufacturing narcotic drugs shall be given a heavier punishment according to the provisions in the preceding paragraph.

Conspirators to a crime mentioned in the preceding two paragraphs shall be punished as for a joint crime of smuggling, trafficking in, transporting or manufacturing of narcotic drugs.

**Article 350** Whoever, in violation of the state's stipulations, illegally transports or carries acetic oxide, ether, chloroform or other substances that are usually used as materials or burden in the manufacture of narcotic drugs into or out of China, or whoever, in violation of the state's stipulations, illegally traffics in such substances in China, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently be sentenced to a fine; if the quantities are huge, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years, and concurrently be sentenced to a fine.

Whoever provides other persons with substances mentioned in the preceding paragraph, while knowing that those persons manufacture narcotic drugs, shall be deemed as an accomplice in the crime of manufacturing narcotic drugs and punished as such.

If a unit commits a crime mentioned in the preceding two paragraphs, the unit shall be sentenced to a fine, and the persons directly in charge and other persons directly responsible for the crime shall be punished according to the provisions in the preceding two paragraphs.

**Article 351** Whoever illegally cultivates mother plants of narcotic drugs, such as opium poppy and marijuana, shall be forced to uproot them. Whoever commits any of the following acts shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention or public surveillance, and concurrently be sentenced to a fine:

(1) cultivating opium poppy of not less than 500 plants but not more than 3,000 plants or any mother plants of other narcotic drugs in relatively large quantities;

(2) cultivating any mother plant of narcotic drugs again after being dealt with by the public security organ; or

(3) resisting the uprooting of such mother plants.

Whoever illegally cultivates opium poppy of not less than 3,000 plants or any mother plants of other narcotic drugs in large quantities shall be sentenced to fixed-term imprisonment of not less than five years, and concurrently be sentenced to a fine or confiscation of property.

Persons illegally cultivating opium poppy or any mother plants of other narcotic drugs who voluntarily uproot them before harvest may be exempted from punishment.

**Article 352** Whoever illegally traffics in, transports, carries or holds seeds or seedlings of mother plants of opium poppy or other narcotic drugs which have not been destroyed to death shall, if the quantities are relatively huge, be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently or independently be sentenced to a fine.

**Article 353** Whoever lures, aids and abets, or cheats others into drug ingestion or injection shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently be sentenced to a fine; if the circumstance are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years, and concurrently be sentenced to a fine.

Whoever forces others to ingest or inject narcotic drugs shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years and concurrently be sentenced to a fine.

Whoever lures, aids and abets, cheats or forces minors into ingesting or injecting narcotic drugs shall be given a heavier punishment.

**Article 354** Whoever provides shelter for others to ingest or inject narcotic drugs shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently be sentenced to a fine.

**Article 355** Persons who are allowed by law to engage in manufacture, transportation, administration or utilization of state-controlled narcotics and psychotropic substances and who, in violation of relevant regulations of the state, provide such substances which may lead to people's addiction to

persons who ingest or inject narcotic drugs shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently be sentenced to a fine; if the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years, and concurrently be sentenced to a fine. Persons who provide such substances which may lead to people's addiction to drug smugglers or traffickers, or, for the purpose of profit, to persons who ingest or inject narcotic drugs shall be decided a crime and punished according to the provisions of Article 347 of this Law.

If a unit commits any crime mentioned in the preceding paragraph, the unit shall be sentenced to a fine, and the persons directly in charge and other persons directly responsible for the crime shall be punished according to the provisions of the preceding paragraph.

**Article 356** Whoever has ever been sentenced for crimes of smuggling, trafficking in, transporting, manufacturing or possessing illegally narcotic drugs, and also commits a crime mentioned in this Section, shall be given a heavier punishment.

**Article 357** "Narcotic drugs" mentioned in this Law refers to opium, heroin, methyl benzedrine, morphine, marijuana, cocaine and other narcotics and psychotropic substances that are liable to make people addicted to their use and that are controlled by relevant regulations of the state.

The amount of narcotic drugs shall be computed according to the amount of smuggled, trafficked in, transported, manufactured or illegally held narcotic drugs which are verified, and not be decided according to their degree of purity.

#### Section 8 Crimes of Organizing, Forcing, Luring, Sheltering and Introducing Women into Prostitution

**Article 358** Whoever organizes or forces any other person or persons to engage in prostitution shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years, and concurrently be sentenced to a fine. Whoever commits any of the following acts shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and concurrently be sentenced to a fine or confiscation of property:

? (1) organizing other person(s) to engage in prostitution and the circumstances being serious;

(2) forcing a girl under the age of 14 to engage in prostitution;

(3) forcing many persons to engage in prostitution or forcing any other person to engage in prostitution for many times;

(4) forcing the victim to engage in prostitution after raping her; or

(5) causing serious bodily injury or death to the person being forced to engage in prostitution or causing other severe consequences.

Whoever commits any of the acts mentioned in the preceding paragraph, if

the circumstances are especially serious, shall be sentenced to life imprisonment or death, and concurrently be sentenced to confiscation of property.

Whoever assists in organizing another person to engage in prostitution shall be sentenced to fixed-term imprisonment of not more than five years and concurrently be sentenced to a fine; if the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years, and concurrently be sentenced to a fine.

**Article 359** Whoever lures, shelters or procures any other person or persons to engage in prostitution shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention or public surveillance, and concurrently be sentenced to a fine; if the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years and concurrently be sentenced to a fine.

Whoever lures a girl under the age of 14 to engage in prostitution shall be sentenced to fixed-term imprisonment of not less than five years and concurrently be sentenced to a fine.

**Article 360** Whoever suffering from serious venereal diseases such as syphilis and gonorrhoea knowingly engages in prostitution or whoring shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention or public surveillance, and concurrently be sentenced to a fine.

Whoever whores with a girl under the age of 14 shall be sentenced to fixed-term imprisonment of not less than five years and concurrently be sentenced to a fine.

**Article 361** Any personnel of a unit in the trade of hotel, catering or entertainment, or in taxi service, who, by taking advantage of his work unit, organizes, forces, lures, shelters or procures any other person or persons to engage in prostitution, shall be decided a crime and punished according to the provisions of Article 358 or Article 359 of this Law.

If the persons in charge of the unit mentioned in the preceding paragraph commit crimes mentioned in the preceding paragraph, they shall be given a heavier punishment.

**Article 362** Where any leading personnel, staff member or worker of a unit in the trade of hotel, catering or entertainment, or in taxi service provides information for law-breaking offenders and criminals when the public security organ investigates or deals with activities of prostitution or whoring, he shall, if the circumstances are serious, be decided a crime and punished according to the provisions of Article 310 of this Law.

Section 9 Crimes of Manufacturing, Trafficking in and Disseminating Pornographic Articles

**Article 363** Whoever produces, duplicates, publishes, trafficking in or disseminates pornographic articles for the purpose of making profits shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently be sentenced

to a fine; if the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years, and concurrently be sentenced to a fine; if the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and concurrently be sentenced to a fine or confiscation of property.

Whoever provides book numbers for others to publish pornographic books and periodicals shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently or independently be sentenced to a fine. If anyone provides others with book numbers which he clearly knows to be used to publish pornographic books and periodicals, he shall be punished according to the provisions in the preceding paragraph.

**Article 364** Whoever disseminates in society pornographic books and periodicals, movies, video- and audio-tapes, pictures or any other pornographic articles shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than two years, criminal detention or public surveillance.

Whoever organizes shows of pornographic films or videos or other video- or audio-tapes shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently be sentenced to a fine; if the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years, and concurrently be sentenced to a fine.

Whoever manufactures or duplicates pornographic films or videos or other video- or audio-tapes and organizes shows of them shall be given a heavier punishment according to the provisions in the second paragraph.

Whoever disseminates pornographic articles to minors under the age of 18 shall be given a heavier punishment.

**Article 365** Whoever organizes a pornographic performance shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently be sentenced to a fine; if the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years, and concurrently be sentenced to a fine.

**Article 366** If a unit commits any crime mentioned in Article 363, Article 364 and Article 365 of this Section, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be punished according to respective provisions of these articles.

**Article 367** "Pornographic articles" mentioned in this Law refers to sex-propagating books or periodicals, films, video- or audio-tapes, pictures or other pornographic articles which concretely describe sexual acts or undisguisedly publicize sex.

Scientific works concerning physiology of human body or medical knowledge



shall not be pornographic articles.

Literary or artistic works of artistic value which contain contents of sex shall no been deemed as pornographic articles.

#### Chapter VII Crimes of Endangering Interests of National Defence

**Article 368** Whoever hinders, by means of violence or threat, servicemen from carrying out their duties according to law shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or a fine.

Whoever intentionally hinders the armed forces from taking an military act shall, if serious consequences have resulted, be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

**Article 369** Whoever damages weapons or equipment, military installations or military communications shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance. Whoever damages important weapons or equipment, military installations or military communications shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years. If the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than ten years, life imprisonment or death. Any person who commits such a crime during wartime shall be given a heavier punishment.

**Article 370** Whoever provides knowingly the armed forces with substandard weapons or equipment, or military installations shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years; if the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than ten years, life imprisonment or death.

Whoever negligently commits the crime mentioned in the preceding paragraph shall, if serious consequences have resulted, be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the consequences are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

If a unit commits the crime mentioned in the first paragraph, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be punished according to the provisions in the first paragraph.

**Article 371** Where an assembled crowd assaults a military forbidden region, and disturbs seriously order of the military forbidden region, the ringleaders shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years; other active participants shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention, public surveillance or deprivation of political rights.

Where an assembled crowd disturbs order of a military administrative region, and the circumstances are so serious that the work of the military

administrative region can not be done and great losses are caused, the ringleaders shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years; other active participants shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights.

**Article 372** Whoever passes himself off as a serviceman in order to practise fraud shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights; if the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years.

**Article 373** Whoever incites a serviceman to flee from the armed forces or employs knowingly the serviceman who fled from the armed forces shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance.

**Article 374** Whoever, in the work of conscription, engages in malpractice for the benefit of his friends and accepts or sends out substandard soldiers shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years or criminal detention. If especially serious consequences are caused, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

**Article 375** Whoever forges, alters, buys or sells, steals or forcibly seizes the official documents, certificates or seals of the armed forces shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

Whoever illegally produces or traffics in uniforms, number plates of vehicles and other signs for special use of the armed forces shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and concurrently or independently be sentenced to a fine.

If a unit commits a crime mentioned in the second paragraph, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be punished according to the provisions of the paragraph.

**Article 376** Whoever from the persons on reserve duty refuses or escapes from recruitment or training during wartime shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Any citizen who refuses to be on active service or escapes from being on active service shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than two years or criminal detention.

**Article 377** Whoever, during wartime, intentionally provides false enemy's

conditions shall, if serious consequences are caused, be sentenced to fixed-term imprisonment of not less than three years and not more than ten years. If especially serious consequences are caused, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment.

**Article 378** Whoever, during wartime, fabricates rumours to mislead others and undermines army morale shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years.

**Article 379** Whoever, during wartime, provides shelters or property for the servicemen who fled from the army while knowing that shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

**Article 380** Where any unit, during wartime, refuses or intentionally delays military orders of goods, and if the circumstances are serious, the unit involved shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention. If serious consequences are caused, the offender shall be sentenced to fixed-term imprisonment of not less than five years.

**Article 381** Whoever, during wartime, refuses military commandeering shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Chapter VIII Crimes of Embezzlement and Bribery

**Article 382** Any state functionary who, by taking advantage of his office, appropriates, steals, swindles, or otherwise illegally takes possession of public property shall be guilty of a crime of embezzlement.

Whoever from the persons who are appointed, by state organs, state-owned companies, enterprises, institutions or people's organizations, to administer or manage state-owned property takes advantage of his office to appropriate, steal, swindle, or otherwise illegally take possession of state-owned property shall be punished as a crime of embezzlement.

? Whoever conspires with the persons listed in the preceding two paragraphs to engage in embezzlement shall be punished as an accomplice in the crime.

**Article 383** Whoever commits the crime of embezzlement shall, in accordance with the seriousness of the circumstances, be respectively punished according to the following provisions:

(1) An individual who embezzles not less than 100,000 yuan shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and may concurrently be sentenced to confiscation of property. If the circumstances are especially serious, the offender shall be sentenced to death, and concurrently be sentenced to confiscation of property.

(2) An individual who embezzles not less than 50,000 yuan and not more

than 100,000 yuan shall be sentenced to fixed-term imprisonment of not less than five years, and may concurrently be sentenced to confiscation of property. If the circumstances are especially serious, the offender shall be sentenced to life imprisonment, and concurrently be sentenced to confiscation of property.

(3) An individual who embezzles not less than 5,000 yuan and not more than 50,000 yuan shall be sentenced to fixed-term imprisonment of not less than one year and not more than seven years. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than seven years and not more than ten years. An individual who embezzles not less than 5,000 yuan and not more than 10,000 yuan, and after committing the crime, shows signs of repentance and gives up the embezzled money of his own accord may be given a mitigated punishment or be exempted from criminal punishment, but shall be given a disciplinary sanction by his unit or competent authorities at higher level.

(4) An individual who embezzles not more than 5,000 yuan shall, if the circumstances are relatively serious, be sentenced to fixed-term imprisonment of not more than two years or criminal detention. If the circumstances are relatively minor, the offender shall be given a disciplinary sanction according to the circumstances by his unit or competent authorities at higher level.

Whoever repeatedly commits crimes of embezzlement and goes unpunished shall be punished according to the accumulated amount of money he has embezzled.

**Article 384** Any state functionary who takes advantage of his office to misappropriate public funds for his own use or for conducting illegal activities, or misappropriate a relatively large amount of public funds for conducting activities to reap profits, or misappropriate a relatively large amount of public funds and fail to return it after three months, shall be guilty of a crime of misappropriation of public funds, and shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years. If he misappropriates a large amount of public funds and fails to return it, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment.

Whoever misappropriates for his own use funds and materials allocated for disaster relief, emergency rescue, flood prevention and control, the care of disabled servicemen and the families of revolutionary martyrs and servicemen, the care of the poor, resettlement of residents or social relief shall be given a heavier punishment.

**Article 385** Any state functionary who, by taking advantage of his office, asks for other persons' property, or illegally accepts other persons' property and secures advantages for them, shall be guilty of a crime of acceptance of bribes.

Any state functionary who, in his economic activities, in violation of state's stipulations, accepts commissions and service charges offered in

various names for their own possession shall be punished for acceptance of bribes.

**Article 386** Whoever commits a crime of acceptance of bribes shall, in accordance with the amount of bribes and the seriousness of the circumstances, be punished according to the provisions of Article 383 of this Law. Whoever extorts bribery shall be given a heavier punishment.

**Article 387** Where any state organ, state-owned company or enterprise, institution or people's organization extorts or accepts illegally property from another person and seeks profits for the person, and if the circumstances are serious, the unit shall be sentenced to a fine, and the persons directly in charge and other persons directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

Any unit listed in the preceding paragraph which, in its economic activities, accepts secretly rebates or commissions in various names without entering into its account shall be deemed as acceptance of bribes, and punished according to the provisions of the preceding paragraph.

**Article 388** Any state functionary who, by taking advantage of his favorable conditions of his office or status, seeks unlawful profits for the entruster through the acts of office of another state functionary, and extorts or accepts the entruster's property shall be deemed as acceptance of bribes and punished as such.

**Article 389** Whoever, for the purpose of seeking unlawful profits, gives property to a state functionary shall be guilty of bribing.

Whoever, in economic activities, violating the state's stipulations, gives property of a large quantity or value to a state functionary or gives, in violation of the state's stipulations, commissions and service charges to a state functionary shall be punished for the crime of bribing.

Whoever being extorted gives property to a state functionary and gains no unlawful profits shall not be deemed to have bribed.

**Article 390** Whoever commits the crime of bribing shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention. Whoever seeks unlawful interests by bribing shall, if the circumstances are serious or heavy losses of the state's interests have been caused, be sentenced to fixed-term imprisonment of not less than five years and not more than ten years. If the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and may concurrently be sentenced to confiscation of property.

Those bribers who voluntarily confess their bribery before being prosecuted may be given a mitigated punishment or be exempted from punishment.

**Article 391** Whoever, for the purpose of seeking unlawful profits, gives property to a state organ, state-owned company or enterprise, an institution or a people's organization, or, in economic activities, violating the state's

stipulations, gives commissions and service charges offered in various names shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

If a unit commits a crime mentioned in the preceding paragraph, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be punished according to the provisions of the preceding paragraph.

**Article 392** Whoever introduces a bribe to a state functionary shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

The person who introduces a bribe shall, if he voluntarily confesses his activities before being prosecuted, be given a mitigated punishment or exempted from punishment.

**Article 393** If a unit, for the purpose of improper interests, offers a bribe or offers, in violation of the state's stipulations, commissions and service charges to a state functionary, and if the circumstances are serious, the unit shall be sentenced to a fine, and persons directly in charge and other persons directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention. If illegal gains are obtained by bribing and such gains are taken possession of by a person, the offender shall be decided a crime and punished according to the provisions of Article 389 or Article 390 of this Law.

**Article 394** Any state functionary who, in the domestic activities for public purpose or in their contact with foreigners, accepts gifts and does not hand them over to the state, if he is required to do so in accordance with the state's stipulations shall, if the amount involved is relatively huge, be decided a crime and punished according to the provisions of Article 382 or Article 383 of this Law.

**Article 395** Any state functionary whose property or expenditure apparently exceeds his lawful earnings may, if the difference is huge, be ordered to explain the sources of his property. If he can not explain the lawful sources of his property, the amount of property that exceeds his lawful earnings shall be treated as illegal gains, and he shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention, the property that exceeds his lawful earnings shall be taken over.

Any state functionary shall report to the state their bank savings in other countries according to the state's stipulations. Whoever has a relatively large amount of such savings and does not report them to the state shall be sentenced to fixed-term imprisonment of not more than two years or criminal detention. If the circumstances are relatively minor, the offender shall be given a disciplinary sanction according to the circumstances by his unit or competent authorities at higher level.

**Article 396** If a state organ, state-owned company or enterprise, institution or people's organization, in violation of the state's stipulations, distributes state-owned property collectively to individuals in the name of the unit, persons directly in charge and other persons directly

responsible for the crime shall, if the amount involved is relatively huge, be sentenced to fixed-term imprisonment of not more than three years or criminal detention, and concurrently or independently be sentenced to a fine. If the amount involved is huge, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years, and concurrently be sentenced to a fine.

Any judicial organ or administrative organ who, in violation of the state's stipulations, distributes collectively the confiscated property which shall be turned over to the state to individuals in the name of unit shall be punished according to the provisions of the preceding paragraph.

#### Chapter IX Crimes of Dereliction of Duty

**Article 397** Any state functionary who abuses his power of office or neglects his duties and causes heavy losses to public property or interests of the state or the people shall be sentenced to fixed-imprisonment of not more than three years or criminal detention. If the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years. Where this Law has other provisions, such provisions shall prevail.

Any state functionary who engages in malpractice for the benefit of his friends and commits a crime mentioned in the preceding paragraph shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention. If the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years. Where this Law has other provisions, such provisions shall prevail.

**Article 398** Any state functionary who, in violation of the provisions of the Law on Guarding State Secrets, indulges state secrets intentionally or negligently shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years or criminal detention. If the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

Any person other than a state functionary who commits a crime mentioned in the preceding paragraph shall be punished in accordance with the circumstances according to the provisions of the preceding paragraph.

**Article 399** Any judicial functionary who bends the law for the benefits of his own or bends the law for the benefits of his relatives or friends, and subjects to prosecution a person he clearly knows to be innocent and intentionally protects from prosecution a person he clearly knows to be guilty, or in the course of criminal trial, intentionally twists the law and makes judgments or orders which are contrary to the fact and law, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years. If the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than ten years.

Whoever, in the course of civil or administrative trial, intentionally

twists the law and makes judgments or orders which are contrary to the fact and law shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than five years or criminal detention. If the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years.

Any judicial functionary who accepts a bribe and twists the law, and commits an act mentioned in the preceding two paragraphs shall, if his act concurrently constitutes a crime mentioned in Article 385 of this Law, be decided a crime and punished according to the provisions with a heavier punishment.

**Article 400** Any judicial functionary who releases without authorization a suspect for a crime, defendant or criminal in custody shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years.

Any judicial functionary who, because of serious negligence of his duties, causes a suspect for a crime, defendant or criminal in custody to escape shall, if serious consequences are caused, be sentenced to fixed-term imprisonment of not more than three years or criminal detention. If especially serious consequences are caused, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years.

**Article 401** Any judicial functionary who engages in malpractice for the benefit of his friends, makes a decision of commutation of punishment, parole or temporarily serving his term outside prison to a criminal not conforming to the conditions of commutation of punishment, parole or temporarily serving his term outside prison shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

**Article 402** Any administrative law enforcement official who fails to remit a person who shall be investigated for criminal responsibility to a judicial organ shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years or criminal detention. If serious consequences are caused, the offender shall be sentenced to not less than three years and not more than seven years.

**Article 403** Any state functionary of relevant competent departments who engages in malpractice for his friends and abuses his power of office, makes an approval or registration of application for a company's establishment and registration or for issuing or marketing stocks or bonds which do not conform to the conditions stipulated in law shall, if the offence causes public property or interests of the state or the people to suffer heavy losses, be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

If an authorities at higher level forces the registration organ or its functionary to commit an act mentioned in the preceding paragraph,



persons directly in charge shall be punished according to the provisions of the preceding paragraph.

**Article 404** Any functionary of the tax authorities who engages in malpractice for his friends and does not collect or partly collects the tax payable shall, if the offence causes the state's tax incomes to suffer heavy losses, be sentenced to fixed-term imprisonment of not more than five years or criminal detention. If the offence causes especially serious losses, the offender shall be sentenced to fixed-term imprisonment of not less than five years.

**Article 405** Any functionary of the tax authorities who, in violation of the stipulations of laws or administrative regulations, engages in malpractice for his friends when doing work concerning selling invoices, offsetting the amount of tax payable or refunding the tax for export shall, if the offence causes the interests of the state to suffer heavy losses, be sentenced to fixed-term imprisonment of not more than five years or criminal detention. If the offence causes the interests of the state to suffer especially heavy losses, the offender shall be sentenced to fixed-term imprisonment of not less than five years.

Any other state functionary who, in violation of the state's stipulations, engages in malpractice for his friends when providing declarations for export goods to the Customs, documents for verification and cancellation of foreign exchange income of export goods or other vouchers for use of tax refund for export shall, if the offence causes the interests of the state to suffer heavy losses, be punished according to the provisions of the preceding paragraph.

**Article 406** Any state functionary who, in the course of signing or fulfilling contracts, is defrauded because of serious negligence of his duties shall, if the offence causes the interests of the state to suffer heavy losses, be sentenced to fixed-term imprisonment of not more than three years or criminal detention. If the offence causes the interests of the state to suffer especially heavy losses, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

**Article 407** Any state functionary of the forestry departments who, in violation of the provisions of the Forestry Law, issues forestry trees cutting licences in excess of the approved annual cutting quotas or by overstepping authority shall, if the circumstances are serious and the offence causes the forest to suffer heavy damage, be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

**Article 408** Any state functionary in charge of supervision and control on environment protection who neglects his duties so seriously that a great environmental pollution accident happens and causes heavy losses to public or private property or another person's bodily injury or death or other serious consequences shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

**Article 409** Any person engaged in the prevention or treatment related to infectious diseases from the government's public health departments who neglects his duties so seriously that he causes the spread or epidemic of an infectious disease shall, if the circumstances are serious, be sentenced to

fixed-term imprisonment of not more than three years or criminal detention.

**Article 410** Any state functionary who engages in malpractice for his friends, in violation of laws or regulations on land administration, abuses his powers, illegally approves an act of requisitioning or occupying land, or illegally assigns rights for use of state-owned land at a lower price shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years or criminal detention. If the offence causes interests of the state or collective to suffer especially heavy losses, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

**Article 411** Any Customs functionary who engages in malpractice for his friends and connives at another person's smuggling shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than five years or criminal detention. If the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years.

**Article 412** Any functionary of state commodity inspection departments or institutions who engages in malpractice for his friends and fabricates inspection conclusions shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention. If the offence causes serious consequences, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years.

Any person listed in the preceding paragraph who neglects his duties so seriously that he does not inspect the commodity that shall be inspected or he delays providing certificates or provides wrong certificates shall, if the offence causes the interests of the state to suffer heavy losses, be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

**Article 413** Where a quarantine functionary of an animal and plant quarantine organ engages in malpractice for his friends and fabricates a quarantine result, he shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention. If the offence causes serious consequences, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years.

Any person listed in the preceding paragraph who neglects his duties so seriously that he does not quarantine the quarantine objects that shall be quarantined, or he delays providing quarantine certificates or provides wrong certificates shall, if the offence causes the interests of the state to suffer heavy losses, be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

**Article 414** Any state functionary in charge of investigation of the crimes of production or sale of fake or substandard products who engages in malpractice for his friends and does not perform the investigation duties stipulated by law shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

**Article 415** Any state functionary in charge of issuing passports, visas or other certificates for the use of exit or entry who issues a exit and entry

certificate to the person clearly known to attempt to secretly cross the national boundary (borderline), or any state functionary of the frontier defence or Customs organs who permits another person clearly known to secretly cross the national boundary (borderline) to go shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

**Article 416** Any state functionary in charge of rescuing a woman or child abducted and trafficked in or kidnapped who fails to make any rescue effort on receiving a request for rescue by a woman or child who is abducted and trafficked in or kidnapped or by his or her family members or on receiving a report thereon made by any other person shall, if serious consequences are caused, be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

If any state functionary in charge of rescue takes advantage of his office to hinder the rescue, he shall be sentenced to fixed-term imprisonment of not less than two years and not more than seven years. If the circumstances are relatively minor, the offender shall be sentenced to fixed-term imprisonment of not more than two years or criminal detention.

**Article 417** Any state functionary in charge of investigating and forbidding criminal activities who divulges secret information or provides with convenience to the criminals, and helps the criminals to escape from being punished shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years.

**Article 418** Any state functionary who, in the course of recruiting public servants or students, engages in malpractice for his friends shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

**Article 419** Any state functionary who seriously neglects his duties and causes damage or losses of rare and precious cultural relics shall, if serious consequences are caused, be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Chapter X Crimes Contrary to Duties Committed by servicemen

**Article 420** Any act of a serviceman that contravenes his duties and endangers the state's military interests and is punishable with criminal penalties by law constitutes a crime in contravention of a serviceman's duties.

**Article 421** Any serviceman who disobeys orders during wartime, thereby jeopardizing the military operations, shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years. If the offence causes serious losses to a battle or campaign, the offender shall be sentenced to fixed-term imprisonment of not less than ten years, life imprisonment or death.

**Article 422** Any serviceman who intentionally conceals or makes a false

report about the military situation or refuses to communicate or communicates a false military order, thereby jeopardizing the military operations, shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years. If the offence causes serious losses to a battle or campaign, the offender shall be sentenced to fixed-term imprisonment of not less than ten years, life imprisonment or death.

**Article 423** Any serviceman who, in fear of death on battlefield, voluntarily lays his arms and surrenders to the enemy shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment.

Any serviceman who, after surrendering to the enemy, works for enemy shall be sentenced to fixed-term imprisonment of not less than ten years, life imprisonment or death.

**Article 424** Any serviceman who deserts from his unit before a battle shall be sentenced to fixed-term imprisonment of not more than three years. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years. If the offence causes serious losses to a battle or campaign, the offender shall be sentenced to fixed-term imprisonment of not less than ten years, life imprisonment or death.

**Article 425** Any person in command or on duty who leaves his post or neglects his duties, thereby causing serious consequences, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention. If especially serious consequences are caused, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

Any person who, during wartime, commits a crime mentioned in the preceding paragraph shall be sentenced to fixed-term imprisonment of not less than five years.

**Article 426** Any person who, by force or threat, hinders commanding personnel or personnel on duty from performing their duties shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years. If the offence causes serious injury or death to another person or other especially serious circumstances exist, the offender shall be sentenced to life imprisonment or death. The punishment of such crimes during wartime shall be heavier than in time of peace.

**Article 427** Any serviceman who abuses his power of office and incites a subordinate to commit an act in contravention of his duties shall, if serious consequences are caused, be sentenced to fixed-term imprisonment of not more than five years or criminal detention. If the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years.

**Article 428** Any person in command who disobeys orders, flinches from

the battlefield and fights inactively shall, if serious consequences are caused, be sentenced to fixed-term imprisonment of not more than five years. If the offence causes serious losses to a battle or campaign or other especially serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than five years.

**Article 429** Any commanding person of an army who, while clearly knowing that neighbouring friendly forces are in dangerous and urgent situation, has ability to rescue the force but does not to do so, and causes serious losses to the neighbouring friendly forces, shall be sentenced to fixed-term imprisonment of not more than five years.

**Article 430** Any serviceman who leaves his posts without authorization in the course of performing his public office, turns traitor and flees from China or turns traitor and flees outside China, and endangers the state's military interests, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years.

Any serviceman who drives an aircraft or warship to turn traitor and flee or with other especially serious circumstances shall be sentenced to fixed-term imprisonment of not less than ten years, life imprisonment or death.

**Article 431** Whoever, by means of stealing, prying or buying, illegally obtains military secrets shall be sentenced to fixed-term imprisonment of not more than five years. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years. If the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than ten years.

Whoever steals, pries, buys or illegally provides military secrets for a agency, organization or person outside China shall be sentenced to fixed-term imprisonment of not less than ten years, life imprisonment or death.

**Article 432** Whoever, in violation of laws or administrative regulations on protection of the state secrets, intentionally or negligently divulges military secrets shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than five years or criminal detention. If the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years.

Whoever, during wartime, commits a crime mentioned in the preceding paragraph shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years. If the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment.

**Article 433** Whoever, during wartime, fabricates rumours to mislead others and undermines army morale shall be sentenced to fixed-term imprisonment of not more than three years. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years.

Whoever colludes with the enemy and fabricates rumours to mislead others and undermines army morale shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment. If the circumstances are especially serious, the offender may be sentenced to death.

**Article 434** Whoever, during wartime, inflicts bodily injury on himself, thus disqualifying himself from fulfilling his military obligation shall be sentenced to fixed-term imprisonment of not more than three years. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

**Article 435** Whoever, in violation of laws or administrative regulations on military service, flees from army shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Whoever, during wartime, commits a crime mentioned in the preceding paragraph shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

**Article 436** Whoever violates the provisions for use of weapons and equipment, if the circumstances are serious, thus a liability accident leading to severe injury or death of another person or other serious consequences is caused, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention. If the consequences are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

**Article 437** Whoever violates the provisions for control of weapons and equipment and changes without authorization the arrangement and purpose of weapons shall, if serious consequences are caused, be sentenced to fixed-term imprisonment of not more than three years or criminal detention. If especially serious consequences are caused, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years.

**Article 438** Whoever steals or seizes forcibly weapons and equipment or military goods and materials shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years. If the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than ten years, life imprisonment or death.

Whoever steals or seizes forcibly guns, ammunitions or explosives shall be punished according to the provisions of Article 127 of this Law.

**Article 439** Whoever illegally sells or transfers weapons and equipment of the army shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years. Where large quantities of weapons and equipment are sold or transferred or other especially serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than ten years, life imprisonment or death.

**Article 440** Any serviceman who disobeys orders and abandons weapons and equipment shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention. If important or large quantities of weapons and equipment are abandoned or other serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than five years.

**Article 441** Any serviceman who loses weapons and equipment and does not report in time to a higher commander or has other serious circumstances shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

**Article 442** Where anyone, in violation of the stipulations and without authorization, sells or transfers real estate of the army and if the circumstances are serious, persons directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention. If the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years.

**Article 443** Any serviceman who abuses his power of office and maltreats a subordinate shall, if the circumstances are so flagrant as to have resulted in serious bodily injury of another person or other serious consequences, be sentenced to fixed-term imprisonment of not more than five years or criminal detention. If the offence causes death of another person, the offender shall be sentenced to fixed-term imprisonment of not less than five years.

**Article 444** Any person directly responsible for the deliberate abandonment of the wounded or sick on the battlefield shall, if the circumstances are flagrant, be sentenced to fixed-term imprisonment of not more than five years.

**Article 445** Any person at post of rescue and cure who, during wartime, refuses to rescue or cure the fatal wounded or sick servicemen while having such conditions shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention. If the offence causes severe disability or death of the wounded or sick servicemen or other serious circumstances exist, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years.

**Article 446** Any serviceman who, during wartime, mistreats innocent residents or plunders property from innocent residents in areas of military operations shall be sentenced to fixed-term imprisonment of not more than five years. If the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years. If the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than ten years, life imprisonment or death.

**Article 447** Whoever releases without authorization a prisoner of war shall be sentenced to fixed-term imprisonment of not more than five years. Whoever releases without authorization an important prisoner of war or releases without authorization several prisoners of war or with other serious

circumstances, the offender shall be sentenced to fixed-term imprisonment of not less than five years.

**Article 448** Any serviceman who maltreats prisoners of war shall, if the circumstances are flagrant, be sentenced to fixed-term imprisonment of not more than three years.

**Article 449** Any serviceman who, during wartime, commits a crime and is sentenced to fixed-term imprisonment of not more than three years with a reprieve pronounced may, in consideration of the absence of actual danger from him, be allowed to atone for his crime by performing meritorious deeds. Should he truly perform meritorious deeds, the original sentence may be rescinded, and he shall not be punished as a criminal.

**Article 450** This Chapter are applicable to the officers, nonmilitary cadres, soldiers on active duties and the students with military status of the Chinese People's Liberation Army, and the officers, nonmilitary cadres, soldiers on active duties and the students with military status of the Chinese People's Armed Police Forces, and the persons on reserve service and other persons who perform military tasks.

**Article 451** "During wartime" mentioned in this Chapter refers to the time in which the state announces a state of war, the army receives tasks of battle or suffers a sudden attack.

The time when the army enforces tasks of martial law or disposes emergent violent incidents shall be regarded as wartime.

Supplementary Provisions

**Article 452** This Law shall go into effect as of October 1, 1997.

Regulations, supplementary provisions and decisions enacted by the Standing Committee of the National People's Congress listed in Appendix I of this Law have been brought into this Law or shall not apply, and shall be abolished as of the date of effectiveness of this Law.

Supplementary provisions and decisions enacted by the Standing Committee of the National People's Congress listed in Appendix II of this Law shall be reserved, and the provisions involving administrative penalty and administrative measures shall continue in effect; the provisions involving criminal responsibility have been brought into this Law, and such provisions in this Law shall apply as of the date of effectiveness of this Law.

Appendix I

The following regulations, supplementary provisions and decisions enacted by the Standing Committee of the National People's Congress have been brought into this Law or shall not apply, and shall be abolished as of the date of effectiveness of this Law:

1. Interim Regulations of the People's Republic of China on Punishment of Servicemen Who Commit Crimes Contrary to Their Duties

2. Decision Regarding the Severe Punishment of Criminals Who Seriously



## Sabotage the Economy

3. Decision Regarding the Severe Punishment of Criminals Who seriously Endanger public security

4. Supplementary Provisions Concerning the Punishment of the Crimes of Smuggling

5. Supplementary Provisions Concerning the Punishment of the Crimes of Embezzlement and Bribery

6. Supplementary Provisions Concerning the Punishment of the Crimes of Divulging State Secrets

7. Supplementary Provisions Concerning the Punishment of the Crimes of Catching or Killing Precious and Endangered Species of Wildlife under Special State Protection

8. Decision Regarding the Punishment of Crimes of Desecrating the National Flag and the National Emblem of the People's Republic of China

9. Supplementary Provisions Concerning the Punishment of the Crimes of Excavating and Robbing Sites of Ancient Culture or Ancient Tombs

10. Decision Regarding the Punishment of the Criminals Engaged in Aircraft Hijacking

? 11. Supplementary Provisions Concerning the Punishment of the Crimes of Counterfeiting Registered Trademarks

12. Decision Regarding the Punishment of the Crimes of Production and Sale of Fake or Substandard Commodities

13. Decision Regarding the Punishment of the Crimes of Infringing Copyright

14. Decision Regarding the Punishment of the Crimes of Violating Company Law

15. Decision Regarding the Handling of Criminals Undergoing Reform Through Labour and Persons Undergoing Rehabilitation Through Labour Who Escape or Commit New Crimes

## Appendix II

The following supplementary provisions and decisions enacted by the Standing Committee of the National People's Congress shall be reserved, and the provisions involving administrative penalty and administrative measures shall continue in effect; the provisions involving criminal responsibility have been brought into this Law, and such provisions in this Law shall apply as of the date of effectiveness of this Law:

1. Decision Regarding the Prohibition against Narcotic Drugs

2. Decision Regarding the punishment of Criminals Who Smuggle, Produce,

## Sell or Disseminate Pornographic Articles

3. Decision Regarding the Severe Punishment of Criminals Who Abduct and Traffic In or Kidnap Women or Children

4. Decision Regarding the Strict Prohibition against Prostitution and Whoring

5. Supplementary Provisions Concerning the Imposition of Punishment in Respect of Offence of Tax Evasion and Refusal to Pay Tax

6. Supplementary Provisions Concerning the Severe Punishment of the Crimes of Organizing and Transporting Another Person to Secretly Cross the National Boundary (Borderline)

7. Decision Regarding the Punishment of the Crimes of Undermining Financial Order

8. Decision Regarding the Punishment of the Crimes of Falsification, Counterfeiting and Illegal Sale of Value-added Tax Invoices

Note:

\*1. "Public surveillance" is the usual English translation for (guanzhi), literally, "compulsory restraint." It refers to a relatively light criminal penalty applied to criminals who do not have to be confined in prison or a place of reform through labour. When sentenced to public surveillance, a criminal is required to report periodically to a public security organ on his activities. At the same time, his case is announced to the masses in the organization or work unit to which he belongs, giving them the responsibility to watch over his behaviour.--Trans.