

Chinese-English

中国法律法规中英对照系列

Chinese-English Series with Laws and Regulations of China (English Translation/Chinese Note)

Chinese-English

Series with
Laws and Regulations
of China

中国行政与 劳动法律法规

Administrative & Labour
Laws and Regulations of China

中英对照法规
英文译本 中文边注

外交事务
Foreign Affair
律师公证
Lawyers and Notarization
治安交通
Public Security and Traffic Safety
劳动安全与保险
Labour Safety and Insurance
特殊保护
Special Protection
劳动争议与监察
Labour Disputes and Inspection



法律出版社
LAW PRESS·CHINA

3



中国法律法规中英对照系列

Chinese -English

Series with
Laws and Regulations
of China

D922.109

5

2007

中国行政与劳动法律法规

Administrative & Labour Laws and Regulations of China

中英对照法规

英文译本 中文边注



法律出版社

LAW PRESS·CHINA

图书在版编目(CIP)数据

中国行政与劳动法律法规:汉英对照/法律出版社
法规中心编. —北京:法律出版社,2007.3
(中国法律法规中英对照系列)
ISBN 978-7-5036-7147-0

I. 中… II. 法… III. ①行政法—中国—汉、英
②劳动法—中国—汉、英 IV. D922.1 D922.5

中国版本图书馆 CIP 数据核字(2007)第 023371 号

©法律出版社·中国

责任编辑/霍爱华

装帧设计/李 瞻

出版/法律出版社

编辑统筹/法规出版分社

总发行/中国法律图书有限公司

经销/新华书店

印刷/永恒印刷有限公司

责任印制/吕亚莉

开本/A5

印张/20.25 字数/650 千

版本/2007 年 4 月第 1 版

印次/2007 年 4 月第 1 次印刷

法律出版社/北京市丰台区莲花池西里 7 号(100073)

电子邮件/info@lawpress.com.cn

销售热线/010-63939792/9779

网址/www.lawpress.com.cn

咨询电话/010-63939796

中国法律图书有限公司/北京市丰台区莲花池西里 7 号(100073)

全国各地中法图分、子公司电话:

第一法律书店/010-63939781/9782

西安分公司/029-85388843 重庆公司/023-65382816/2908

上海公司/021-62071010/1636

北京分公司/010-62534456

深圳公司/0755-83072995

苏州公司/0512-65193110

书号:ISBN 978-7-5036-7147-0

定价:42.00 元

(如有缺页或倒装,中国法律图书有限公司负责退换)

编者前言

近些年来,我国的立法进程可以用日新月异来形容,而相应的法律法规的英文译本翻译出版工作却一直没有做到紧随其后。法律法规的英文翻译出版工作是我国加入世界贸易组织后必须承担的法律义务;而法律的英文译本是世界各国了解中国法律的重要路径之一,是增强中国法律透明度、让想在中国进行投资的外资企业更好地了解中国法律环境的最佳保证,也是法学专业学生学习法律英语的最好范本和涉外律师办理涉外业务的必备工具。

目前,市场上可用的法律英文译本图书不是比较分散,就是比较昂贵的精装本。为了让更多对法律英文有需要的人士有一套使用方便的工具书,我们编辑整理了本套“中国法律法规中英对照系列”丛书。本丛书共分七册出版,分别为《中国刑法与刑事诉讼法》、《中国民事法律法规》、《中国行政与劳动法律法规》、《中国公司企业法律法规》、《中国金融财会法律法规》、《中国对外贸易与经济合作法律法规》和《中国建筑与房地产法律法规》,基本涵盖了刑事、民事、行政、劳动、经济、金融、商贸领域的大部分法律及行政法规。

本丛书采用方便读者使用阅读的中英文逐条当页对照的排版方式进行编辑,同时,以低定价为所有对法律英文有需求的读者提供了一套极佳的案头工具书。我们希望我们的工作能够切实满足各届人士的需要,以她的权威、实用带给读者无限的使用方便,也希望读者对我们工作中存在的问题提出宝贵的意见和建议。

法律出版社法规中心
2007年4月

Contents

目 录

Administrative Law 行政法

一、General Law(总类)

1. Law of the People's Republic of China on Administrative Penalty
..... (1)
中华人民共和国行政处罚法
2. Law of the People's Republic of China on Administrative
Supervision (24)
中华人民共和国行政监察法
3. Regulations for the Implementation of the Law of the People's
Republic of China on Administrative Supervision (40)
中华人民共和国行政监察法实施条例
4. Law of the People's Republic of China on Administrative License
..... (60)
中华人民共和国行政许可法

二、Foreign Affair(外交)

1. Regulations of the People's Republic of China Concerning
Diplomatic Privileges and Immunities (94)
中华人民共和国外交特权与豁免条例
2. Regulations of the People's Republic of China Concerning Consular
Privileges and Immunities (103)
中华人民共和国领事特权与豁免条例

三、Lawyers & Notarization(律师、公证)

1. Law of the People's Republic of China on Lawyers (114)

中华人民共和国律师法

2. Notarization Law of the People's Republic of China (130)

中华人民共和国公证法

四、Public Security & Traffic Safety(治安、交通)

1. Law of the People's Republic of China on Penalties for
Administration of Public Security (148)

中华人民共和国治安管理处罚法

2. Law of the People's Republic of China on Road Traffic Safety (194)

中华人民共和国道路交通安全法

3. Regulations for the Implementation of the Law of the People's
Republic of China on Road Traffic Safety (241)

中华人民共和国道路交通安全法实施条例

五、Procedure Law(程序法)

1. Law of the People's Republic of China on Administrative
Reconsideration (288)

中华人民共和国行政复议法

2. Administrative Procedure Law of the People's Republic of China
..... (310)

中华人民共和国行政诉讼法

Labour Law 劳动法

一、General Law(总类)

1. Labour Law of the People's Republic of China (334)

中华人民共和国劳动法

2. Trade Union Law of the People's Republic of China (361)

中华人民共和国工会法

二、Labour Safety(劳动安全)

1. Law of the People's Republic of China on Prevention and Control of
Occupational Diseases (382)

中华人民共和国职业病防治法

-
2. Law of the People's Republic of China on Safety in Mines (419)
中华人民共和国矿山安全法
 3. Law of the People's Republic of China on Work Safety (435)
中华人民共和国安全生产法
 4. Regulations on Safe Work Permits (471)
安全生产许可证条例

三、Special Protection(特殊保护)

1. Law of the People's Republic of China on the Protection of Disabled Persons (480)
中华人民共和国残疾人保障法
2. Law of the People's Republic of China on the Protection of Rights and Interests of Women (498)
中华人民共和国妇女权益保障法
3. Regulations on Labor Protection in Workplaces Where Toxic Substances Are Used (517)
使用有毒物品作业场所劳动保护条例

四、Labour Insurance(劳动保障)

1. Unemployment Insurance Regulations (554)
失业保险条例
2. Regulations on Work Injury Insurance (566)
工伤保险条例
3. Interim Regulations on Collection and Payment of Social Insurance Premiums (598)
社会保险费征缴暂行条例

五、Labour Disputes(劳动争议)

1. Regulations of the People's Republic of China on Settlement of Labour Disputes in Enterprises (610)
中华人民共和国企业劳动争议处理条例

六、Labour Inspection(劳动监察)

1. Regulations on Labour and Social Security Inspection (622)
劳动保障监察条例

Administrative Law

[General Law]

行政法

[总 类]

Law of the People's Republic of China on Administrative Penalty

中华人民共和国 行政处罚法

(Adopted at the 4th Session of the Eighth
National People's Congress on March 17, 1996)

(1996 年 3 月 17 日
第八届全国人民代
表大会第四次会议
通过)

Contents

目 录

Chapter I	General Provisions
Chapter II	Types and Creation of Administrative Penalty
Chapter III	Organs Imposing Administrative Penalty
Chapter IV	Jurisdiction and Application of Administrative Penalty
Chapter V	Decision on an Administrative Penalty
Section 1	Summary Procedure
Section 2	Ordinary Procedure
Section 3	Procedure of Hearing
Chapter VI	Enforcement of Administrative Penalty
Chapter VII	Legal Responsibility
Chapter VIII	Supplementary Provisions

第一章	总 则
第二章	行政处罚的种类 和设定
第三章	行政处罚的实施 机关
第四章	行政处罚的管 辖和适用
第五章	行政处罚的决 定
第一节	简易程序
第二节	一般程序
第三节	听证程序
第六章	行政处罚的执 行
第七章	法律责任
第八章	附 则

Chapter I General Provisions

第一章 总 则

Article 1 Pursuant to the Constitution, this Law is
enacted for the purpose of standardizing creation and

第一条 为了规范
行政处罚的设定和实
施,保障和监督行政机

imposition of administrative penalty, ensuring and supervising the effective exercise of administration by administrative organs, safeguarding public interests and public order, and protecting the lawful rights and interests of citizens, legal persons and other organizations.

Article 2 Creation and imposing of administrative penalty shall be governed by this Law.

Article 3 Where administrative penalty needs to be imposed on citizens, legal persons or other organizations for their violations of the order of administration, it shall be prescribed by laws, rules or regulations pursuant to this Law and imposed by administrative organs in compliance with the procedure prescribed by this Law.

Administrative penalty that is not imposed in accordance with law or in compliance with legal procedures shall be invalid.

Article 4 Administrative penalty shall be imposed in adherence to the principles of fairness and openness.

Creation and imposition of administrative penalty shall be based on facts and shall be in correspondence with the facts, nature and seriousness of the violations of law and damage done to society.

Regulations on administrative penalty to be imposed for violations of law must be published; those which are not published shall not be taken as the basis for administrative penalty.

Article 5 In imposing administrative penalty and setting to rights illegal acts, penalty shall be combined with education, so that citizens, legal persons and other organizations shall become aware of the importance of observing law.

Article 6 Citizens, legal persons and other

关有效实施行政管理,维护公共利益和社会秩序,保护公民、法人或者其他组织的合法权益,根据宪法,制定本法。

第二条 行政处罚的设定和实施,适用本法。

第三条 公民、法人或者其他组织违反行政管理秩序的行为,应当给予行政处罚的,依照本法由法律、法规或者规章规定,并由行政机关依照本法规定的程序实施。

没有法定依据或者不遵守法定程序的,行政处罚无效。

第四条 行政处罚遵循公正、公开的原则。

设定和实施行政处罚必须以事实为依据,与违法行为的事实、性质、情节以及社会危害程度相当。

对违法行为给予行政处罚的规定必须公布;未经公布的,不得作为行政处罚的依据。

第五条 实施行政处罚,纠正违法行为,应当坚持处罚与教育相结合,教育公民、法人或者其他组织自觉守法。

第六条 公民、法

organizations on whom administrative penalty is imposed by administration organs shall have the right to state their cases and the right to defend themselves; those who refuse to accept administrative penalty shall have the right to apply for administrative reconsideration or bring an administrative lawsuit in accordance with law.

Citizens, legal persons and other organizations that have suffered damage due to administrative penalty imposed by administrative organs in violation of law shall have the right to demand compensation in accordance with law.

Article 7 Citizens, legal persons and other organizations that are subjected to administrative penalty because of their violations of law shall, in accordance with law, bear civil liability for damage done to others by their illegal acts.

Where an illegal act constitutes a crime, criminal responsibility shall be investigated in accordance with law; no administrative penalty shall be imposed in place of criminal penalty.

Chapter II Types and Creation of Administrative Penalty

Article 8 Types of administrative penalty shall include:

- (1) disciplinary warning;
- (2) fine;
- (3) confiscation of illegal gains or confiscation of unlawful property or things of value;
- (4) ordering for suspension of production or

人或者其他组织对行政机关所给予的行政处罚,享有陈述权、申辩权;对行政处罚不服的,有权依法申请行政复议或者提起行政诉讼。

公民、法人或者其他组织因行政机关违法给予行政处罚受到损害的,有权依法提出赔偿要求。

第七条 公民、法人或者其他组织因违法受到行政处罚,其违法行为对他人造成损害的,应当依法承担民事责任。

违法行为构成犯罪的,应当依法追究刑事责任,不得以行政处罚代替刑事处罚。

第二章 行政处罚的 种类和设定

第八条 行政处罚的种类:

- (一)警告;
- (二)罚款;
- (三)没收违法所得、没收非法财物;
- (四)责令停产停业;

business;

(5) temporary suspension or rescission of permit or temporary suspension or rescission of license;

(6) administrative detention; and

(7) others as prescribed by laws and administrative rules and regulations.

Article 9 Different types of administrative penalty may be created by law.

Administrative penalty involving restriction of freedom of person shall only be created by law.

Article 10 Administrative penalties, with the exception of restricting freedom of person, may be created by administrative rules and regulations.

Where it is necessary to formulate specific provisions, in administrative rules and regulations, regarding violations of law for which administrative penalties have been formulated in laws, it must be done within the limits of the acts subject to administrative penalty and the types and range of such penalty as prescribed by laws.

Article 11 Administrative penalties, with the exception of restriction of freedom of person and rescission of business license of an enterprise, may be created in local regulations.

Where it is necessary to formulate specific provisions, in local regulations, regarding violations of law for which administrative penalties have been formulated in laws and administrative rules and regulations, it must be done within the limits of the acts subject to administrative penalty and the types and range of such penalty as prescribed by laws and administrative

(五) 暂扣或者吊销许可证、暂扣或者吊销执照;

(六) 行政拘留;

(七) 法律、行政法规规定的其他行政处罚。

第九条 法律可以设定各种行政处罚。

限制人身自由的行政处罚, 只能由法律设定。

第十条 行政法规可以设定除限制人身自由以外的行政处罚。

法律对违法行为已经作出行政处罚规定, 行政法规需要作出具体规定的, 必须在法律规定的给予行政处罚的行为、种类和幅度的范围内规定。

第十一条 地方性法规可以设定除限制人身自由、吊销企业营业执照以外的行政处罚。

法律、行政法规对违法行为已经作出行政处罚规定, 地方性法规需要作出具体规定的, 必须在法律、行政法规规定的给予行政处罚的行为、种类和幅度的范围内规定。

rules and regulations.

Article 12 The ministries and commissions under the State Council may, in the rules they enact, formulate specific provisions within the limits of the acts subject to administrative penalty and the types and range of such penalty as prescribed by laws and administrative rules and regulations.

With regard to violations of administration order against which no laws or administrative rules and regulations have been enacted, the ministries and commissions under the State Council may create administrative penalty of disciplinary warning or a certain amount of fine in the rules they enact, as stipulated in the preceding paragraph. The specific amounts of fine shall be laid down by the State Council.

The State Council may authorize the departments directly under it that have the power of administrative penalty to formulate provisions on administrative penalty in accordance with the first and second paragraph of this Article.

Article 13 The people's governments of provinces, autonomous regions, and municipalities directly under the Central Government, of the cities where the people's governments of provinces and autonomous regions are located, and of the larger cities approved as such by the State Council may, within the limits of the acts subject to administrative penalty and the types and range of such penalty as prescribed by laws and regulations, formulate specific provisions in the rules they enact.

With regard to violations of administration order against which no laws or regulations have been enacted, the people's governments may create administrative

第十二条 国务院部、委员会制定的规章可以在法律、行政法规规定的给予行政处罚的行为、种类和幅度的范围内作出具体规定。

尚未制定法律、行政法规的,前款规定的国务院部、委员会制定的规章对违反行政管理秩序的行为,可以设定警告或者一定数量罚款的行政处罚。罚款的限额由国务院规定。

国务院可以授权具有行政处罚权的直属机构依照本条第一款、第二款的规定,规定行政处罚。

第十三条 省、自治区、直辖市人民政府和省、自治区人民政府所在地的市人民政府以及经国务院批准的较大的市人民政府制定的规章可以在法律、法规规定的给予行政处罚的行为、种类和幅度的范围内作出具体规定。

尚未制定法律、法规的,前款规定的人民政府制定的规章对违反行政管理秩序的行为,

penalty of disciplinary warning or certain amount of fine in the rules they enact, as stipulated in the preceding paragraph. The specific amounts of fine shall be laid down by the standing committees of the people's congresses of provinces, autonomous regions, and municipalities directly under the Central Government.

Article 14 No administrative penalties shall be created in any other regulatory documents in addition to the ones as stipulated in Articles 9, 10, 11, 12 and 13 of this Law.

Chapter III

Organs Imposing Administrative Penalty

Article 15 Administrative penalty shall be imposed by administrative organs that have the power of administrative penalty within the scope of their statutory functions and powers.

Article 16 The State Council or the people's government of a province, autonomous region or municipality directly under the Central Government that is empowered by the State Council may decide to have an administrative organ exercise other administrative organs' power of administrative penalty. However, the power of administrative penalty involving restriction of freedom of person shall only be exercised by the public security organs.

Article 17 Organizations that are authorized by laws and regulations to exercise the power of administering public affairs may impose administrative penalty within the scope of their powers as authorized by law.

可以设定警告或者一定数量罚款的行政处罚。罚款的限额由省、自治区、直辖市人民代表大会常务委员会规定。

第十四条 除本法第九条、第十条、第十一条、第十二条以及第十三条的规定外,其他规范性文件不得设定行政处罚。

第三章

行政处罚的 实施机关

第十五条 行政处罚由具有行政处罚权的行政机关在法定职权范围内实施。

第十六条 国务院或者经国务院授权的省、自治区、直辖市人民政府可以决定一个行政机关行使有关行政机关的行政处罚权,但限制人身自由的行政处罚权只能由公安机关行使。

第十七条 法律、法规授权的具有管理公共事务职能的组织可以在法定授权范围内实施行政处罚。

Article 18 In accordance with the provisions of laws, regulations or rules, an administrative organ may, within the scope of its powers as prescribed by law, entrust an organization that meets the conditions stipulated in Article 19 of this Law with imposing administrative penalty. An administrative organ may not entrust other organizations or individuals with imposing administrative penalty.

The entrusting administrative organ shall be responsible for supervising the imposition of administrative penalty by the entrusted organization and shall bear legal responsibility for the consequences of the imposition.

The entrusted organization shall, within the scope of authorization, impose administrative penalty in the name of the entrusting administrative organ, and may not further entrust any other organization or individual with imposing the administrative penalty.

Article 19 The organization to be entrusted shall meet the following conditions:

(1) to be an institution in charge of public affairs established in accordance with law;

(2) to be staffed with personnel who are familiar with relevant laws, regulations and rules and are experienced in the work; and

(3) to have the conditions for organizing and conducting the technical tests or technical appraisal that are needed for testing or appraising illegal acts.

第十八条 行政机关依照法律、法规或者规章的规定,可以在其法定权限内委托符合本法第十九条规定条件的组织实施行政处罚。行政机关不得委托其他组织或者个人实施行政处罚。

委托行政机关对受委托的组织实施行政处罚的行为应当负责监督,并对该行为的后果承担法律责任。

受委托组织在委托范围内,以委托行政机关名义实施行政处罚;不得再委托其他任何组织或者个人实施行政处罚。

第十九条 受委托组织必须符合以下条件:

(一)依法成立的行政管理公共事务的事业组织;

(二)具有熟悉有关法律、法规、规章和业务的工作人员;

(三)对违法行为需要进行技术检查或者技术鉴定的,应当有条件组织进行相应的技术检查或者技术鉴定。

Chapter IV Jurisdiction and Application of Administrative Penalty

Article 20 Administrative penalty shall come under the jurisdiction of an administrative organ having the power of administrative penalty of a local people's government at or above the county level in the place where the illegal act is committed, except as otherwise prescribed by laws or administrative rules and regulations.

Article 21 If a dispute arises over jurisdiction between administrative organs, the matter shall be reported to their common administrative organ at the next higher level for designation of jurisdiction.

Article 22 If an illegal act constitutes a crime, the administrative organ must transfer the case to a judicial organ for investigation of criminal responsibility according to law.

Article 23 When enforcing an administrative penalty, the administrative organ shall order the party to put right his illegal acts or to do so within a time limit.

Article 24 For the same illegal act committed by a party, the party shall not be given an administrative penalty of fine for more than once.

Article 25 If a person under the age of 14 commits an illegal act, no administrative penalty shall be imposed on him, but his guardian shall be ordered to discipline and educate him; if a person who has reached the age of 14 but not the age of 18 commits an illegal act, a lighter or mitigated administrative penalty shall be imposed on him.

Article 26 If a mental patient commits an illegal act

第四章 行政处罚的 管辖和适用

第二十条 行政处罚由违法行为发生地的县级以上地方人民政府具有行政处罚权的行政机关管辖。法律、行政法规另有规定的除外。

第二十一条 对管辖发生争议的,报请共同的上一级行政机关指定管辖。

第二十二条 违法行为构成犯罪的,行政机关必须将案件移送司法机关,依法追究刑事责任。

第二十三条 行政机关实施行政处罚时,应当责令当事人改正或者限期改正违法行为。

第二十四条 对当事人的同一个违法行为,不得给予两次以上罚款的行政处罚。

第二十五条 不满十四周岁的人有违法行为的,不予行政处罚,责令监护人加以管教;已满十四周岁不满十八周岁的人有违法行为的,从轻或者减轻行政处罚。

第二十六条 精神病人在不能辨认或者不

at a time when he is unable to recognize or cannot control his own conduct, no administrative penalty shall be imposed on him, but his guardian shall be ordered to keep him under close surveillance and arrange for his medical treatment. Administrative penalty shall be imposed on a person whose mental illness is of an intermittent nature and who commits an illegal act when he is in a normal mental state.

Article 27 A party shall be given a lighter or mitigated administrative penalty in accordance with law, if:

(1) he has taken the initiative to eliminate or lessen the harmful consequences occasioned by his illegal act;

(2) he has been coerced by another to commit the illegal act;

(3) he has performed meritorious deeds when working in coordination with administrative organs to investigate violations of law; or

(4) he is under other circumstances for which he shall be given a lighter or mitigated administrative penalty in accordance with law.

Where a person commits a minor illegal act, promptly puts it right and causes no harmful consequences, no administrative penalty shall be imposed on him.

Article 28 If an illegal act constitutes a crime, for which a People's Court sentences him to criminal detention or fixed-term imprisonment, and if an administrative organ has already imposed administrative detention on the party, the length of detention shall be made the same as the term of imprisonment in accordance with law.

能控制自己行为时有违法行为的,不予行政处罚,但应当责令其监护人严加看管和治疗。间歇性精神病人在精神正常时有违法行为的,应当给予行政处罚。

第二十七条 当事人有下列情形之一的,应当依法从轻或者减轻行政处罚:

(一)主动消除或者减轻违法行为危害后果的;

(二)受他人胁迫有违法行为的;

(三)配合行政机关查处违法行为有立功表现的;

(四)其他依法从轻或者减轻行政处罚的。

违法行为轻微并及时纠正,没有造成危害后果的,不予行政处罚。

第二十八条 违法行为构成犯罪,人民法院判处拘役或者有期徒刑时,行政机关已经给予当事人行政拘留的,应当依法折抵相应刑期。

If an illegal act constitutes a crime, for which a People's Court imposes a fine on the party, and if an administrative organ has already done so, the amount of the fine imposed by the latter shall be made the same as that by the former.

Article 29 Where an illegal act is not discovered within two years of its commission, administrative penalty shall no longer be imposed, except as otherwise prescribed by law.

The period of time prescribed in the preceding paragraph shall be counted from the date the illegal act is committed; if the act is of a continual or continuous nature, it shall be counted from the date the act is terminated.

Chapter V Decision on an Administrative Penalty

Article 30 Where citizens, legal persons or other organizations violate administration order and should be given administrative penalty according to law, administrative organs must ascertain facts; if the facts about the violations are not clear, no administrative penalty shall be imposed.

Article 31 Before deciding to impose administrative penalties, administrative organs shall notify the parties of the facts, grounds and basis according to which the administrative penalties are to be decided on and shall notify the parties of the rights that they enjoy in accordance with law.

Article 32 The parties shall have the right to state their cases and to defend themselves. Administrative

违法行为构成犯罪的,人民法院判处罚金时,行政机关已经给予当事人罚款的,应当折抵相应罚金。

第二十九条 违法行为在二年内未被发现的,不再给予行政处罚。法律另有规定的除外。

前款规定的期限,从违法行为发生之日起计算;违法行为有连续或者继续状态的,从行为终了之日起计算。

第五章 行政处罚 的决定

第三十条 公民、法人或者其他组织违反行政管理秩序的行为,依法应当给予行政处罚的,行政机关必须查明事实;违法事实不清的,不得给予行政处罚。

第三十一条 行政机关在作出行政处罚决定之前,应当告知当事人作出行政处罚决定的事实、理由及依据,并告知当事人依法享有的权利。

第三十二条 当事人有权进行陈述和申辩。行政机关必须充分