



中华人民共和国民法通则

General Principles of the Civil
Law of the People's
Republic of China

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目 录

第一章 基本原则

第二章 公民(自然人)

第一节 民事权利能力和民事行为能力

第二节 监 护

第三节 宣告失踪和宣告死亡

第四节 个体工商户、农村承包经营户

第五节 个人合伙

第三章 法 人

第一节 一般规定

第二节 企业法人

第三节 机关、事业单位和社会团体法人

GENERAL PRINCIPLES OF THE CIVIL LAW OF THE PEOPLE'S REPUBLIC OF CHINA

(Adopted at the Fourth Session of the Sixth National People's
Congress, promulgated by Order No.37 of the President
of the People's Republic of China on April 12,
1986, and effective as of January 1, 1987)

Contents

Chapter I	Basic Principles
Chapter II	Citizen(Natural Person)
Section 1	Capacity for Civil Rights and Capacity for Civil Conduct
Section 2	Guardianship
Section 3	Declarations of Missing Persons and Death
Section 4	Individual Businesses and Leaseholding Farm Households
Section 5	Individual Partnership
Chapter III	Legal Persons
Section 1	General Stipulations
Section 2	Enterprise as Legal Person
Section 3	Official Organ, Institution and Social Organization as Legal Persons

第四节 联 营

第四章 民事法律行为和代理

第一节 民事法律行为

第二节 代 理

第五章 民事权利

第一节 财产所有权和与财产所有权有关的财产权

第二节 债 权

第三节 知识产权

第四节 人身权

第六章 民事责任

第一节 一般规定

第二节 违反合同的民事责任

第三节 侵权的民事责任

第四节 承担民事责任的方式

第七章 诉讼时效

第八章 涉外民事关系的法律适用

第九章 附 则

Section 4	Economic Association
Chapter IV	Civil Juristic Acts and Agency
Section 1	Civil Juristic Acts
Section 2	Agency
Chapter V	Civil Rights
Section 1	Property Ownership and Related Property Rights
Section 2	Creditors' Rights
Section 3	Intellectual Property Rights
Section 4	Personal Rights
Chapter VI	Civil Liability
Section 1	General Stipulations
Section 2	Civil Liability for Breach of Contract
Section 3	Civil Liability for Infringement of Rights
Section 4	Methods of Bearing Civil Liability
Chapter VII	Limitation of Action
Chapter VIII	Application of Law in Civil Relations with For- eigners
Chapter IX	Supplementary Provisions

第一章 基本原则

第一条 为了保障公民、法人的合法的民事权益,正确调整民事关系,适应社会主义现代化建设事业发展的需要,根据宪法和我国实际情况,总结民事活动的实践经验,制定本法。

第二条 中华人民共和国民法调整平等主体的公民之间、法人之间、公民和法人之间的财产关系和人身关系。

第三条 当事人在民事活动中的地位平等。

第四条 民事活动应当遵循自愿、公平、等价有偿、诚实信用的原则。

第五条 公民、法人的合法的民事权益受法律保护,任何组织和个人不得侵犯。

第六条 民事活动必须遵守法律,法律没有规定的,应当遵守国家政策。

第七条 民事活动应当尊重社会公德,不得损害社会公共利益,破坏国家经济计划,扰乱社会经济秩序。

Chapter I Basic Principles

Article 1 This Law is formulated in accordance with the Constitution and the actual situation in our country, drawing upon our practical experience in civil activities, for the purpose of protecting the lawful civil rights and interests of citizens and legal persons and correctly adjusting civil relations, so as to meet the needs of the developing socialist modernization.

Article 2 The Civil Law of the People's Republic of China shall adjust property relationships and personal relationships between civil subjects with equal status, that is, between citizens, between legal persons and between citizens and legal persons.

Article 3 Parties to a civil activity shall have equal status.

Article 4 In civil activities, the principles of voluntariness, fairness, making compensation for equal value, honesty and credibility shall be observed.

Article 5 The lawful civil rights and interests of citizens and legal persons shall be protected by law; no organization or individual may infringe upon them.

Article 6 Civil activities must be in compliance with the law; where there are no relevant provisions in the law, they shall be in compliance with state policies.

Article 7 Civil activities shall have respect for social ethics and shall not harm the public interest, undermine state economic plans or disrupt social economic order.

第八条 在中华人民共和国领域内的民事活动,适用中华人民共和国法律,法律另有规定的除外。

本法关于公民的规定,适用于在中华人民共和国领域内的外国人、无国籍人,法律另有规定的除外。

第二章 公民(自然人)

第一节 民事权利能力和民事行为能力

第九条 公民从出生时起到死亡时止,具有民事权利能力,依法享有民事权利,承担民事义务。

第十条 公民的民事权利能力一律平等。

第十一条 18 周岁以上的公民是成年人,具有完全民事行为能力,可以独立进行民事活动,是完全民事行为能力人。

16 周岁以上不满 18 周岁的公民,以自己的劳动收入为主要生活来源的,视为完全民事行为能力人。

第十二条 10 周岁以上的未成年人是限制民事行为能力人,可以进行与他的年龄、智力相适应的民事活动;其他民事活动由他的法定代理人代理,或者征得他的法

Article 8 The law of the People's Republic of China shall apply to civil activities within the People's Republic of China, except as otherwise stipulated by law.

The stipulations of this Law as regards citizens shall apply to foreigners and stateless persons within the People's Republic of China, except as otherwise stipulated by law.

Chapter II Citizen(Natural Person)

Section 1 Capacity for Civil Rights and Capacity for Civil Conduct

Article 9 A citizen shall have the capacity for civil rights from birth to death and shall enjoy civil rights and assume civil obligations in accordance with the law.

Article 10 All citizens are equal as regards their capacity for civil rights.

Article 11 A citizen aged 18 or over shall be an adult. He shall have full capacity for civil conduct, may independently engage in civil activities and shall be called a person with full capacity for civil conduct.

A citizen who has reached the age of 16 but not the age of 18 and whose main source of income is his own labour shall be regarded as a person with full capacity for civil conduct.

Article 12 A minor aged 10 or over shall be a person with limited capacity for civil conduct and may engage in civil activities appropriate to his age and intellect; in other civil activities, he shall

定代理人的同意。

不满 10 周岁的未成年人是无民事行为能力人,由他的法定代理人代理民事活动。

第十三条 不能辨认自己行为的精神病人是无民事行为能力人,由他的法定代理人代理民事活动。

不能完全辨认自己行为的精神病人是限制民事行为能力人,可以进行与他的精神健康状况相适应的民事活动;其他民事活动由他的法定代理人代理,或者征得他的法定代理人的同意。

第十四条 无民事行为能力人、限制民事行为能力人的监护人是他法定代理人。

第十五条 公民以他的户籍所在地的居住地为住所,经常居住地与住所不一致的,经常居住地视为住所。

第二节 监 护

第十六条 未成年人的父母是未成年人的监护人。

未成年人的父母已经死亡或者没有监护能力的,由下列人员中有监护能力的人担任监护人:

(一)祖父母、外祖父母;

be represented by his agent *ad litem* or participate with the consent of his agent *ad litem*.

A minor under the age of 10 shall be a person having no capacity for civil conduct and shall be represented in civil activities by his agent *ad litem*.

Article 13 A mentally ill person who is unable to account for his own conduct shall be a person having no capacity for civil conduct and shall be represented in civil activities by his agent *ad litem*.

A mentally ill person who is unable to fully account for his own conduct shall be a person with limited capacity for civil conduct and may engage in civil activities appropriate to his mental health; in other civil activities, he shall be represented by his agent *ad litem* or participate with the consent of his agent *ad litem*.

Article 14 The guardian of a person without or with limited capacity for civil conduct shall be his agent *ad litem*.

Article 15 The domicile of a citizen shall be the place where his residence is registered; if his habitual residence is not the same as his domicile, his habitual residence shall be regarded as his domicile.

Section 2 Guardianship

Article 16 The parents of a minor shall be his guardians.

If the parents of a minor are dead or lack the competence to be his guardian, a person from the following categories who has the competence to be a guardian shall act as his guardian:

- (1) paternal or maternal grandparent;

(二)兄、姐；

(三)关系密切的其他亲属、朋友愿意承担监护责任，经未成年人的父、母的所在单位或者未成年人住所地的居民委员会、村民委员会同意的。

对担任监护人有争议的，由未成年人的父、母的所在单位或者未成年人住所地的居民委员会、村民委员会在近亲属中指定。对指定不服提起诉讼的，由人民法院裁决。

没有第一款、第二款规定的监护人的，由未成年人的父、母的所在单位或者未成年人住所地的居民委员会、村民委员会或者民政部门担任监护人。

第十七条 无民事行为能力或者限制民事行为能力的精神病人，由下列人员担任监护人：

(一)配偶；

(二)父母；

(三)成年子女；

(四)其他近亲属；

(五)关系密切的其他亲属、朋友愿意承担监护责任，经精神病人的所在单位或者住所地的居民委员会、村民委员会同意的。

对担任监护人有争议的，由精神病人的所在单位或

(2) elder brother or sister; or

(3) any other closely connected relative or friend willing to bear the responsibility of guardianship and having approval from the units of the minor's parents or from the neighbourhood or village committee in the place of the minor's residence.

In case of a dispute over guardianship, the units of the minor's parents or the neighbourhood or village committee in the place of his residence shall appoint a guardian from among the minor's near relatives. If disagreement over the appointment leads to a lawsuit, the people's court shall make a ruling.

If none of the persons listed in the first two paragraphs of this article is available to be the guardian, the units of the minor's parents, the neighbourhood or village committee in the place of the minor's residence of the civil affairs department shall act as his guardian.

Article 17 A person from the following categories shall act as guardian for a mentally ill person without or with limited capacity for civil conduct:

(1) spouse;

(2) parent;

(3) adult child;

(4) any other near relative;

(5) any other closely connected relative or friend willing to bear the responsibility of guardianship and having approval from the unit to which the mentally ill person belongs or from the neighbourhood or village committee in the place of his residence.

In case of a dispute over guardianship, the unit to which the

者住所地的居民委员会、村民委员会在近亲属中指定。对指定不服提起诉讼的,由人民法院裁决。

没有第一款规定的监护人的,由精神病人的所在单位或者住所地的居民委员会、村民委员会或者民政部门担任监护人。

第十八条 监护人应当履行监护职责,保护被监护人的人身、财产及其他合法权益,除为被监护人的利益外,不得处理被监护人的财产。

监护人依法履行监护的权利,受法律保护。

监护人不履行监护职责或者侵害被监护人的合法权益的,应当承担责任;给被监护人造成财产损失的,应当赔偿损失。人民法院可以根据有关人员或者有关单位的申请,撤销监护人的资格。

第十九条 精神病人的利害关系人,可以向人民法院申请宣告精神病人为无民事行为能力人或者限制民事行为能力人。

被人民法院宣告为无民事行为能力人或者限制民事行为能力人的,根据他健康恢复的状况,经本人或者利害关系人申请,人民法院可以宣告他为限制民事行为能力

mentally ill person belongs or the neighbourhood or village committee in the place of his residence shall appoint a guardian from among his near relatives. If disagreement over the appointment leads to a lawsuit, the people's court shall make a ruling.

If none of the persons listed in the first paragraph of this article is available to be the guardian, the unit to which the mentally ill person belongs, the neighbourhood or village committee in the place of his residence or the civil affairs department shall act as his guardian.

Article 18 A guardian shall fulfil his duty of guardianship and protect the person, property and other lawful rights and interests of his ward. A guardian shall not handle the property of his ward unless it is in the ward's interests.

A guardian's rights to fulfil his guardianship in accordance with the law shall be protected by law.

If a guardian does not fulfil his duties as guardian or infringes upon the lawful rights and interests of his ward, he shall be held responsible; if a guardian causes any property loss for his ward, he shall compensate for such loss. The people's court may disqualify a guardian based on the application of a concerned party or unit.

Article 19 A person who shares interests with a mental patient may apply to a people's court for a declaration that the mental patient is a person without or with limited capacity for civil conduct.

With the recovery of the health of a person who has been declared by a people's court to be without or with limited capacity for civil conduct, and upon his own application or that of an interested person, the people's court may declare him to be a person with lim-