



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

中華人民共和國民法通則

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CIVIL LAW OF THE PEOPLE'S  
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**中华人民共和国民法通则**

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外文出版社网址:

<http://www.flp.com.cn>

外文出版社电子信箱:

[info@flp.com.cn](mailto:info@flp.com.cn)

[sales@flp.com.cn](mailto:sales@flp.com.cn)

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E-mail Addresses:  
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[sales@flp.com.cn](mailto:sales@flp.com.cn)

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# **THE 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 on April 12, 1986, 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)*

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## ***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, in order to protect the lawful civil rights and interests of citizens and legal persons, adjust civil relations, appropriately and meet the needs arising in the course of socialist modernization.

**Article 2** The Civil Law of the People's Republic of China shall regulate property and personal relationships between citizens, between legal persons and between citizens and legal persons on an equal basis.

**Article 3** Parties shall enjoy equal status in civil activities.

**Article 4** When conducting civil activities the principles of voluntariness, fairness, compensation for equal value, honesty and credibility shall be followed.

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

**Article 6** Civil activities shall be in compliance with laws; in the absence of relevant prescriptions in laws, they shall be in compliance with the policies of the State.

**Article 7** Civil activities shall respect social ethics and shall not harm the public interest, undermine the economic plans of the State or disrupt the social or economic order.

**Article 8** When conducting civil activities within the territory of the People's Republic of China, the laws of the People's Republic of China shall be applicable.

The prescriptions of this Law regarding citizens shall apply to foreigners and stateless persons within the territory of the People's Republic of China, except as otherwise prescribed by law.

## ***CHAPTER II***

### **CITIZENS (NATURAL PERSONS)**

#### **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 enjoy civil rights and bear civil obligations in accordance with the laws.

**Article 10** The capacity for civil rights of all citizens shall be equal.

**Article 11** A citizen aged 18 or over shall be an adult. He shall have full capacity for civil conduct, and be able to independently engage in civil activities.

A citizen aged between 16 and 18 and whose own labor is the main source of his income 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 only engage in civil activities appropriate to his age and intellect; in other civil activities, he shall be represented by his agent *ad litem* or participate with the consent of his agent *ad litem*.

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

**Article 13** A mentally ill person not responsible for his own actions shall be a person without capacity for civil conduct and shall be represented by his agent *ad litem* in civil activities.

A mentally ill person not fully accountable for his own actions shall be a person with limited capacity for civil conduct and may engage in civil activities appropriate to his mental state. He shall be represented by his agent *ad litem* or participate only with the consent of his agent *ad litem* in other civil activities.

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

**Article 15** The place where a citizen's residence is registered shall be his domicile; his habitual residence shall be deemed his domicile if it is not the same as his domicile.

## **SECTION 2 GUARDIANSHIP**

**Article 16** A minor's parents shall be his guardians.

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

(1) Paternal or maternal grandparent;

(2) Elder brother or sister; or

(3) Any other closely connected relative or friend who is willing to bear the responsibilities of guardianship and has obtained approval from the work unit(s) of the minor's parents or the neighborhood or village committee in the place of the minor's residence.

In case of a dispute arising over guardianship, the work unit(s) of the minor's parents or the neighborhood or village committee in the place of the minor's residence shall appoint a guardian from among the minor's close relatives. If disagreement over the appointment leads to a lawsuit, the local people's court shall decide the guardianship.

If none of the persons listed in the first two paragraphs of this Article is available to be the guardian, the work unit(s) of the minor's parents, the neighborhood or village committee or the civil affairs department in the place of the minor's residence shall act as the guardian.

**Article 17** A person in one of the following categories shall act as guardian for a mentally ill person who is without or with limited capacity for civil conduct:

- (1) Spouse;
- (2) Parent;
- (3) Adult child;
- (4) Any other near relative;

(5) Any other close relative or friend who is willing to bear the responsibility of guardianship and has obtained approval from the work unit to which the mentally ill person belongs or from the neighborhood or village committee in the place of his residence.

In case of a dispute arising from guardianship, the work unit to which the mentally ill person belongs or the neighborhood or village committee in his place of residence shall appoint a guardian from among his near relatives. If disagreement over the appointment leads to a lawsuit, the local people's court shall decide the guardianship.

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

**Article 18** A guardian shall fulfill his duty of guardianship and protect the person, property and other legitimate rights and interests of his ward. Unless it is in the ward's interests, a guardian shall not handle the property of his ward .

The guardian's rights to fulfill his guardianship duties in

accordance with the law shall be protected by law.

If a guardian does not fulfill his duties as guardian or infringes upon the legitimate rights and interests of his ward, he shall bear full responsibility. If a guardian causes any property losses to his ward he shall make compensation for such losses. A people's court may revoke the qualification for guardianship in response to an application by a party or work unit concerned .

**Article 19** Any person closely connected with a mental patient may apply to a people's court for declaration that the mental patient is a person without or with limited capacity for civil conduct.

With the recovery of the mental 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 a closely connected person, the people's court can declare him to be a person with limited or full capacity for civil conduct.

### **SECTION 3   REPORT OF MISSING AND DEATH PERSONS**

**Article 20** A closely connected person can apply to a people's court for a declaration of a citizen as missing if the latter's whereabouts have been unknown for two consecutive years.

The calculation of the time period in which a person's whereabouts are unknown shall begin on the date the war

is declared over if his or her whereabouts become unknown during a war.

**Article 21** A missing person's property shall be placed in the custody of his or her spouse, parents, adult children or other closely connected relatives or friends. The local people's court shall appoint a person to take the custody of the property if there is a dispute arising from the custody or if the persons stipulated above are unavailable or are incapable of taking such custody.

Any taxes, debts and other unpaid expenses owed by a missing person shall be deducted from the missing person's property by the custodian.

**Article 22** If a person who has been declared missing reappears or his whereabouts are ascertained, the people's court shall, upon his own application or that of a closely related person, revoke the declaration of his missing-person status.

**Article 23** Under either of the following circumstances, a closely related person can apply to a people's court for a declaration of a citizen's death:

(1) If the citizen's whereabouts have been unknown for four years; or

(2) If the citizen's whereabouts have been unknown for two years after the date of an accident in which he was involved.

If a person's whereabouts become unknown during a war, the calculation of the time period in which his

whereabouts are unknown shall begin on the date the war is over.

**Article 24** In the event that a person who has been declared dead reappears or it is ascertained that he or she is still alive, the local people's court shall, upon his own application or that of a closely related person, revoke the declaration of his death.

Any civil legal acts conducted by a person with capacity for civil conduct during the period in which he or she has been declared dead shall be valid.

**Article 25** A person shall have the right to request the return of his or her property if the declaration of his or her death has been revoked. Any citizen or organization having obtained such property in accordance with the Inheritance Law shall return the original articles or make appropriate compensation if the original articles no longer exist.

## **SECTION 4 INDIVIDUAL BUSINESSES AND LEASEHOLDING FARM HOUSEHOLDS**

**Article 26** Citizens who engage in industrial or commercial operations within the scope permitted by law and with approval and registration in accordance with the law shall be considered individual businesses. An individual business may adopt a commercial title.

**Article 27** Members of rural collective economic organizations who transact commodities according to the



stipulations of contracts and within the scope permitted by law shall be considered leaseholding households.

**Article 28** The legitimate rights and interests of individual businesses and leaseholding farm households shall be protected by law.

**Article 29** The debts of a business operated by an individual or a leaseholding farm household shall be secured with the individual's or household's property. If the business is operated by a family the debts shall be secured with the family's property.

## **SECTION 5 INDIVIDUAL PARTNERSHIP**

**Article 30** "Individual partnership" means that two or more citizens operate a business together by respectively providing funds, articles, technologies, and so on, in accordance with an agreement.

**Article 31** The partners shall conclude a written agreement stipulating the funds each is to provide, the distribution of profits, liabilities for debts, the entering into and withdrawal from the partnership, the dissolution of the partnership, etc.

**Article 32** Property contributed by partners shall be under their unified management and use.

Property accumulated in a partnership operation shall belong to all the partners.