

# Administrative Licensing Law and Other Commercial Law Reforms

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# Administrative Licensing Law and Other Commercial Law Reforms

- Administrative Licensing Law
- Foreign Trade Law
- Anti-monopoly Law
- Other Commercial Laws

# Part 1: Administrative Licensing Law

- Adopted on Aug 27<sup>th</sup>, 2003
- Coming into force as of July 1<sup>st</sup>, 2004

# Main Content

- Definition
- Basic Principles
- The Power of Setting Down a Licensing
- Implementing Procedures for Licensing
- Charges for Licensing
- Supervision and Inspection
- Legal Liabilities

# What's an administrative licensing

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- Application by citizens, legal persons or other organizations
- Examination by administrative organs
- Permission(approval) to engage in specific activities

# Basic Principles

- 1. Legitimacy
- 2. Publicity, fairness and impartiality
- 3. Facilitating people
- 4. Right to have remedies
- 5. Trust protection

# What may set down (create) a licensing?

- Yes

- Laws
- Administrative regulations
- Decision of the State Council
- Provincial regulations

- No

- Ministry regulations
- Other regulatory documents

# For what matters may a licensing be set down?

- 1. Specific activities bearing on national or public security, human health or environmental protection.
- 2. The development and utilization of limited natural resources, Market access of specific trade, public utilities such as power or water supply.
- 3. Specific vocations or trades bearing on public interest, i.e. attorney, accountant or doctor.



(continued)

- 4. Important or dangerous equipments or facilities: vehicles, boiler.
- 5. The setting-up of enterprises or other institutions
- 6. Other matters provided by laws or Administrative regulations

# Procedure for Administrative Licensing

- 1.Application and Acceptance
- 2.Examination and Decision
- 3.Time Limit
- 4.Hearing
- 5.Modification and Extension
- 6.Special Procedures

# Special Procedures

- 1. Licensing by means of tendering or auction
- 2. Licensing through national examination.
- 3. Decision-making on the basis of inspection, testing or quarantine.

# Charges for Administrative licensing

- 1. In principle: No charges for licensing
  - -----unless the laws or administrative regulations so stipulated
- 2. Application form: No charges
- 3. Expenditure: Ensured by budget

# Supervision and Inspection

- Art.62: 1.Sample inspection, 2.examination on the spot, 3. periodical examination.
- Art.65: Accusation of violation by individuals or organs.

# Supervision and inspection (continued)

- Art.69: Annulment of licensing
- ----Resulting from illegal acts.
- Art.70: Cancellation of licenses:
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# Legal liabilities

- Annulling illegal documents.
- Administrative disciplinary measures.
- Criminal penalties
- Administrative compensation
- Administrative penalties

# Part 2: Foreign Trade Law

- Adopted on May 12<sup>th</sup>, 1994
- Coming into force as of July 1<sup>st</sup>, 1994
- 7 Chapters, 44 Articles.
- Revised on April 6, 2004,
- Coming into force as of July 1, 2004
- 11 chapters, 70 articles.



# Major Changes

- 1. Individuals may engage in import and export.
- 2. Licensing for engaging in import and export abolished
- 3. Foreign trade investigation established
- 4. Monitoring for import and export strengthened.
- 5. Foreign trade-related IPRs protected.
- 6. Penalties for violation perfected.

# Part 3: Anti-monopoly Law

- Purposes of the law
  - Building integrated, open and orderly market
  - Protecting and promoting fair competition
  - Preventing monopoly
  - Protecting the lawful rights of consumers and public interest.

# Contents might be included

- 1. Definition of monopoly
- 2. Competent authorities
- 3. Different types of monopoly
- 4. Anti-monopoly investigation
- 5. Legal liabilities.

# Part 4: Other Commercial Law Reforms

- 1.Law on the Supervision and Administration of Banking(adopted on Dec 27,2003)
- 2. Law on Securities Investment Funds(adopted)
- 3.Law on Commercial Bank(revised)
- 4.Insolvency Law
- 5.Electronic Signature Law
- 6.Company Law.
- 7.Security Law.