

**Act Governing Relations Between Peoples of the  
Taiwan Area and the Mainland Area  
( 2003.10.29 Amended )**

**Chapter I General Provisions**

**Article 1**

This Act is specially enacted for the purposes of ensuring the security and public welfare in the Taiwan Area, regulating dealings between the peoples of the Taiwan Area and the Mainland Area, and handling legal matters arising therefrom before national unification. With regard to matters not provided for in this Act, the provisions of other relevant laws and regulations shall apply.

**Article 2**

The following terms as used in this Act are defined below.

1. "Taiwan Area" refers to Taiwan, Penghu, Kinmen, Matsu, and any other area under the effective control of the Government.
2. "Mainland Area" refers to the territory of the Republic of China outside the Taiwan Area.
3. "People of the Taiwan Area" refers to the people who have household registrations in the Taiwan Area.
4. "People of the Mainland Area" refers to the people who have household registrations in the Mainland Area.

**Article 3**

The provisions of this Act pertaining to the people of the Mainland Area shall likewise apply to the people of the Mainland Area who reside outside the Mainland Area.

**Article 3- 1**

The Mainland Affairs Council, Executive Yuan shall coordinate the handling of all Mainland-related affairs and is designated as the competent authorities of this Act.

**Article 4**

The Executive Yuan may set up or designate an institution to handle the affairs relating to any dealings between the peoples of the Taiwan Area and the Mainland Area.

The Mainland Affairs Council, Executive Yuan may entrust the institution referred to in the preceding paragraph or any private organization meeting the following criteria to handle the affairs relating to any dealings between the peoples of the Taiwan Area and the Mainland Area:

1. Upon establishment, more than half of its total assets is donated by the government,

and

2. The purpose of its establishment is for handling the affairs relating to any dealings between the peoples of the Taiwan Area and the Mainland Area, and the central competent authorities for it or for its business is the Mainland Affairs Council, Executive Yuan.

The Mainland Affairs Council, Executive Yuan or each competent authorities approved by the Executive Yuan in accordance with Paragraph 1 of Article 4-2 may, based on the need and the nature of the affairs to be handled, entrust any accountable, professional, and experienced non-profit juristic person other than those referred to in the preceding two paragraphs on a case-by-case basis to assist the handling of the affairs relating to any dealings between the peoples of the Taiwan Area and the Mainland Area; if necessary, it may also be entrusted to execute agreements.

The institution or private organization referred to in the preceding two paragraphs may upon the approval of the entrusting authorities, entrust any other non-profit juristic person as referred to in the preceding paragraph to assist the handling of the affairs relating to any dealings between the peoples of the Taiwan Area and the Mainland Area.

#### **Article 4- 1**

The civil servants transferred to the institution or private organization referred to in the preceding Article shall be permitted to return to government services, and when they return, the length of their service at the referred institution or organization may be added to their years of service as civil servants. This provision shall apply mutatis mutandis to those who were transferred prior to the entering into force of this Act or the amendments to this Act.

For the civil servants who do not return to government services after being transferred to the institution or private organization referred to in the preceding Article and receive the retirement benefits, layoff or death compensation from the referred institution or private organization, the Mainland Affairs Council, Executive Yuan shall make the budget to pay them for the years of their service as civil servants before and after the implementation of the new retirement and compensation scheme, based on the lump-sum payment criteria provided for in the relevant laws and regulations governing retirement and compensation scheme applicable to them before their transfer.

For the civil servants who return to government services after being transferred to the institution or private organization referred to in the preceding Article or who receive retirement benefits, layoff or death compensation from the referred institution or private organization, the length of service for which they have received benefits or compensation shall not be calculated in addition thereto.

Rules governing the transfer arrangement, return, calculation of the length of service, ranking determination and any other requirements referred to in Paragraph 1 shall be prescribed by the Examination Yuan in conjunction with the Executive Yuan.

Rules governing the lump-sum payment criteria, the calculation, and budget making shall be prescribed by the Executive Yuan.

**Article 4- 2**

The Mainland Affairs Council, Executive Yuan shall coordinate the administration of the matters related to any agreement making between the Taiwan Area and the Mainland Area; where the content of the agreement is of professional and technical nature, and suitable to be made by each competent authorities concerned, the administration may be taken charge by the referred competent authorities in conjunction with the Mainland Affairs Council, Executive Yuan upon the approval of the Executive Yuan.

The Mainland Affairs Council, Executive Yuan or each competent authorities approved by the Executive Yuan in accordance with the preceding paragraph may entrust any institution or private organization referred to in Article 4 to negotiate and execute agreements, in the name of the entrusted, with the concerned authorities of the Mainland Area or their delegated juristic person, organization, or any other institution.

The agreement referred to in this Statue means any written document involving the exercise of governmental powers or any matter of political issues, and executed between the Taiwan Area and the Mainland Area; any additional protocol, additional provision, protocol executed, agreed minutes, annex, and any other attachment shall constitute an integral part of the agreement.

**Article 4- 3**

Where any other non-profit judicial person referred to in Paragraph 3 of Article 4 is entrusted to assist the handling of the affairs or execute agreements, it shall be instructed and supervised by the entrusting authorities, or institution or private organization referred to in Paragraph 1 or 2 of Article 4.

**Article 4- 4**

The institution or private organization entrusted in accordance with the provisions of Paragraph 1 or 2 of Article 4 as well as any other non-profit juristic person referred to in Paragraph 3 of Article 4 during the entrusted period, shall comply with the following provisions:

1. Upon sending delegates to the Mainland Area or any other area to handle the entrusted affairs or any relevant important business, shall apply for approval to, comply with the instructions of, and promptly provide updated reports to the entrusting authorities, institution or private organization referred to in Paragraph 1 or 2 of Article 4; upon sending delegates to the Mainland Area for the other affairs, shall inform in advance the entrusting authorities, institution or private organization referred to in Paragraph 1 or 2 of Article 4.
2. Its representative and any person handling the entrusted affairs shall have the same obligation of confidentiality as civil servants even after they are discharged of the duty.
3. Its representative and any person handling the entrusted affairs shall have the same obligation to avoid conflict of interest as civil servants for the handling of the entrusted affairs.

4. Its representative and any person handling the entrusted affairs shall not negotiate or execute any agreement with the concerned authorities of the Mainland Area or their delegated juristic person, organization or any other institution without the approval of the entrusting authorities.

#### **Article 5**

The institution, private organization, or any other non-profit juristic person entrusted to execute an agreement in accordance with Paragraph 3 of Article 4 or Paragraph 2 of Article 4-2 shall submit the draft agreement through the entrusting authorities to the Executive Yuan for approval before its execution of the agreement.

Where the content of the agreement requires any amendment to laws or any new legislation, the administration authorities of the agreement shall submit the agreement through the Executive Yuan to the Legislative Yuan for consideration within 30 days after the execution of the agreement; where its content does not require any amendment to laws or any new legislation, the administration authorities of the agreement shall submit the agreement to the Executive Yuan for approval and to the Legislative Yuan for record, with a confidential procedure if necessary.

#### **Article 5- 1**

Any authorities or institution at each local government level of the Taiwan Area shall not negotiate or execute any agreement in any form with any individual, juristic person, organization, or other authorities or institution of the Mainland Area unless authorized by the Mainland Affairs Council, Executive Yuan. The same applies mutatis mutandis to the civil servants, elected public offices at all levels, or local representative organs at all levels.

Any individual, juristic person, organization, or other institution shall not execute any agreement involving the governmental powers of the Taiwan Area or political issues with any individual, juristic person, organization, or other authorities or institution of the Mainland Area unless authorized by the Mainland Affairs Council, Executive Yuan or each competent authorities concerned in accordance with the provisions of this Act.

#### **Article 5- 2**

Rules governing the entrusting and re-entrusting of any entrusted institution, private organization, or other non-profit juristic person to handle the affairs, or negotiate or execute agreements and the supervision thereof in accordance with the provisions of Paragraph 3 or 4 of Article 4 or Paragraph 2 of Article 4-2 shall be drafted by the Mainland Affairs Council, Executive Yuan and submitted to the Executive Yuan for approval.

#### **Article 6**

To handle the affairs relating to any dealings between the peoples of the Taiwan Area and the Mainland Area, the Executive Yuan may permit in accordance with the principle of reciprocity juristic persons, organizations, or any other institutions of the Mainland Area to establish branches in the Taiwan Area.

The matters relating to the granting of permission for the establishment referred to in the preceding paragraph shall be prescribed by law.

### **Article 7**

Documents produced in the Mainland Area shall be presumed to be genuine provided that they are authenticated by the institution set up or designated, or by the private organization entrusted by the Executive Yuan.

### **Article 8**

Where any legal process or document is required to be served, or any necessary investigation is required to be conducted in the Mainland Area, judicial authorities may request or entrust the institution or private organization referred to in Article 4 to do so.

## **Chapter II Administrative Matters**

### **Article 9**

The people of the Taiwan Area who intend to enter into the Mainland Area shall go through ordinary emigration procedures.

The competent authorities may request the airline companies or relevant travel agents to comply with the emigration declaration procedures referred to in the preceding paragraph.

Civil servants and non-civil servant personnel of the National Security Bureau, Ministry of National Defense, Bureau of Investigation under the Ministry of Justice, and their agencies at all levels shall not enter into the Mainland Area unless permitted by the Ministry of Interior.

The people of the Taiwan Area with the following status shall apply for their entering into the Mainland Area, and the application shall be reviewed and approved by a committee organized by the Ministry of Interior in conjunction with the National Security Bureau, the Ministry of Justice, and the Mainland Affairs Council, Executive Yuan:

1. Any political appointee, mayor of any municipal city under the Executive Yuan.
2. Any person engaged in any business involving national secrecy in the agencies of national defense, foreign affairs, science-tech, intelligence, Mainland affairs or any other designated agencies related to national security.
3. Any individual or any member of a private organization or institution entrusted by the agencies referred to in the preceding sub-paragraph to engage in any official business involving national secrecy.
4. Any person referred to in the preceding three sub-paragraphs retired or discharged from its duties less than three years.
5. Any county executive and mayor of any city at the county level.

Whether the persons referred to in Sub-paragraphs 2 to 4 of the preceding paragraph are involved in national secrecy shall be determined by the agencies they have served, the

entrusting agencies, or the entrusted organizations or institutions in accordance with relevant provisions and the nature of the business.

The period during which any retired or discharged person referred to in Sub-paragraph 4 of Paragraph 4 is required to apply for approval to the reviewing committee for its entering into the Mainland Area after its retirement or discharge may be extended or shortened by the agencies it has served, the entrusting agencies, or the entrusted organizations or institutions in accordance with the nature of national secrecy and the business involved.

Where any unforeseen significant event affects the material interests of the Taiwan Area or causes any serious damage to the cross-straits interaction, the Executive Yuan may, after giving a public notice, apply any prohibitive, restrictive, or other necessary measure for a certain period of time to the entrance of the people of the Taiwan Area into the Mainland Area with a resolution of the Legislative Yuan, which shall be deemed consent if no resolution is made within one month during its session; provided that in case of urgencies, the Legislative consent may be granted thereafter.

The people of the Taiwan Area who are permitted to enter into the Mainland Area may not engage in any activity detrimental to national security or interests.

Rules governing the declaration procedures referred to in Paragraph 2 and the granting of permission referred to in Paragraphs 3 and 4 shall be drafted by the Ministry of Interior and submitted to the Executive Yuan for approval.

#### **Article 9- 1**

The people of the Taiwan Area may not have household registrations in the Mainland Area or hold passports issued by the Mainland Area.

Except for the situations deemed necessary by the authorities concerned out of special consideration, any person who has a household registration in the Mainland Area or holds a passport issued by the Mainland Area in violation of the provisions of the preceding paragraph shall be deprived of its status as the people of the Taiwan Area and its rights of election, recall, initiative, referendum, serving military service or public offices, and any other rights derived from its household registration in the Taiwan Area, and its household registration in the Taiwan Area shall be annulled by the household registration authorities; provided that the responsibilities and obligations resulted from its status as the people of the Taiwan Area are not excused or exempted.

Any of the people of the Taiwan Area who has a household registration in the Mainland Area or holds a passport issued by the Mainland Area before the coming into force of the amendments to this Act is not deprived of its status as the people of the Taiwan Area provided that it submits to the Ministry of Interior relevant proofs that it has had its household registration in the Mainland Area annulled or abandoned its passport issued by the Mainland Area within six months from the coming into force of the amendments to this Act.

#### **Article 9- 2**

Any person deprived of its status as the people of the Taiwan Area in accordance with the provisions of the preceding Article may apply to the Ministry of Interior for

permission to recover its status as the people of the Taiwan Area and to reside in the Taiwan Area after its return provided that it has its household registration in the Mainland Area annulled or abandons its passport issued by the Mainland Area.

Rules governing the permission requirements, procedures, means, restriction, revocation, or annulment of permission and any other requirements referred to in the preceding paragraph shall be drafted by the Ministry of Interior and submitted to the Executive Yuan for approval.

#### **Article 10**

No people of the Mainland Area may enter into the Taiwan Area without permission of the competent authorities.

Any of the people of the Mainland Area who are permitted to enter into the Taiwan Area may not engage in any activity inconsistent with the purposes of the permission.

Rules governing the granting of permission referred to in the preceding two paragraphs shall be drafted by the competent authorities concerned and submitted to the Executive Yuan for approval.

#### **Article 10- 1**

Any of the people of the Mainland Area who apply to enter into the Taiwan Area for family reunion, residency, or permanent residency shall be interviewed, fingerprinted, and registered for record; where it fails to be interviewed or fingerprinted, no permission shall be granted to its application for family reunion, residency, or permanent residency. Governing rules thereof shall be prescribed by the competent authorities.

#### **Article 11**

Any person who employs any of the people of the Mainland Area to work in the Taiwan Area shall apply to the competent authorities for permission.

Any of the people of the Mainland Area who are permitted to be employed in the Taiwan Area may not be employed for more than one year, during which it may not change its employer or work; provided, however, that with the permission of the competent authorities, it may change its employer or work in case the employment relationship cannot continue due to its employer's business being shut down or suspended, or any other extraordinary situations.

For any of the people of the Mainland Area who change employers or work according to the proviso in the preceding paragraph, the duration of their employments shall be calculated by combining the periods of employments before and after the change of their employers or work.

If an employer cannot meet its recruitment need after recruiting publicly in the Taiwan Area with an offer of reasonable working terms and after applying to a public placement service office for recruitment registration, the employer may then apply to the Council of Labor Affairs, Executive Yuan for employment of the people of the Mainland Area to fill the vacancies; provided, however, that the employer, during the recruitment period, informs the labor unions or the workers of its business units of the full text of

the recruitment notice and posts such notice at the workplace intended for the people of the Mainland Area to work.

The labor contracts for employment of the people of the Mainland Area shall be in fixed-term.

Rules governing the granting of permission and the administration concerned as referred to in Paragraph 1 shall be drafted by the Council of Labor Affairs, Executive Yuan in conjunction with the authorities concerned and submitted to the Executive Yuan for approval.

To meet the employment demand derived from the service sectors opened in accordance with any international agreement, multinational enterprises or enterprises of the Taiwan Area of which their business scales in Taiwan reach certain threshold may employ the people of the Mainland Area with the permission of the competent authorities and not subject to the restriction referred to in the relevant provisions of the preceding six paragraphs and Article 95; rules governing the granting of permission, administration, the business scales of enterprises, employment terms and any other requirements thereof shall be drafted by the Council of Labor Affairs, Executive Yuan in conjunction with the authorities concerned and submitted to the Executive Yuan for approval.

#### **Article 12**

Any of the people of the Mainland Area who are permitted to work by employment in the Taiwan Area may not claim any labor insurance payment for their dependents' injury, illness, childbirth or death occurring outside the jurisdiction within which the Act for Labor Insurance is in force.

#### **Article 13**

Any person who employs the people of the Mainland Area shall pay an amount of Employment Stabilization Fee to a special account designated by the Council of Labor Affairs, Executive Yuan.

Rules governing the schedule and management of the Fee referred to in the preceding paragraph shall be drafted by the Council of Labor Affairs, Executive Yuan in conjunction with the Ministry of Finance and submitted to the Executive Yuan for approval.

#### **Article 14**

For any of the people of the Mainland Area permitted to work by employment in the Taiwan Area violating any provision of this Act or any other laws and regulations, the competent authorities may revoke or annul the permission.

Any of the people of the Mainland Area whose permissions have been revoked or annulled in accordance with the preceding paragraph shall be ordered to leave the Taiwan Area within a specified time limit and in case of failing to leave by the expiration of the aforementioned time limit, shall be deported in accordance with the provisions of Article 18.

The provisions of the preceding paragraph shall apply where a labor contract is suspended or terminated.



**Article 15**

No one may commit any of the following acts:

1. To make any of the people of the Mainland Area enter into the Taiwan Area illegally.
2. To solicit any of the people of the Taiwan Area to enter into the Mainland Area with the knowledge that the solicited has no permission.
3. To make any of the people of the Mainland Area engage in any activity in the Taiwan Area without permission or inconsistent with the purposes of permission.
4. To employ or to continue to employ any of the people of the Mainland Area to work without permission or beyond the scope of the permission.
5. To act as a middleman in introducing others to commit any act referred to in the preceding sub-paragraph.

**Article 16**

Any of the people of the Mainland Area may apply to enter into the Taiwan Area for the purpose of business visit or tourism; regulations thereof shall be prescribed by the competent authorities.

In any of the following situations, any of the people of the Mainland Area may apply for permanent residency in the Taiwan Area:

1. Being a lineal relative by blood or the spouse of any of the people of the Taiwan Area, and of the age of no less than seventy or no more than twelve.
2. Being the surviving spouse of any of the people of the Taiwan Area who needs to provide care to any of the underage children born by the deceased spouse.
3. Being any serviceman of the Taiwan Area who was sent over to the Mainland Area for military service and has been staying there since 1945, and its spouse.
4. Being any former officer or enlisted man of the armed forces captured in battle or in the execution of special missions after the Government moved to Taiwan in 1949, and its spouse.
5. Being any person who was sent over to the Mainland Area to study on Government scholarships before the Government moved to Taiwan in 1949, and its spouse.
6. Being any fishermen or crew who, by reason of breakdown of their vessels, shipwreck, or force majeure, have stayed in the Mainland Area since any date by November 1, 1987 and had household registrations in the Taiwan Area before.

An annual quota may be imposed on the number of permanent residency in the Taiwan Area to be granted to the people of the Mainland Area who apply in accordance with the provisions of Sub-paragraph 1 of the preceding paragraph.

The spouse in the Mainland Area of any person referred to in Sub-paragraphs 3 to 6 of Paragraph 2 may apply for permanent residency in the Taiwan Area together with the application of the referred person; provided, however, that if the applications are not filed together, the referred person may apply on behalf of its spouse after the referred person becomes a permanent resident in the Taiwan Area.

#### **Article 17**

Any of the people of the Mainland Area being the spouse of any of the people of the Taiwan Area may apply to enter into the Taiwan Area for family reunion in accordance with laws and regulations; in either of the following situations, it may apply for spouse residency in the Taiwan Area:

1. Being married for at least two years.
2. Having given birth to a child.

Any of the people of the Mainland Area other than those referred to in the preceding paragraph may apply to stay in the Taiwan Area in accordance with laws and regulations; in either of the following situations, it may apply for business or work residency in the Taiwan Area for a period of no more than three years, which may be extended upon expiration by application:

1. Being any of the people of the Mainland Area who are employed to work in the Taiwan Area in accordance with Article 11.
2. Being any of the people of the Mainland Area who enter into the Taiwan Area for business related activities in accordance with Article 10 or Paragraph 1 of Article 16.

Any person having a spouse residency in the Taiwan Area, which is permitted in accordance with the provisions of Paragraph 1, for at least four years, and during which its lawful residency in the Taiwan Area each year is no less than 183 days may apply for long-term residency.

The Ministry of Interior may permit specifically on a case-by-case basis any of the people of the Mainland Area to have a long-term residency in the Taiwan Area out of political, economic, social, educational, science-tech or cultural consideration and may restrict the categories and quota for residency applications; the referred categories and quota shall be drafted by the Ministry of Interior and approved by the Executive Yuan for publication.

For any person permitted to have a long-term residency in the Taiwan Area in accordance with the provisions of the preceding two paragraphs, its period of residency is indefinite; it may apply for permanent residency in the Taiwan Area provided that it has a long-term residency for at least two years and complies with the following provisions:

1. The period of its lawful residency in the Taiwan Area being no less than 183 days annually.
2. Being of the age of no less than twenty.
3. Having a character of integrity and with no criminal record.
4. Submitting a proof of losing its original household registration.
5. Having certain amount of properties for self-sufficiency or living upon reliable support.
6. Being in the national interests.

The Ministry of Interior may impose and publish after approval by the Executive Yuan the quota and categories for spouse residency, long-term residency and permanent residency.

For any of the people of the Mainland Area permitted to have a spouse residency, long-term residency or permanent residency in accordance with Paragraph 1, if there exist sufficient evidences to establish that its marriage is false due to collusion, the permission for its spouse residency, long-term residency, permanent residency and household registration shall be revoked and, in addition, it shall be deported.

For any of the people of the Mainland Area who stay or reside in the Taiwan Area beyond the authorized duration or enter into the Taiwan Area without permission, the provisions of the preceding Article and Paragraphs 1 to 4 of this Article shall not apply to such person during the period of its stay or residency in the Taiwan Area. Rules governing the requirements, procedures, means, restriction, revocation, or annulment of permission and any other requirements for residency, long-term residency or permanent residency referred to in the preceding Article and Paragraphs 1 to 5 of this Article shall be drafted by the Ministry of Interior in conjunction with the authorities concerned and submitted to the Executive Yuan for approval.

#### **Article 17- 1**

Any person who is permitted to have a spouse residency in the Taiwan Area in accordance with the provisions of Paragraph 1 of the preceding Article may apply to the competent authorities for permission to be employed to work in the Taiwan Area.

The competent authorities shall take into account the situations of Taiwan employment market, public interest, and household economy in granting the permission referred to in the preceding paragraph; rules governing the referred permission requirements, procedures, means, restriction, administration, revocation, or annulment of permission and any other requirements shall be drafted by the Council of Labor Affairs, Executive Yuan and submitted to the Executive Yuan for approval.

Any person who is permitted to have a long-term residency in the Taiwan Area in accordance with the provisions of Paragraph 3 or 4 of the preceding Article may work in the Taiwan Area during the period of its residency.

## **Article 18**

In any of the following situations, any of the people of the Mainland Area who enter into the Taiwan Area may be deported by the police authorities; provided, however, that prior approval shall be obtained from the judicial authorities where the judicial proceeding thereof is pending:

1. Entering into the Taiwan Area without permission.
2. Entering into the Taiwan Area by permission and staying or residing beyond the authorized duration.
3. Engaging in any activity or employment inconsistent with the purposes of the permission.
4. There exist sufficient evidences to establish that a crime has been committed.
5. There exist sufficient evidences to establish that there is a threat to national security or social stability.

Any of the people of the Mainland Area referred to in the preceding paragraph may be put in temporary custody before deportation or ordered in addition to perform labor services.

Any of the people of the Mainland Area referred to in Paragraph 1 who breach the Social Orders Maintenance Law but do not involve in any other criminal offense by engaging in any activity or employment inconsistent with the purposes of the permission as provided in Sub-paragraph 3 of Paragraph 1 may be deported directly by the police authorities after investigation without being transferred to a summary court for ruling.

Where any of the people of the Mainland Area entering into the Taiwan Area and involving in criminal cases are ordered for custody by judges or prosecutors to be put in the accommodation centers for custody referred to in Paragraph 2, and found guilty by a irrevocable court judgment, any single custody day may be counted as an imprisonment or detention day, or converted into the amount of fine as prescribed by the decision referred to in Paragraph 4 of Article 42 of the Criminal Code.

The provisions of the preceding four paragraphs shall apply to any of the people of the Mainland Area who entered into the Taiwan Area before the coming into force of this Act.

Rules governing the administration of deportation referred to in Paragraph 1 and rules governing the establishment and administration of the accommodation centers for custody referred to in Paragraph 2 shall be drafted respectively by the Ministry of Interior and submitted to the Executive Yuan for approval.

## **Article 19**

Any of the people of the Taiwan Area who guarantee for any of the people of the Mainland Area for the latter's entry into the Taiwan Area shall assist the authorities

concerned in deporting the latter in the event of the latter's failure to leave by the expiration of the authorized duration of stay, and shall bear the expenses incurred in connection therewith.

The deporting authorities may notify the guarantor to pay the expenses referred to in the preceding paragraph within a specified time limit by providing photocopies of relevant receipts and a calculation statement, and shall forward the case in accordance with the laws for compulsory execution in the event of the guarantor's failure to pay by the expiration of the aforementioned time limit.

#### **Article 20**

In any of the following situations, any of the people of the Taiwan Area shall bear the expenses for deportation:

1. Making any of the people of the Mainland Area enter into the Taiwan Area illegally.
2. Illegally employing any of the people of the Mainland Area.
3. Employing any of the people of the Mainland Area who are subject to deportation in accordance with the provisions of Paragraph 2 or 3 of Article 14.

Where there is more than one person liable for the expenses referred to in the preceding paragraph, these persons shall be jointly and severally liable.

The deporting authorities may notify the guarantor to pay within a specified time limit the expenses referred to in Paragraph 1 by providing photocopies of relevant receipts and a calculation statement, and shall forward the case in accordance with the laws for compulsory execution in the event of the guarantor's failure to pay by the expiration of the aforementioned time limit.

#### **Article 21**

Except otherwise provided for in any other law, any of the people of the Mainland Area permitted to enter into the Taiwan Area may not register itself as candidate for any public office, serve in the government, educational institutions or state enterprises, or organize any political party unless it has had a household registration in the Taiwan Area for at least ten years; unless it has had a household registration in the Taiwan Area for at least twenty years, it may not serve in the intelligence agencies or institutions, or serve in the national defense agencies or institutions as any of following personnel:

1. Recruited military officers, sergeants and soldiers.
2. Drafted military officers and sergeants.
3. Civilian, educational and military contracted personnel.

Any of the people of the Mainland Area who is permitted to enter into the Taiwan Area and has a household registrations in the Taiwan Area may serve as faculty member of any university, researcher of any academic or research institution, or specialist of any social education institution according to relevant laws and regulations without being

subject to the limitation to have a household registration in the Taiwan Area for at least ten years as referred to in the preceding paragraph.

Any person referred to in the preceding paragraph shall not assume any responsibility or perform any work involving national security or confidential science-tech research.

#### **Article 22**

For any of the people of the Taiwan Area or any of the people of the Mainland Area permitted to have a permanent residency in the Taiwan Area, rules governing its examination and the recognition of its education in the Mainland Area shall be drafted by the Ministry of Education and submitted to the Executive Yuan for approval.

#### **Article 22- 1**

Any individual, juristic person, organization, or other institution of the Taiwan Area permitted to make any investment or have any technology cooperation in the Mainland Area, after filing with the Ministry of Education for record, may establish in the Mainland Area any school not higher than senior high school exclusively for any of the people of the Taiwan Area (hereinafter "Taiwanese School in the Mainland Area") and may have a kindergarten annexed.

Rules governing the procedures of filing for records, the curriculum, facilities, student recruitment, eligibility of schools for financial awards or assistances, return of students to Taiwan for education, qualification for and accreditation of the salary rank as well as the length of service of any of the people of the Taiwan Area to serve as principal or teacher, and any other related matters of the Taiwanese Schools in the Mainland Area shall be drafted by the Ministry of Education and submitted to the Executive Yuan for approval.

Any student of the Taiwanese Schools in the Mainland Area in compliance with the Rules referred to in the preceding paragraph returning to Taiwan for education may continue its education at any school of the same level in the Taiwan Area.

The provisions of the Civil Servants and Educational Personnel Insurance Law and the National Health Insurance Law related to private schools shall apply mutatis mutandis to the insurance matters of any of the people of the Taiwan Area serving as principal or teacher of any Taiwanese School in the Mainland Area; where the personnel system of a Taiwanese School in the Mainland Area is the same as that of the school at the same level in the Taiwan Area, the relevant provisions of the Private School Law shall apply mutatis mutandis to its retirement, death compensation, and layoff matters.

#### **Article 23**

Any individual, juristic person, organization, or other institution of the Taiwan Area, the Mainland Area or any other area may be permitted to recruit students or act as a middleman in the Taiwan Area for any educational institution of the Mainland Area. Rules governing the granting of the referred permission shall be drafted by the Ministry of Education and submitted to the Executive Yuan for approval.

#### **Article 24**

Any individual, juristic person, organization, or other institution of the Taiwan Area having income derived from sources in the Mainland Area shall pay income tax thereon

together with the income derived from sources in the Taiwan Area; provided, however, that the amount of the income tax already paid in the Mainland Area may be deducted from the amount of the income tax payable.

Where any juristic person, organization, or other institution of the Taiwan Area permitted by the competent authorities in accordance with the provisions of Article 35 to make any investment in the Mainland Area through the company or enterprise it establishes in any third area includes in its tax return the investment income of its company or enterprise in the third area according to the Income Tax Act, the investment income of such company or enterprise derived from the income distributed by the invested company or enterprise in the Mainland Area shall be deemed the income derived from sources in the Mainland Area and taxed according to the preceding paragraph; provided, however, that the amount of income tax paid in the Mainland Area and the third Area against the portion of investment income derived from sources in the Mainland Area may be deducted from the amount of the income tax payable.

The total amount to be credited in accordance with the preceding two paragraphs may not exceed the increment of the income tax payable computed, after including the income derived from sources in the Mainland Area, at the applicable tax rate of the Taiwan Area.

#### **Article 25**

Any individual, juristic person, organization, or other institution of the Mainland Area having income derived from sources in the Taiwan Area shall pay income tax thereon. Any individual of the Mainland Area residing and staying in the Taiwan Area for at least 183 days in a taxable year shall file consolidated income tax return for its income derived from sources in the Taiwan Area, and the taxing provisions applicable to the people of the Taiwan Area shall apply *mutatis mutandis*.

Any juristic person, organization, or other institution of the Mainland Area with a fixed place of business or a business agent shall pay profit-seeking enterprise income tax on its income derived from sources in the Taiwan Area, and the taxing provisions applicable to the profit-seeking enterprises in the Taiwan Area shall apply *mutatis mutandis*; where it does not have any fixed place of business but has a business agent, its payable profit-seeking enterprise income tax shall be responsible by its business agent, who shall file with each competent tax authorities and pay tax thereto. Where, however, any juristic person, organization, or other institution of the Mainland Area receives net dividends or net surplus derived from its investment in the Taiwan Area, the amount of which shall not be included in its business income, the tax withholder shall withhold the tax payable in accordance with the prescribed rate upon making payment.

For any individual of the Mainland Area residing and staying in the Taiwan Area for less than 183 days in a taxable year and any juristic person, organization, or other institution of the Mainland Area without any fixed place of business or business agent, the tax payable for its income derived from sources in the Taiwan Area shall be withheld by the tax withholder in accordance with the prescribed rate upon making payment and not subject to tax return filing; where the income does not fall within the scope of withholding, the taxpayer shall file and pay tax in accordance with the prescribed tax rate, or entrust any individual of the Taiwan Area or any profit-

seeking enterprise with a fixed place of business in the Taiwan Area as its agent for tax return filing and payment provided that it cannot file the tax return itself. The relevant provisions of the Income Tax Act shall apply to the withholding matters referred to in the preceding two paragraphs.

Schedules governing the withholding rates applicable to the income derived from the sources in the Taiwan Area for any individual, juristic person, organization, or other institution of the Mainland Area shall be drafted by the Ministry of Finance and submitted to the Executive Yuan for approval.

#### **Article 25- 1**

For any individual, juristic person, organization, or other institution of the Mainland Area or any company it invests in any third area permitted to invest in the Taiwan Area in accordance with the provisions of Article 73, the tax payable for the dividends distributed to it by the company in the Taiwan Area or surplus distributed to a partner shall not be subject to the provisions of tax return filing provided for in the Income Tax Act provided that the tax withholder designated by the provisions of the Income Tax Act, upon payment, withholds twenty percent of the amount payable or distributable.

However, any individual of the Mainland Area residing and staying in the Taiwan Area for at least 183 days in a taxable year shall file consolidated income tax return in accordance with the provisions of Paragraph 2 of the preceding Article.

Where any director, manager, or technical personnel of any juristic person, organization, or other institution which is permitted to make any investment in the Taiwan Area in accordance with the provisions of Article 73, resides and stays in the Taiwan Area for less than 183 days in a taxable year because of its engagement in investment, factory building, market survey or any other temporary work, its salary income paid outside the Taiwan Area by the referred juristic person, organization, or other institution shall not be deemed its income derived from sources in the Taiwan Area.

#### **Article 26**

Any of the retired personnel from the military, government, educational institutions, or state enterprises who receives monthly retirement benefits and intends to go to the Mainland Area to reside there for a long term shall apply to the competent authorities for a lump-sum payment of the retirement benefits, and the competent authorities shall calculate the lump-sum payment the applicant is entitled to based on the applicant's originally approved length of service and the amount of monthly payment received by any person of the same rank presently employed or in service during the month when the application is filed and pay the balance with the aggregate of the monthly retirement benefits the applicant has already received to be deducted from the referred lump-sum payment; if there is no balance or the balance is less than one half of the referred lump-sum payment, the applicant shall be paid in either case with an amount equal to one half of the referred lump-sum payment.

Where any of the personnel referred to in the preceding paragraph has any dependent in the Taiwan Area, it shall acquire the consent of its dependent(s) before its filing of the application.



Where any of the personnel referred to in Paragraph 1 has a household registration in the Mainland Area or holds a passport issued by the Mainland Area but fails to apply for a lump-sum payment of its retirement benefits in accordance with the provisions, its entitlement to the retirement benefits shall be suspended until its status as the people of the Taiwan Area is recovered in accordance with the provisions of Article 9-2.

Where any of the personnel referred to in Paragraph 1 applies for a lump-sum payment of the retirement benefits by fraud or any other unjust means, the authorities such personnel is retired from shall reclaim the amount such personnel has received and refer the case to the judicial authorities if there is any criminal liability involved. Rules governing the matters related to the application referred to in Paragraph 1 and the suspension and recovery of retirement benefits referred to in Paragraph 3 shall be prescribed by each competent authorities.

#### **Article 26- 1**

Where any of the personnel of the military, government, educational institutions or state enterprises dies during employment, in service or while receiving monthly retirement benefits and has no surviving relative or legal beneficiary in the Taiwan Area, any of its relative or legal beneficiary residing in the Mainland Area may, within five years from the date of its death, apply in writing to the competent authorities, if permitted to enter into the Taiwan Area, for the death payment of the civil servants or military personnel insurance, a lump-sum payment of the death compensation, the balance of military service retirement benefit or a lump-sum payment of the death benefit; provided that the relative or legal beneficiary residing in the Mainland Area may not apply for the death compensation in annual installment or the death benefit in monthly installment. Those who fail to apply before the expiration of the aforementioned time limit shall be deemed to lose their entitlement.

The total of the death payment of the civil servants or military personnel insurance, the lump-sum payment of the death compensation, the balance of military service retirement benefit or the lump-sum payment of the death benefit referred to in the preceding paragraph shall not exceed two million New Taiwan Dollars.

For the death payment of the civil servants or military personnel insurance, the lump-sum payment of the death compensation, the balance of military service retirement benefit or the lump-sum payment of the death benefit reserved in accordance with laws prior to the coming into force of the amendments of July 1, 1997 to this Act, the relative or legal beneficiary residing in the Mainland Area shall within five years beginning from July 1, 1997 apply for the payments in accordance with Paragraph 1, and those who fail to apply before the expiration of the aforementioned time limit shall be deemed to lose their entitlement.

Where any person applying for the payments referred to in the provisions of Paragraph 1 or the preceding paragraph has difficulty in movement due to injury or illness, or the amount of payments it is entitled to is inappropriate to the amount of expenses for its travel to Taiwan, or there is any other special situation, it may be exempt by the competent authorities from entering into the Taiwan Area.

For any payment owed by the government in the Mainland Area and due in accordance with laws or regulations prior to 1949, in situations where the beneficiary is yet to receive any or full payment, no claim shall be processed before national unification.

#### **Article 27**

For those veterans formerly housed in Veterans Homes for care by the Veterans Affairs Commission, Executive Yuan and approved to enter into and reside in the Mainland Area for a long term, the subsistence benefit and injury compensation they are entitled to shall continue to be paid; the same provision shall to those permitted to enter into the Mainland Area for permanent residency prior to the coming into force of the amendment to this Article.

Where a veteran under care is not approved in accordance with the provisions of the preceding paragraph to have a household registration in the Mainland Area or to hold a passport issued by the Mainland Area, its entitlement to the subsistence benefit and injury compensation shall be suspended until its status as the people of the Taiwan Area is recovered in accordance with the provisions of Article 9-2.

Rules governing the matters related to the payment, suspension and recovery of payment of the subsistence benefit and injury compensation referred to in the preceding two paragraphs shall be drafted by the Veterans Affairs Commission, Executive Yuan and submitted to the Executive Yuan for approval.

#### **Article 28**

Any vessels, aircraft or other means of transportation of the Republic of China may sail or fly to the Mainland Area with the permission of the competent authorities. Rules governing the referred permission and administration shall be drafted by the Ministry of Transportation and Communications in conjunction with the authorities concerned and submitted to the Executive Yuan for approval within eighteen months after the adoption of the amendment to this Act; and the referred period may be extended if necessary after reporting to the Legislative Yuan for record.

#### **Article 28- 1**

No vessels, aircraft or other means of transportation of the Republic of China may transport any of the people of the Mainland Area to the Taiwan Area or any other country or area outside the Mainland Area.

No people of the Taiwan Area may use any of non-R.O.C. vessels, aircraft or other means of transportation to transport any of the people of the Mainland Area to the Taiwan Area or any other country or area outside the Mainland Area.

#### **Article 29**

Unless permitted by the competent authorities, no Mainland vessels, civil aircraft or other means of transportation may enter into the restricted or prohibited waters of the Taiwan Area or the controlled airspace of the Taipei Flight Information Region.

The restricted or prohibited waters and the controlled airspace referred to in the preceding paragraph shall be published by the Ministry of National Defense.

Rules governing the granting of permission referred to in Paragraph 1 shall be drafted by the Ministry of Transportation and Communications in conjunction with the authorities concerned and submitted to the Executive Yuan for approval.

### **Article 30**

No foreign vessels, civil aircraft or other means of transportation may directly sail or fly between seaports or airports of the Taiwan Area and those of the Mainland Area; nor may any foreign vessel, civil aircraft or other means of transportation be used to operate scheduled sea or air lines between seaports or airports of the Taiwan Area and those of the Mainland Area via a third area.

Where any of the vessels, civil aircraft or other means of transportation referred to in the preceding paragraph is chartered by, or an investment of, or operated by any individual, juristic person, organization, or other institution of the Mainland Area, the Ministry of Transportation and Communications may restrict or prohibit its entry into the seaports or airports of the Taiwan Area.

The Ministry of Transportation and Communications may remove after approval by the Executive Yuan, if necessary, the prohibition referred to in Paragraph 1 in whole or in part. The current navigation laws and regulations shall apply *mutatis mutandis* to the administration, transport operation and any other requirements after the referred removal, and if there is any need, the Ministry of Transportation and Communications may prescribe administration rules in consultation with the authorities concerned.

### **Article 31**

In the event that any civil aircraft of the Mainland enters, without permission, into the controlled airspace of the Taipei Flight Information Region, the authorities in charge of air defense may warn the aircraft to turn away or take any necessary defensive action.

### **Article 32**

In the event that any vessel of the Mainland enters, without permission, into the restricted or prohibited waters of the Taiwan Area, the competent authorities may drive it away, seize the vessel as well as the cargo and detain the persons on board, or take any necessary defensive action.

With regard to the vessels and cargoes seized and the detained persons referred to in the preceding paragraph, the competent authorities shall take the following measures within three months:

1. Where the seized vessels and cargoes do not involve any violation of laws, they may be returned; where the violation is serious, they may be confiscated.
2. The detained persons, after being investigated, shall be transferred to the authorities concerned for custody or deportation in accordance with Article 18 of this Act.

With respect to those Mainland vessels and cargoes seized as well as those persons detained, the actions taken by the competent authorities prior to the coming into force of this Act shall stand.

### **Article 33**

Except otherwise provided for in any other law, any individual, juristic person, organization, or other institution of the Taiwan Area may become a member of or hold a position in any juristic person, organization, or other institution of the Mainland Area.

Any individual, juristic person, organization, or other institution of the Taiwan Area shall not hold any position or become any member of the agencies, institutions or organizations of the Mainland Area which are political parties, the military, the administration or of any political nature and which are prohibited with public notices by the Mainland Affairs Council, Executive Yuan in consultation with each competent authorities concerned.

Any individual, juristic person, organization, or other institution of the Taiwan Area holding a position in the Mainland Area or becoming a member thereof shall obtain the permission in any of the following situations:

1. Any position in or membership of the agencies, organizations or institutions of the Mainland Area which are political parties, the military, the administration or of any political nature and which are not prohibited with public notices in accordance with the provisions of the preceding paragraph.
2. Where there is a threat to national security or interests, or a need in policy, and each competent authorities concerned has given public notices in consultation with the Mainland Affairs Council, Executive Yuan.

Any individual of the Taiwan Area holding a position or becoming a member of the juristic persons, organization, or other institution of the Mainland Area may not engage in any activity detrimental to national security or interests.

The determination of the position or membership referred to in Paragraphs 2 and 3 shall be made by each competent authorities concerned; if there is any doubt, the Mainland Affairs Council, Executive Yuan in conjunction with the authorities concerned and scholars or experts may form a review committee to make a decision.

Rules governing the public notices, permission requirements, application procedures, means of review, administration, and any other requirements referred to in Paragraphs 2 and 3 shall be drafted by the Mainland Affairs Council, Executive Yuan in consultation with each competent authorities concerned and submitted to the Executive Yuan for approval.

Those who had already held positions in or become members of any juristic person, organization, or other institution of the Mainland Area before the coming into force of the amendments to this Act shall apply to the competent authorities for permission within six months after the date of the coming into force of the rules referred to in the preceding paragraph; those who fail to apply by the expiration of the aforementioned time limit or whose applications are denied shall be deemed without permission.

**Article 33- 1**

Unless permitted by each competent authorities concerned, no individual, juristic person, organization, or other institution of the Taiwan Area may engage in any of the following activities:

1. Any form of cooperative activity with the agencies, institutions, or organizations of the Mainland Area which are political parties, the military, the administration or of any political nature, or which are involved in any political work against Taiwan or affect national security or interests.
2. Any cooperative activity involving political nature with any individual, juristic person, organization, or other institution of the Mainland Area.
3. Establishing any juristic person, organization, or other institution of political nature together with any individual, juristic person, organization, or other institution of the Mainland Area.

No cooperative activity of any non-profit seeking juristic person, organization, or other institution of the Taiwan Area with any individual, juristic person, organization, or other institution of the Mainland Area may violate any provision of any law or regulation or involve any content of political nature; provided that the budget and audit reports are required to be submitted to the competent authorities in accordance with the provisions of any other laws and regulations, the cooperative activity shall be reported at the same time to the competent authorities.

Those who had already engaged in any activity referred to in Paragraph 1 before the coming into force of the amendments to this Act and continued it thereafter shall apply to the competent authorities for permission within three months after the date of the coming into force of the amendments to this Act; those who had already engaged in any activity referred to in Paragraph 2 shall file reports within one year after the date of the coming into force of the amendments to this Act; those who fail to apply or file reports by the expiration of the aforementioned time limit or whose applications are denied shall be deemed without permission or filing.

**Article 33- 2**

Any authorities, institutions or legislative organs at any local government level of the Taiwan Area shall not form any coalition with any local authorities of the Mainland Area unless the Ministry of Interior in consultation with the Mainland Affairs Council, Executive Yuan reports to the Executive Yuan for consent.

Those who had already engaged in any activity referred to in the preceding paragraph before the coming into force of the amendments to this Act and continued it thereafter shall report to the Executive Yuan for consent within three months after the date of the coming into force of the amendments to this Act. It shall be deemed without consent if by the expiration of the aforementioned time limit, no report for consent is made or the Executive Yuan does not give consent.

**Article 33- 3**

Any level of school of the Taiwan Area forming any coalition or engaging in any other cooperative activity of any written agreement with any school of the Mainland Area

shall file with the Ministry of Education in advance, and shall not form the referred coalition or engaging in the referred cooperative activity of a written agreement within thirty days after the date when the Ministry of Education receives its complete application; consent shall be deemed given if the Ministry of Education fails to make any decision within thirty days.

The formed coalition or the content of cooperation of the written agreement referred to in the preceding paragraph shall not violation any provision of any law or regulation or involve any content of political nature.

Those who had already engaged in any activity referred to in Paragraph 1 before the coming into force of the amendments to this Act and continued it thereafter shall file with the competent authorities within three months after the date of the coming into force of the amendments to this Act. Those who fail to file by the expiration of the aforementioned time limit or whose applications are denied shall be deemed without filing.

#### **Article 34**

The goods, services or any other matters of the Mainland Area permitted in accordance with this Act may have their advertisement broadcast or published, or any other promotion activity thereof in the Taiwan Area.

The content of the advertisement and activity referred to in the preceding paragraph shall not have any of the following:

1. Any political propaganda for the Chinese Communist Party.
2. Violation of any current Mainland policy or any law or regulation of the Government.
3. Being contrary to the public order or good morals.

The advertisement and activity referred to in Paragraph 1 and the content thereof as referred to in the preceding paragraph shall be determined and disposed by each competent authorities, and if there is any doubt, the Mainland Affairs Council, Executive Yuan in conjunction with the authorities concerned and scholars or experts form a review committee to make a decision.

Rules governing the management of the advertisement and activities referred to in Paragraph 1 except otherwise provided for by the provisions of any other advertisement related laws and regulations shall be drafted by the Mainland Affairs Council, Executive Yuan in consultation with the authorities concerned and submitted to the Executive Yuan for approval.

#### **Article 35**

Any individual, juristic person, organization, or other institution of the Taiwan Area permitted by the Ministry of Economic Affairs may make any investment or have any technology cooperation in the Mainland Area; the product or business item of the referred investment or technology cooperation shall be categorized into prohibited and general categories based on the consideration of national security and industry

development, and the Ministry of Economic Affairs in consultation with the authorities concerned shall prescribe and publish an item list and the principles of review for individual cases thereof. The investment not more than a certain dollar amount, however, may be made through filing; the referred amount limit shall be published with an order by the Ministry of Economic Affairs.

Any individual, juristic person, organization, or other institution of the Taiwan Area may engage in any business dealing with any individual, juristic person, organization, or other institution of the Mainland Area. Where the items thereof require permission or are prohibited as published by the Ministry of Economic Affairs in consultation with the authorities concerned, they shall be in accordance with the provisions.

Any individual, juristic person, organization, or other institution of the Taiwan Area may be permitted by the competent authorities to engage in the trade between the Taiwan Area and the Mainland Area; rules governing the referred permission, the items and provisions of the imports and exports, the requirements and procedures for opening, the provisions of import and export suspension, and any other requirements for import and export administration shall be drafted by the competent authorities concerned and submitted to the Executive Yuan for approval.

Rules governing the requirements, procedures, means, restrictions of the permission and any other requirements as referred to in Paragraphs 1 and 2 shall be drafted by the competent authorities concerned and submitted to the Executive Yuan for approval.

Those who had already made investment or had technology cooperation as referred to in Paragraph 1 without approval before the coming into force of the amendments of July 1, 2002 to this Act shall apply to the Ministry of Economic Affairs for permission within six months after July 1, 2002; those who fail to apply by the expiration of the aforementioned time limit or whose applications are denied shall be deemed without permission.

### **Article 36**

Any financial, insurance, securities or futures institution of the Taiwan Area or any of its branches in any country or area outside the Taiwan Area may be permitted by the Ministry of Finance to have direct business dealing with any individual, juristic person, organization, or other institution of the Mainland Area or with any of its branches in any country or area outside the Mainland Area.

Any financial, insurance, securities or futures institution of the Taiwan Area establishing a branch in the Mainland Area shall apply with the Ministry of Finance for permission; the referred investment related matters shall be subject to the provisions of the preceding Article.

Rules governing the permission requirements, business scope, procedures, administration, restrictions and any other requirements as referred to in the preceding two paragraphs shall be drafted by the Ministry of Finance and submitted to the Executive Yuan for approval.

If necessary, the Ministry of Finance may restrict or prohibit the direct business dealing prescribed in Paragraph 1 to maintain the stability of the financial market after reporting to the Executive Yuan for approval.

#### **Article 36- 1**

The provisions of Articles 6-1, 20, 22, 24 and 26 of the Foreign Exchange Control Act shall apply mutatis mutandis to the administration and punishment of the flow of the Mainland Area's funds into or out from the Taiwan Area; where there is any significant impact caused thereby on the financial market or foreign exchange market of the Taiwan Area, the Central Bank may in conjunction with the authorities concerned impose any necessary restriction or prohibition.

#### **Article 37**

Any publication, motion picture, video program, or radio or television program may be permitted by the competent authorities to be imported into the Taiwan Area, or be distributed, sold, produced, broadcast, or displayed or exhibited in the Taiwan Area. Rules governing the granting of permission referred to in the preceding paragraph shall be drafted by the Government Information Office, Executive Yuan and submitted to the Executive Yuan for approval.

#### **Article 38**

Coins and notes issued in the Mainland Area may not be brought into or taken out of the Taiwan Area except that their amounts are not more than the amount limit prescribed by the Ministry of Finance. Where their amounts are above the prescribed limit and they are declared voluntarily to and deposited with the Customs by the passengers, they are permitted to be taken out when the passengers leave the Taiwan Area.

The competent authorities may draft, if necessary, rules permitting coins and notes issued in the Mainland Area to be brought into or taken out of the Taiwan Area. The relevant provisions of the Foreign Exchange Control Act shall apply mutatis mutandis to the administration in the Taiwan Area of the coins and notes issued by the Mainland Area after the Taiwan Area and the Mainland Area execute any bilateral currency settlement agreement.

The prescribed limit referred to in Paragraph 1 shall be prescribed by the Ministry of Finance by order; rules governing the permission requirements, procedures, means, restrictions and any other requirements referred to in Paragraph 2 shall be drafted by the Ministry of Finance in conjunction with the Central Bank and submitted to the Executive Yuan for approval.

#### **Article 39**

Chinese historic relics of the Mainland Area permitted by the competent authorities to be imported into the Taiwan Area for public display or exhibition may be re-exported. If cultural objects and objets d'art of the Mainland Area other than those referred to in the preceding paragraph are found to be in violation of any laws or regulations or detrimental to public order or good morals, the competent authorities may restrict or prohibit their public display or exhibition in the Taiwan Area.



Rules governing the granting of permission referred to in Paragraph 1 shall be drafted by the competent authorities concerned and submitted to the Executive Yuan for approval.

#### **Article 40**

Goods of the Mainland Area shipped or brought into the Taiwan Area shall be treated as imports; their inspection, quarantine, administration, the levying of custom duties and other taxes or surcharges thereon, and their disposition shall be conducted in accordance with the provisions of the laws and regulations relating to importation.

Goods shipped or brought into the Mainland Area shall be treated as exports; their inspection, quarantine, administration, customs clearance, and disposition shall be conducted in accordance with the provisions of the laws and regulations relating to exportation.

#### **Article 40- 1**

Unless permitted by the competent authorities and having established in the Taiwan Area a branch or liaison office, no profit-seeking enterprise of the Mainland Area may engage in any business activities in Taiwan; the provisions of Articles 9, 10, 12 to 25, 28-1, 388, 391 to 393, 397, 438 and 448 of the Company Law shall apply mutatis mutandis to the business of its branch in Taiwan.

Rules governing the scope of business activities, permission requirements, application procedures, filing items, required documents, withdrawal, revocation or annulment of the permission, and any other requirements as referred to in the preceding paragraph shall be drafted by the Ministry of Economic Affairs and submitted to the Executive Yuan for approval.

#### **Article 40- 2**

Unless permitted by each competent authorities concerned, no non-profit seeking juristic person, organization, or other institution of the Mainland Area may establish any liaison office or branch in the Taiwan Area to engage in business activities. Any non-profit seeking juristic person, organization, or other institution of the Mainland Area permitted to engage in any business activity in Taiwan may not engage in any activity beyond the scope of the permission.

Rules governing the scope of the permission, permission requirements, application procedures, filing items, required documents, review means, administration matters, restrictions and any other requirements as referred to in Paragraph 1 shall be drafted by each competent authorities concerned and submitted to the Executive Yuan for approval.

### **Chapter III Civil Matters**

#### **Article 41**

Civil matters between the peoples of the Taiwan Area and the Mainland Area shall be subject to the laws of the Taiwan Area except otherwise provided for in this Act. Civil matters between any two or more of the people of the Mainland Area and those between any of the people of the Mainland Area and any foreign national shall be

subject to the provisions of the Mainland Area except otherwise provided for in this Act.

The terms "place of act", "place of contract", "place of occurrence", "place of performance", "situs", "place of litigation" or "place of arbitration" as referred to in this Chapter shall mean each such place either in the Taiwan Area or in the Mainland Area.

**Article 42**

Where the provisions of the Mainland Area shall apply in accordance with the provisions of this Act, the provisions of the place of the party's household registration shall apply if there are different provisions in different places of the referred Area.

**Article 43**

Where the provisions of the Mainland Area shall apply in accordance with the provisions of this Act, if the Mainland Area does not have any express provision or its provisions provide that the laws of the Taiwan Area shall govern, the laws of the Taiwan Area shall apply.

**Article 44**

Where the provisions of the Mainland Area shall apply in accordance with the provisions of this Act, if the applicable provisions are contrary to the public order or good morals of the Taiwan Area, the laws of the Taiwan Area shall apply.

**Article 45**

Where the place of act or the place of occurrence of the fact of a civil matter includes the places in both the Taiwan Area and the Mainland Area, the place of act or the place of occurrence of the fact shall be deemed in the Taiwan Area.

**Article 46**

The capacity to act by any of the people of the Mainland Area shall be subject to the provisions of the referred Area; provided, however, that any minor married shall be deemed to have the capacity to act in the Taiwan Area.

The legal personality of any juristic person, organization, or other institution of the Mainland Area and its capacity to act shall be subject to the provisions of the referred Area.

**Article 47**

The legal forms of any act shall be subject to the provisions applicable to the act; provided, however, that the legal forms made in accordance with the provisions of the place of act shall also be valid.

The legal forms of an act of any property right shall be subject to the provisions of the situs of the property.

For any act based on a negotiable instrument or securing the rights over such instrument, its legal forms shall be subject to the provisions of the place of act.

**Article 48**

Any contract shall be subject to the provisions of the place of contract unless otherwise agreed by the parties of the contract.

Where the place of contract referred to in the preceding paragraph is undetermined and not explicitly agreed by the parties, the provisions of the place of performance shall apply, and the laws of the place of litigation or the place of arbitration shall apply where the place of performance is undetermined.

**Article 49**

Obligations arising in the Mainland Area out of management of affairs without mandate, unjust enrichment or any other legal fact shall be subject to the provisions of the Mainland Area.

**Article 50**

The tortious act shall be subject to the provisions of the place of occurrence of injury (locus delicti) except that the laws of the Taiwan Area do not deem it a tort.

**Article 51**

The property rights shall be subject to the provisions of the situs of the property.

The property rights over a right shall be subject to the provisions of the place where the right is created.

Where the situs of a property changes, the acquisition or loss of the property rights shall be subject to the provisions of the situs of the property at the time when the fact establishing the property rights is done.

The property rights of a vessel shall be subject to the provisions of the place of vessel registration; the property rights of aircraft shall be subject to the provisions of the place of aircraft registration.

**Article 52**

The legal forms and other legal requirements for marriage or divorce by consent shall be subject to the provisions of the place of act.

Grounds for divorce by judgment shall be subject to the laws of the Taiwan Area.

**Article 53**

Where one spouse is any of the people of the Taiwan Area and the other spouse is any of the people of the Mainland Area, the legal effects of their marriage or divorce shall be subject to the laws of the Taiwan Area.

**Article 54**

Where any marriage between any of the people of the Taiwan Area and any of the people of the Mainland Area takes place in the Mainland Area, the matrimonial properties shall be subject to the provisions of the referred Area except for the properties located in the Taiwan Area.

**Article 55**

The legal requirements for acknowledging any child born out of wedlock shall be subject to the provisions of the places of household registration of both parties to the acknowledgement applicable at the time of acknowledgement.

The legal effects of acknowledgement shall be subject to the provisions of the place of household registration of the acknowledging party.

**Article 56**

The formation and termination of adoption shall be subject to the provisions of the places of household registration of both parties to the adoption.

The legal effects of adoption shall be subject to the provisions of the place of household registration of the adoptive parent(s).

**Article 57**

Where one of the parents is any of the people of the Taiwan Area and the other is any of the people of the Mainland Area, the legal relations between such parents and their children shall be subject to the provisions of the place of household registration of the father, and the provisions of the place of household registration of the mother shall govern where the father is unknown or is a chui fu\*.

**Article 58**

Where a ward under guardianship is any of the people of the Mainland Area, the guardianship shall be subject to the provisions of the referred Area; provided, however, that where the ward has a residence in the Taiwan Area, the laws of the Taiwan Area shall govern.

**Article 59**

The obligations to support shall be subject to the provisions of the place of household registration of the obligor.

**Article 60**

Where the deceased is any of the people of the Mainland Area, succession shall be subject to the provisions of the referred Area; provided, however, that the estate located in the Taiwan Area shall be subject to the laws of the Taiwan Area.

**Article 61**

The legal requirements for making or revocation and the legal effects of any will of any of the people of the Mainland Area shall be subject to the provisions of the referred Area; provided, however, that the bequest and devise located in the Taiwan Area shall be subject to the laws of the Taiwan Area.

**Article 62**

The legal requirements for making or revocation and the legal effects of donation by any of the people of the Mainland Area shall be subject to the provisions of the referred

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\* Chui fu -- a husband who normally adopts his wife's surname and domicile.

Area; provided, however, that the donated property located in the Taiwan Area shall be subject to the laws of the Taiwan Area.

### **Article 63**

To the extent not contrary to the public order or good morals of the Taiwan Area, it shall be upheld the legal effects of any civil matter together with any right or obligation thereof created in the Mainland Area, prior to the coming into force of this Act, between any of the people of the Taiwan Area and the Mainland Area, or between any two or more of the people of the Mainland Area, or between any of the people of the Mainland Area and any foreign national.

The provisions of the preceding paragraph shall not apply provided that there had been laws or regulations in effect, prior to the coming into force of this Act, restricting the exercise or transfer of the rights referred to therein.

The following debts shall not be repaid prior to national unification:

1. Outstanding foreign currency bonds issued in the Mainland prior to 1949 and the short-term Gold Bonds of 1949.
2. Various debts owed by any government bank as well as any other financial institution accepting deposits before their retreat from the Mainland.

### **Article 64**

Where a couple cannot live together because one spouse is in the Taiwan Area and the other is in the Mainland Area, and either of them was remarried on or before June 4, 1985, no interested party may bring any action to annul the second marriage; for those who were remarried on or after June 5, 1985 and on or before November 1, 1987, the second marriage shall be deemed valid.

In the situation referred to in the preceding paragraph, if both spouses were remarried, their original marriage shall become void from the date of the second marriage of the spouse who is remarried later.

### **Article 65**

Where any of the people of the Taiwan Area adopts any of the people of the Mainland Area, a court shall not approve such adoption in the following situations in addition to the situations provided for in Paragraph 5 of Article 1079 of the Civil Code:

1. Where any of the adoptive parents already has a child or an adopted child.
2. Where any of the adoptive parents adopts two or more persons at the same time.
3. Where the fact of adoption is not certified by any of the institutions set up or designated or by any private organizations entrusted by the Executive Yuan.

### **Article 66**

Where any of the people of the Mainland Area inherits the estate of any of the people of the Taiwan Area, the heir shall submit a written statement of inheritance to the court of the place of the deceased's domicile within three years from the date of the

commencement of succession; those who fail to submit within the aforementioned time limit are deemed to waive the rights of inheritance.

Where any of the people of the Mainland Area inherits the estate of any serviceman in service or any retired serviceman who had no heir in the Taiwan Area and whose estate had been administered by the competent authorities prior to the coming into force of this Act, the statement of inheritance referred to in the preceding paragraph shall be submitted within four years.

Where the commencement of succession took place prior to the coming into force of this Act, the time limits referred to in the preceding two paragraphs shall be calculated from the date of the coming into force of this Act.

#### **Article 67**

Where any of the people of the Mainland Area inherits a deceased's estate in the Taiwan Area according to the laws, the total amount of the estate any of the people of the Mainland Area may inherit shall not exceed two million New Taiwan Dollars. The excess shall be distributed to the other heirs of the same order for inheritance in the Taiwan Area; if there is no other heir of the same order in the Taiwan Area, it shall be distributed to the heirs of the next order in the Taiwan Area; if there is no single heir in the Taiwan Area, it shall be taken by the Treasury.

The provisions of this Act shall not apply to the deceased's estate referred to in the preceding paragraph already taken by the Treasury according to the laws prior to the coming into force of this Act except for the estate deposited provisionally in a special custodian account in accordance with laws or regulations.

The total amount a testator may make a bequest or devise of his property in the Taiwan Area to any individual, juristic person, organization, or other institution in the Mainland Area shall not exceed two million New Taiwan Dollars.

Where there is any real property in the deceased's estate referred to in Paragraph 1, the right of inheritance of any of the people of the Mainland Area in respect of such real property shall be converted into a dollar amount except for the real property dependent upon by any heir in the Taiwan Area as residence, which shall not be inherited by any heir in the Mainland Area, and the dollar amount of which shall not be included in the total amount of the deceased's estate in determining the share any heir in the Mainland Area is entitled to.

#### **Article 67- 1**

Where all the heirs of the estate referred to in Paragraph 1 of the preceding Article are the people of the Mainland Area, any of the heirs and interested parties or the prosecutor may request a court to designate the National Property Bureau, Ministry of Finance as the estate administrator unless otherwise provided for in Article 68.

Where a deceased's estate is required to be registered according to the laws, the estate administrator shall register the estate with the registration authorities concerned.

Rules governing the estate administration referred to in Paragraph 1 shall be drafted by the Ministry of Finance and submitted to the Executive Yuan for approval.

## **Article 68**

Where any serviceman in service or any retired serviceman dies with no heirs, with heirs unknown, or only with heirs unable to administer the estate, it shall be the competent authorities to administer the estate.

With respect to the deceased's estate referred to in the preceding paragraph, the disposition made by the competent authorities prior to the coming into force of this Act shall stand.

Rules governing the estate administration referred to in Paragraph 1 shall be drafted by the Ministry of National Defense and the Veterans Affairs Commission, Executive Yuan respectively and submitted to the Executive Yuan for approval.

Prior to the coming into force of the amendments of September 18, 1996 to this Act, in situations where any of the people of the Mainland Area fails to complete the inheritance within the time limits as provided for in Article 66, the estate referred to in Paragraphs 1 and 2 shall not be taken by the Treasury as required by Paragraph 1 of Article 67 and donated directly by the competent authorities to the Veterans and Veteran Families Foundation for the following purposes:

1. Processing of application for and distribution of the estate to the heirs in the Mainland area of the deceased servicemen or the deceased retired servicemen.
2. Granting of relief to veterans for the severe disasters they sustain.
3. Granting of scholarship and educational aids to the children of indigent veterans.
4. Providing any other welfare or service to veterans and veteran families.

The estate distributed upon application as referred to in Sub-paragraph 1 of the preceding paragraph shall be limited to the estate of the deceased servicemen or the deceased retired servicemen that has been included into the Veterans and Veteran Families Foundation.

The charter of the Veterans and Veteran Families Foundation shall be drafted by the Veterans Affairs Commission, Executive Yuan and submitted to the Executive Yuan for approval.

## **Article 69**

Any individual, juristic person, organization, or other institution of the Mainland Area or any company it establishes in any third area may not acquire, create or transfer any right over any real property in the Taiwan Area without permission of the competent authorities. The land as listed in various sub-paragraphs of Paragraph 1 of Article 17 of the Land Law shall not be for acquisition, encumbrance or lease.

Rules governing the qualifications of applicants, permission requirements, permitted uses, application procedures, filing items, required documents, review means, the disposition for uses not in accordance with the permitted uses and any other

requirements as referred to in the preceding paragraph shall be drafted by the competent authorities and submitted to the Executive Yuan for approval.

**Article 70**

(deleted)

**Article 71**

Where a person acts in the Taiwan Area on behalf of any unrecognized juristic person, organization, or other institution of the Mainland Area, the actor shall, insofar as such act is concerned, be liable jointly and severally with the referred juristic person, organization, or other institution of the Mainland Area.

**Article 72**

Unless permitted by the competent authorities, no individual, juristic person, organization, or other institution of the Mainland Area may become a member of or hold a position in any juristic person, organization, or other institution of the Taiwan Area.

Rules governing the granting of permission referred to in the preceding paragraph shall be drafted by the competent authorities concerned and submitted to the Executive Yuan for approval.

**Article 73**

Unless permitted by the competent authorities, any individual, juristic person, organization, or other institution of the Mainland Area, or any company it invests in any third area may not engage in any investment activity in the Taiwan Area.

Where any enterprise invested in accordance with the preceding paragraph is established as a company in accordance with the Company Law, the investors are exempt from the requirement to have domestic residence provided for in Paragraph 1 of 條號 : 216 of the same Company Law.

Rules governing the qualifications of investors, permission requirements, procedures, investment means, business items and amount limits, investment percentage, foreign exchange settlement, review and determination, re-investment, filing items and procedures, application format and any other requirements as prescribed in Paragraph 1 shall be drafted by the competent concerned and submitted to the Executive Yuan for approval.

Any enterprise invested in accordance with Paragraph 1 shall file financial statements, the change of shareholding, or any other designated materials in accordance with the provisions of the rules prescribed in the preceding paragraph or the orders of the competent authorities; the competent authorities may send personnel to have an on-site inspection and the invested enterprises shall not avoid, impede, or refuse it.

Where an investor transfers its investment, the transferor in conjunction with the transferee(s) shall apply to the competent authorities for permission.



**Article 74**

To the extent that an irrevocable civil ruling or judgment, or arbitral award rendered in the Mainland Area is not contrary to the public order or good morals of the Taiwan Area, an application may be filed with a court for a ruling to recognize it.

Where any ruling or judgment, or award recognized by a court's ruling as referred to in the preceding paragraph requires performance, it may serve as a writ of execution.

The preceding two paragraphs shall not apply until the time when for any irrevocable civil ruling or judgment, or arbitral award rendered in the Taiwan Area, an application may be filed with a court of the Mainland Area for a ruling to recognize it, or it may serve as a writ of execution in the Mainland Area.

**Chapter IV Criminal Matters****Article 75**

Criminal offenses committed in the Mainland Area or in the vessels or aircraft of the Mainland, notwithstanding punishment already executed in the Mainland Area, may still be punishable in accordance with the laws of the Taiwan Area; provided, however, that the punishment may be waived in whole or in part.

**Article 75- 1**

In the event that any of the people of the Mainland Area has departed from the Taiwan Area after committing a criminal offense and therefore, is unable to appear in court, the court may stay the proceedings until its appearance; provided, however, that the court may render a judgment declaring not-guilty or waiving punishment without its appearance.

**Article 76**

Where one spouse is in the Taiwan Area and the other is in the Mainland Area, and either of them was remarried or lived together with any one other than its spouse for the purpose of cohabitation on or before November 1, 1987, it shall not be prosecuted or punished; the same shall apply to the person it was remarried to or cohabited with.

**Article 77**

Any of the people of the Mainland Area who commit treasons outside the Taiwan Area and are permitted to enter into the Taiwan Area shall not be prosecuted or punished if it discloses such fact to the authorities upon application for entrance; the same shall apply to those who enter into the Taiwan Area to participate in conferences or activities approved by the competent authorities and are exempt specifically on a case by case basis from the referred disclosure.

**Article 78**

Any of the people of the Mainland Area whose copyrights or other rights are infringed in the Taiwan Area may file a complaint to a prosecutor or a criminal court of the Taiwan Area to the extent that any of the people of the Taiwan Area may enjoy the same right to file a complaint for the similar matters in the Mainland Area.

## **Chapter V Penal Provisions**

### **Article 79**

Any person who violates the provisions of Sub-paragraph 1 of Article 15 shall be punished with imprisonment for not less than one year but not more than seven years, or in addition thereto, a fine of not more than one million New Taiwan Dollars.

Any person who, with an intent to make a profit, commits the offenses referred to in the preceding paragraph shall be punished with imprisonment for not less than three year but not more than ten years, or in addition thereto, a fine of not more than five million New Taiwan Dollars.

Any person who is the leading conspirator of any offense referred to in the preceding two paragraphs shall be punished with imprisonment for not less than five years, or in addition thereto, a fine of not more than ten million New Taiwan Dollars.

Any person who attempts to commit the offenses referred to in the preceding three paragraphs shall be punishable.

Where any owner, operator, or master or captain of any vessel, aircraft or other means of transportation of the Republic of China, or any steersman of any other means of transportation of the Republic of China violates the provisions of Sub-paragraph 1 of Article 15, the competent authorities shall suspend the voyage of the referred vessel, aircraft or other means of transportation of the Republic of China for a limited period of time, or annul the pertinent licenses, and in addition suspend or annul the professional licenses or qualifications of the referred master, captain or steersman.

Where any owner of any vessel, aircraft or other means of transportation of the Republic of China has any of the activities referred to in Paragraphs 1 to 4, or intentionally or with gross negligence causes any third person to use its vessel, aircraft or other means of transportation to engage in any of the activities referred to in Paragraphs 1 to 4, and the main purpose of the referred activities is to transport any of the people of the Mainland Area to enter into the Taiwan Area illegally, the competent authorities may confiscate the vessel, aircraft or other means of transportation. Where an owner knowing that the referred vessel, aircraft or other means of transportation may be confiscated acquires the ownership to avoid the disposition of confiscation, the same provisions shall apply.

In any of the situations referred to in the preceding paragraph, the seizing authorities may confiscate the referred vessel, aircraft or other means of transportation if for which there is no competent authorities concerned.

### **Article 79- 1**

Any person who is entrusted to assist the handling of matters relating to any dealing between the peoples of the Taiwan Area and the Mainland Area or to negotiate or execute agreements and acts beyond the entrusted scope to cause damage to the national security or interests shall be punished with imprisonment of not more than five years, or detention, or in lieu thereof or in addition thereto, a fine of not less than five hundred thousand New Taiwan Dollars.

In the situation referred to in the preceding paragraph, apart from those responsible persons who shall be punishable, the juristic persons, organizations, or any other institutions shall also be punished with a fine prescribed in the preceding paragraph.

#### **Article 79- 2**

Any person who enters into the Mainland Area without permission in violation of the provisions of Sub-paragraph 1 of Article 4-4 shall be punished with an administrative fine of not less than three hundred thousand but not more than one million and five hundred thousand New Taiwan Dollars.

#### **Article 79- 3**

Any person who violates the provisions of Sub-paragraph 4 of Article 4-4 shall be punished with an administrative fine of not less than two hundred thousand but not more than two million New Taiwan Dollars.

Any person who violates the provisions of Article 5-1 shall be punished with an administrative fine of not less than two hundred thousand but not more than two million New Taiwan Dollars; where the matter of violation is serious or the person commits the same or similar violation again, it shall be punished with imprisonment of not more than five years, or detention, or in lieu thereof or in addition thereto, a fine of not less than five hundred thousand New Taiwan Dollars.

In any of the situations referred to in the preceding paragraph, if the actor is a juristic person, organization, or any other institution, the responsible person shall be punished; the referred juristic person, organization, or any other institution shall be in addition punished with a fine prescribed in the preceding paragraph.

#### **Article 80**

Any owner, operator, or master or captain of any vessel, aircraft or other means of transportation of the Republic of China, or any steersman of any other means of transportation of the Republic of China who violates the provisions of Article 28 or Paragraph 1 of Article 28-1, and any of the people of the Taiwan Area who violates the provisions of Paragraph 2 of Article 28-1 shall be punished with imprisonment of not more than three years, or detention, or in lieu thereof or in addition thereto, a fine of not less than one million but not more than fifteen million New Taiwan Dollars; provided, however, that if the referred offense is committed by the master, captain, or the steersman of the vessel, aircraft or other means of transportation of the Republic of China out of its own decision, it is the master, captain, or steersman who shall be punishable.

If the owner or operator of the vessel, aircraft or other means of transportation of the Republic of China referred to in the preceding paragraph is a juristic person, apart from the actor who shall be punishable, the referred juristic person shall be punished with a fine prescribed in the preceding paragraph except that the representative of the juristic person has done its best in preventing the occurrence of the violation.

The provisions of Article 7 of the Criminal Code shall not apply to the situation where, as referred to in Paragraph 1, any of the people of the Taiwan Area transports any of the people of the Mainland Area outside the territory of the Republic of China without

permission to any other country or area outside the Taiwan Area and the Mainland Area.

In the situation referred to in Paragraph 1, the competent authorities may suspend the sailing, flying or operation of the referred vessel, aircraft or other means of transportation of the Republic of China for a limited period of time, or annul the pertinent licenses or certificates, or in addition, suspend or annul the professional license or qualification of the referred master, captain or steersman.

#### **Article 81**

Any person who violates the provisions of Paragraph 1 or 2 of Article 36 shall be punished with an administrative fine of not less than two million, but not more than ten million New Taiwan Dollars, or in addition thereto, an order that the violation shall be terminated or rectified within a specified time limit; where the violation is not terminated or rectified by the expiration of the aforementioned time limit or the same violation is repeated after the termination, the responsible person shall be punished with imprisonment of not more than three years, detention, or in lieu thereof or in addition thereto, a fine of not more than fifteen million New Taiwan Dollars.

Where any financial, insurance, securities or futures institution of the Taiwan Area or any of its branches in any country or area outside the Taiwan Area violates any order of restriction or prohibition submitted by the Ministry of Finance to the Executive Yuan for approval in accordance with the provisions of Paragraph 4 of Article 36, the responsible person shall be punished with imprisonment of not more than three years, detention, or in lieu thereof or in addition thereto, a fine of not less than one million but not more than fifteen million New Taiwan Dollars.

In the situation referred to in the preceding two paragraphs, apart from those responsible persons who shall be punishable, the financial, insurance, securities and futures institutions shall also be punished with a fine prescribed in the preceding two paragraphs.

The provisions of Paragraphs 1 and 2 shall apply to offenses committed outside the territory of the Republic of China.

#### **Article 82**

Any person who recruits students or acts as middleman in violation of the provisions of Article 23 shall be punished with imprisonment of not more than one year, detention, or in lieu thereof or in addition thereto, a fine of not more than one million New Taiwan Dollars.

#### **Article 83**

Any person who violates the provisions of Sub-paragraph 4 or 5 of Article 15 shall be punished with imprisonment of not more than two years, detention, or in lieu thereof or in addition thereto, a fine of not more than three hundred thousand New Taiwan Dollars.

Any person who, with an intent to make a profit, violates the provisions of Sub-paragraph 5 of Article 15 shall be punished with imprisonment of not more than three years, detention, or in lieu thereof or in addition thereto, a fine of not more than six hundred thousand New Taiwan Dollars.

If the representative of a juristic person, or the agent or employee or other worker of a juridical or natural person commits any of the offenses referred to in the preceding two paragraphs in execution of its professional duties, apart from the actor who shall be punishable, the referred juridical or natural person shall also be punished with a fine prescribed in the preceding two paragraphs except that the representative of the juristic person or the natural person has done its best in preventing the occurrence of the violation.

#### **Article 84**

Any person who violates the provisions of Sub-paragraph 2 of Article 15 shall be punished with imprisonment of not more than six months, detention, or in lieu thereof or in addition thereto, a fine of not more than one hundred thousand New Taiwan Dollars.

If the representative of a juristic person, or the agent or employee or other worker of a juridical or natural person commits the offenses referred to in the preceding paragraph in execution of its professional duties, apart from the actor who shall be punishable, the referred juridical or natural person shall also be punished with a fine prescribed in the preceding paragraph except that the representative of the juristic person or the natural person has done its best in preventing the occurrence of the violation.

#### **Article 85**

Any person who violates the provisions of Paragraph 1 of Article 30 shall be punished with an administrative fine of not less than three million but not more than fifteen millions New Taiwan Dollars, and in addition, any other vessel, civil aircraft or other means of transportation belonging to the same owner or operator of the referred vessel, civil aircraft or other means of transportation may be prohibited from entering into the seaports or airports of the Taiwan Area for a limited period of time. In the situation where the owner or operator referred to in the preceding paragraph does not have any branch in the Taiwan Area, after the disposition becomes irrevocable, all the vessel, civil aircraft or other means of transportation belonging to the same owner or operator may be restrained by the competent authorities from departing from the seaports or airports of the Taiwan Area until all fines are paid except that a security in the amount of the fine is deposited.

#### **Article 85- 1**

Any person who violates any order of restriction or prohibition issued in accordance with Article 36-1 shall be punished with an administrative fine not less than three million but not more than fifteen million New Taiwan Dollars. If the violator is a bank designated by the Central Bank to conduct foreign exchange operations, the Central Bank shall, according to the severity of the offense, suspend in whole or in part the violator's foreign exchange operations for a limited period of time.

#### **Article 86**

Any person who makes an investment or has technology cooperation in any item of the general categories in violation of the provisions of Paragraph 1 of Article 35 shall be punished with an administrative fine of not less than fifty thousand but not more than twenty-five million New Taiwan Dollars, or in addition thereto, an order that the violation shall be terminated or rectified within a specified time limit; failure for

termination or rectification by the expiration of the aforementioned time limit may be punished with consecutive fines.

Any person who makes an investment or has technology cooperation in any item of the prohibited categories in violation of the provisions of Paragraph 1 of Article 35 shall be punished with an administrative fine of not less than fifty thousand but not more than twenty-five million New Taiwan Dollars, or in addition thereto, an order that the violation shall be terminated within a specified time limit; failure for termination by the expiration of the aforementioned time limit or the same violated is repeated after the termination shall be punished with imprisonment of not more than two years, detention, or in lieu thereof or in addition thereto, a fine of not more than twenty-five million New Taiwan Dollars.

Where any juristic person, organization, or other institution commits the offenses referred to in the preceding paragraph, the responsible person shall be punished.

Any person who engages in any business dealing in violation of the proviso of Paragraph 2 of Article 35 shall be punished with an administrative fine of not less than fifty thousand but not more than five million New Taiwan Dollars, or in addition thereto, an order that the violation shall be terminated or rectified within a specified time limit; failure for termination or rectification by the expiration of the aforementioned time limit may be punished with consecutive fines.

For any person who has any trade in violation of the provisions of Paragraph 3 of Article 35, in addition to the punishment inflicted on it in accordance with the provisions of the other laws, the competent authorities may suspend its exportation/importation of goods for a period of not less than two months but not more than one year, or annul its exporter/importer registration.

#### **Article 87**

Any person who violates the provisions of Sub-paragraph 3 of Article 15 shall be punished with an administrative fine of not less than two hundred thousand but not more than one million New Taiwan Dollars.

#### **Article 88**

Any person who violates the provisions of Article 37 shall be punished with an administrative fine of not less than forty thousand but not more than two hundred thousand New Taiwan Dollars.

Any publication, motion picture, video program, or radio or television program referred to in the preceding paragraph, irrespective of who owns it, shall be confiscated.

#### **Article 89**

Any person who entrusts to another, is entrusted, or acts on its own to engage in advertisement broadcast or publication, or any other promotion activity in the Taiwan Area for any goods, service, or other item of the Mainland Area other than those prescribed in Paragraph 1 of Article 34, or violates Paragraph 2 of Article 34 or the mandatory or prohibitive provisions of the rules governing the management prescribed in accordance with Paragraph 4 of Article 34 shall be punished with an administrative

fine of not less than one hundred thousand but not more than five hundred thousand New Taiwan Dollars.

Any advertisement referred to in the preceding paragraph, irrespective of who owns or holds it, shall be confiscated.

#### **Article 90**

Any of the people of the Taiwan Area who have the status referred to in Paragraph 4 of Article 9 and violate the provisions of Paragraph 2 of Article 33 shall be punished with imprisonment of not more than three years, detention, or in lieu thereof or in addition thereto, a fine of not more than five hundred thousand New Taiwan Dollars; provided that holding any other position shall be punished with imprisonment of not more than one year, detention, or in lieu thereof or in addition thereto, a fine of not more than three hundred thousand New Taiwan Dollars.

Any civil servant other than those referred to in the preceding paragraph who is in service, or has retired or been discharged for not more than three years and violates the provisions of Paragraph 2 of Article 33 shall be punished with imprisonment of not more than one year, detention, or in lieu thereof or in addition thereto, a fine of not more than three hundred thousand New Taiwan Dollars.

Any person who does not have the status referred to in the preceding two paragraphs and violates the provisions of Paragraph 2 or 3 of Article 33 shall be punished with an administrative fine of not less than one hundred thousand but not more than five hundred thousand New Taiwan Dollars.

Any person who violates the provisions of Paragraph 4 of Article 33 shall be punished with imprisonment of not more than three years, detention, or in addition thereto, a fine of not more than five hundred thousand New Taiwan Dollars.

#### **Article 90- 1**

Any civil servant of the status referred to in Sub-paragraph 1, 2, or 5 of Paragraph 4 of Article 9 who has retired or been discharged for not more than three years and violates the provisions of Paragraph 2 of Article 33 shall be deprived of the entitlement to its retirement benefits and any payment related thereto.

For any person referred to in the preceding paragraph who receives monthly retirement benefits, if it violates the provisions of Paragraph 3 of Article 33, its entitlement to the monthly retirement benefits and any payment related thereto shall be suspended until the causes cease to exist.

For any civil servant other than those of the status referred to in Sub-paragraph 1, 2 or 5 of Paragraph 4 of Article 9 who has retired or been discharged for not more than three years and who receives monthly retirement benefits, if it violates the provisions of Paragraph 2 of Article 33, its entitlement to the monthly retirement benefits and any payment related thereto shall be suspended until the causes cease to exist.

Any civil servant of the Taiwan Area who violates the provisions of Paragraph 4 of Article 33 shall be deprived of its entitlement to the monthly retirement benefits and any payment related thereto.

**Article 90- 2**

Any person who violates the provisions of Paragraph 1 of Article 33-1 or Paragraph 1 of Article 33-2 shall be punished with an administrative fine of not less than one hundred thousand but not more than five hundred thousand New Taiwan Dollars, or in addition thereto, consecutive fines according to the times of violation.

Any person who violates the provisions of Paragraph 2 of Article 33-1 or Paragraph 1 or 2 of Article 33-3 shall be punished with an administrative fine of not less than ten thousand but not more than five hundred thousand New Taiwan Dollars, or in addition thereto, an order by the competent authorities that the violation shall be reported or rectified within a specified time limit; failure for reporting or rectification by the expiration of the aforementioned time limit may be punished with consecutive fines according to the times of violation until the reporting or rectification is done.

**Article 91**

Any person who violates the provisions of Paragraph 2 of Article 9 shall be punished with an administrative fine of not less ten thousand New Taiwan Dollars.

Any person who violates the provisions of Paragraph 3 of Article 9 or the disposition published by the Executive Yuan as of Paragraph 7 of Article 9 shall be punished with an administrative fine of not less than twenty thousand but not more than one hundred thousand New Taiwan Dollars.

Any person who violates the provisions of Paragraph 4 of Article 9 shall be punished with an administrative fine of not less than two hundred thousand but not more than one million New Taiwan Dollars.

**Article 92**

Any currency or banknote not permitted to be brought in or taken out, or undeclared in violation of the provisions of Paragraph 1 or 2 of Article 38 shall be confiscated by the Customs; if it is not declared truthfully, the amount exceeding the declared shall be confiscated.

**Article 93**

Any cultural object or objet d'art in violation of any order of restriction or prohibition issued in accordance with the provisions of Paragraph 2 of Article 39 shall be confiscated by the competent authorities.

**Article 93- 1**

Any person who makes an investment in violation of the provisions of Paragraph 1 of Article 73 shall be punished by the competent authorities with an administrative fine of not less than one hundred and twenty thousand but not more than six hundred thousand New Taiwan Dollars, and suspension of its shareholder rights, or in addition thereto, an order that the investment shall be ceased or withdrawn within a specified time limit; failure for rectification by the expiration of the aforementioned time limit may be punished, in addition thereto, with consecutive fines until the rectification is done; provided that, if the violator is a branch of foreign company, the company registration authorities shall be informed to revoke or annul the recognition.



Any person who fails to file as required or files untruthfully or incompletely in violation of the provision of Paragraph 4 of 條號 : 73 shall be punished by the competent authorities with an administrative fine of not less than sixty thousand but not more than three hundred thousand New Taiwan Dollars, and in addition thereto, an order that the violator shall file, rectify or accept inspection within a specified time limit; failure for filing, rectification or accepting inspection by the expiration of the aforementioned time limit may be punished, in addition thereto, with consecutive fines until the violator files, rectifies or accepts the inspection.

Any enterprise which is permitted to make an investment in accordance with the provisions of Paragraph 1 of Article 73 but violates the investment related provisions of the rules prescribed in accordance with Paragraph 3 of Article 73 shall be punished by the competent authorities with an administrative fine of not less than sixty thousand but not more than three hundred thousand New Taiwan Dollars, and in addition thereto, an order that the violator shall rectify within a specified time limit; failure for rectification by the expiration of the aforementioned time limit may be punished, in addition thereto, with consecutive fines until the rectification is done.

Any investor or investing enterprise failing to apply for review and determination or to file as required, or filing untruthfully or incompletely in violation of the provisions of the rules prescribed in accordance with Paragraph 3 of Article 73 shall be punished by the competent authorities with an administrative fine of not less than sixty thousand but not more than three hundred thousand New Taiwan Dollars, or in addition thereto, an order that the violator shall apply for review and determination, file, or rectify within a specified time limit; failure for applying for review and determination, filing, or rectification by the expiration of the aforementioned time limit may be punished, in addition thereto, with consecutive fines until the application for review and determination, filing or rectification is done.

Any agent of an investor who intentionally or with gross negligence files untruthfully shall be punished by the competent authorities with an administrative fine of not less than sixty thousand but not more than three hundred thousand New Taiwan Dollars.

The competent authorities making a disposition against an investor in accordance with the preceding five paragraphs may serve the agent of the investor or investing enterprise; where the disposition is an administrative fine, it may be enforced against the investing enterprise; the investing enterprise after the enforcement is satisfied has the right to reclaim from the investor and may buy back the shares held by the investor based on the market price with the aforementioned reclaimed amount without being subject to the restriction provided for in Paragraph 1 of Article 167 of the Company Law; the shares bought back shall be disposed in accordance with the provisions of Paragraph 2 of Article 167 of the Company Law.

#### **Article 93- 2**

Where any party engages in business activities without permission in violation of the provisions of Paragraph 1 of Article 40-1, the doer shall be punished with imprisonment of not more than one year, detention, or in lieu thereof or in addition thereto, a fine of not more than one hundred and fifty thousand New Taiwan Dollars and responsible for any civil liabilities; where the doers are more than one, they shall be responsible for the

civil liabilities jointly and severally, and the competent authorities shall prohibit the referred party from using the name of the company.

Any party which violates any provision of prohibition or restriction of the rules prescribed by Paragraph 2 of Article 40-1 shall be punished with an administrative fine of not less than twenty thousand but not more than one hundred thousand New Taiwan Dollars, and in addition thereto, an order that the violation shall be terminated or rectified within a specified time limit; failure for termination or rectification by the expiration of the aforementioned time limit may be punished with consecutive fines.

#### **Article 93- 3**

Any party which violates the provisions of Paragraph 1 or 2 of Article 40-2 shall be punished with an administrative fine of not more than five hundred thousand New Taiwan Dollars, and in addition thereto, an order that the violation shall be terminated within a specified time limit; where the violation is not terminated by the expiration of the aforementioned time limit or the same violation is repeated after the termination, the doer shall be punished with imprisonment of not more than two years, detention, or in lieu thereof or in addition thereto, a fine of not more than five hundred thousand New Taiwan Dollars.

#### **Article 94**

The administrative fines as provided for in this Act shall be imposed by the competent authorities; where the administrative fines imposed in accordance with this Act are required to be paid within specified time limits, failure to pay by the expiration of the aforementioned time limits, the case shall be forwarded for compulsory execution in accordance with laws.

### **Chapter VI Supplementary Provisions**

#### **Article 95**

The competent authorities shall request the consent of the Legislative Yuan before permitting direct business transactions or direct sea or air transportation between the Taiwan Area and the Mainland Area, or permitting the people of the Mainland Area to enter into the Taiwan Area to work, and if the Legislative Yuan fails to adopt any resolution within one month after the request during its session, the consent is deemed granted.

#### **Article 95- 1**

The competent authorities may permit direct business transactions or direct sea or air transportation between Kinmen, Matsu, Penghu and the Mainland Area as Pilot Program before permitting direct business transactions or direct sea or air transportation between the Taiwan Area and the Mainland Area.

The areas for the Pilot Program referred to in the preceding paragraph, which permits direct business transactions or direct sea or air transportation with the Mainland Area and the period for the Pilot Program, as well as the permission for the entry or exit of the transportation vehicles and personnel, the administration of imports/exports, financial dealings, customs clearance, inspection, quarantine, investigation and any

other dealings related matters under the referred Program shall be prescribed by the Executive Yuan with implementation rules.

The provisions governing the ports opening for international trade shall apply mutatis mutandis to the matters of sea or air transportation between the areas for the Pilot Program referred to in the preceding paragraph and any sea port, airport, or harbor of the Mainland Area for transportation.

Any goods of the Mainland Area imported to the areas for the Pilot Program may not be transported to the rest of the Taiwan Area without permission; any goods of the Taiwan Area not originated from the areas for the Pilot Program may not be transported to the Mainland Area without permission. However, any goods of the Mainland Area which is for personal use and of small quantity may be mailed to or brought by passengers into the rest of the Taiwan Area; the items of the goods and the limits for its quantity shall be prescribed by the Executive Yuan.

Any person without permission in violation of the provisions of the preceding paragraph shall be punished in accordance with the provisions of Articles 36 to 39 of the Act Governing the Customs' Investigation of Smuggling; where the items, quantity of the goods of the Mainland Area mailed or brought by passengers are beyond the limitation as referred to in the preceding paragraph, the Customs shall make a disposition in accordance with the provisions of Article 77 of the Customs Law.

Where there is any threat to national interests or security or there is any other significant cause during the period for the Pilot Program referred to in this Article, the Executive Yuan may terminate by order the implementation of the Pilot Program in part or in whole.

#### **Article 95- 2**

All competent authorities that process applications for permissions and/or issue licenses or certificates may collect processing fees and license fees; the fee schedule shall be prescribed by each competent authorities.

#### **Article 95- 3**

The provisions of the Administrative Procedures Act shall not apply to the handling of the matters related to the dealings between the peoples of the Taiwan Area and the Mainland Area in accordance with this Act.

#### **Article 95- 4**

The Implementing Rules of this Act shall be prescribed by the Executive Yuan.

#### **Article 96**

The date of the coming into force of this Act shall be prescribed by the Executive Yuan.

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