

Criminal Law of the People's Republic of China

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Jiang Zemin

President of the People's Republic of China

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CRIMINAL LAW OF THE PEOPLE'S REPUBLIC OF CHINA

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PART ONE GENERAL PROVISIONS

CHAPTER I THE AIM, BASIC PRINCIPLES AND SCOPE OF APPLICATION OF THE CRIMINAL LAW

Article 1 In order to punish crimes and protect the people, this Law is enacted on the basis of the Constitution and in the light of the concrete experiences and actual circumstances in China's fight against crimes.

Article 2 The aim of the Criminal Law of the People's Republic of China is to use criminal punishments to fight against all criminal acts in order to safeguard security of the State, to defend the State power of the people's democratic dictatorship and the socialist system, to protect property owned by the State, and property collectively owned by the working people and property privately owned by citizens, to protect citizens' rights of the person and their democratic and other rights, to maintain public and economic order, and to ensure the smooth progress of socialist construction.

Article 3 For acts that are explicitly defined as criminal acts in law, the offenders shall be convicted and punished in accordance with law; otherwise, they shall not be convicted or punished.

Article 4 The law shall be equally applied to anyone who commits a crime. No one shall have the privilege of transcending the law.

Article 5 The degree of punishment shall be commensurate with the crime committed and the criminal responsibility to be borne by the offender.

Article 6 This Law shall be applicable to anyone who commits a crime within the territory and territorial waters and space of the People's republic of China, except as otherwise specifically provided by law.

This Law shall also be applicable to anyone who commits a crime on board a ship or aircraft of the People's Republic of China.

If a criminal act or its consequence takes place within the territory or territorial waters or space of the People's Republic of China, the crime shall be deemed to have been committed within the territory and territorial waters and space of the People's Republic of China.

Article 7 This Law shall be applicable to any citizen of the People's Republic of

China who commits a crime prescribed in this Law outside the territory and territorial waters and space of the People's Republic of China; however, if the maximum punishment to be imposed is fixed-term imprisonment of not more than three years as stipulated in this Law, he may be exempted from the investigation for his criminal responsibility.

This Law shall be applicable to any State functionary or serviceman who commits a crime prescribed in this Law outside the territory and territorial waters and space of the People's Republic of China.

Article 8 This Law may be applicable to any foreigner who commits a crime outside the territory and territorial waters and space of the People's Republic of China against the State of the People's Republic of China or against any of its citizens, if for that crime this Law prescribes a minimum punishment of fixed-term imprisonment of not less than three years; however, this does not apply to a crime that is not punishable according to the laws of the place where it is committed.

Article 9 This Law shall be applicable to crimes which are stipulated in international treaties concluded or acceded to by the People's Republic of China and over which the People's Republic of China exercises criminal jurisdiction within the scope of obligations, prescribed in these treaties, it agrees to perform.

Article 10 Any person who commits a crime outside the territory and territorial waters and space of the People's Republic of China, for which according to this Law he should bear criminal responsibility, may still be investigated for his criminal responsibility according to this Law, even if he has already been tried in a foreign country. However, if he has already received criminal punishment in the foreign country, he may be exempted from punishment or given a mitigated punishment.

Article 11 The criminal responsibility of foreigners who enjoy diplomatic privileges and immunities shall be solved through diplomatic channels.

Article 12 If an act committed after the founding of the People's Republic of China and before the entry into force of this Law was not deemed a crime under the laws at the time, those laws shall apply. If the act was deemed a crime under the laws in force at the time and is subject to prosecution under the provisions of Section 8, Chapter IV of the General Provisions of this Law, criminal responsibility shall be investigated in accordance with those laws. However, if according to this Law the act is not deemed a crime or is subject to a lighter punishment, this Law shall apply.

Before the entry into force of this Law, any judgment that has been made and has become effective according to the laws at the time shall remain valid.

CHAPTER II CRIMES

SECTION 1 CRIMES AND CRIMINAL RESPONSIBILITY

Article 13 A crime refers to an act that endangers the sovereignty, territorial integrity and security of the State, splits the State, subverts the State power of the people's democratic dictatorship and overthrows the socialist system, undermines public and economic order, violates State-owned property, property collectively owned by the working people, or property privately owned by citizens, infringes on the citizens' rights of the person, their democratic or other rights, and any other act that endangers society and is subject to punishment according to law. However, if the circumstances are obviously minor and the harm done is not serious, the act shall not be considered a crime.

Article 14 An intentional crime refers to an act committed by a person who clearly knows that his act will entail harmful consequences to society but who wishes or allows such consequences to occur, thus constituting a crime.

Criminal responsibility shall be borne for intentional crimes.

Article 15 A negligent crime refers to an act committed by a person who should have foreseen that his act would possibly entail harmful consequences to society but who fails to do so through his negligence or, having foreseen the consequences, readily believes that they can be avoided, so that the consequences do occur.

Criminal responsibility shall be borne for negligent crimes only when the law so provides.

Article 16 An act is not a crime if it objectively results in harmful consequences due to irresistible or unforeseeable causes rather than intent or negligence.

Article 17 If a person who has reached the age of 16 commits a crime, he shall bear criminal responsibility.

If a person who has reached the age of 14 but not the age of 16 commits intentional homicide, intentionally hurts another person so as to cause serious injury or death of the person, or commits rape, robbery, drug- trafficking, arson, explosion or poisoning, he shall bear criminal responsibility.

If a person who has reached the age of 14 but not the age of 18 commits a crime, he shall be given a lighter or mitigated punishment.

If a person is not given criminal punishment because he has not reached the age of 16, the head of his family or his guardian shall be ordered to discipline him. When necessary, he may be taken in by the government for rehabilitation.

Article 18 If a mental patient causes harmful consequences at a time when he is unable to recognize or control his own conduct, upon verification and confirmation through legal procedure, he shall not bear criminal responsibility, but his family members or guardian shall be ordered to keep him under strict watch and control and arrange for his medical treatment. When necessary, the government may compel him to receive medical treatment.

Any person whose mental illness is of an intermittent nature shall bear criminal responsibility if he commits a crime when he is in a normal mental state.

If a mental patient who has not completely lost the ability of recognizing or controlling his own conduct commits a crime, he shall bear criminal responsibility; however, he may be given a lighter or mitigated punishment.

Any intoxicated person who commits a crime shall bear criminal responsibility.

Article 19 Any deaf-mute or blind person who commits a crime may be given a lighter or mitigated punishment or be exempted from punishment.

Article 20 An act that a person commits to stop an unlawful infringement in order to prevent the interests of the State and the public, or his own or other person's rights of the person, property or other rights from being infringed upon by the on-going infringement, thus harming the perpetrator, is justifiable defence, and he shall not bear criminal responsibility.

If a person's act of justifiable defence obviously exceeds the limits of necessity and causes serious damage, he shall bear criminal responsibility; however, he shall be given a mitigated punishment or be exempted from punishment.

If a person acts in defence against an on-going assault, murder, robbery, rape, kidnap or any other crime of violence that seriously endangers his personal safety, thus causing injury or death to the perpetrator of the unlawful act, it is not undue defence, and he shall not bear criminal responsibility.

Article 21 If a person is compelled to commit an act in an emergency to avert an immediate danger to the interests of the State or the public, or his own or another person's rights of the person, property or other rights, thus causing damage, he shall not bear criminal responsibility.

If the act committed by a person in an emergency to avert danger exceeds the limits of necessity and causes undue damage, he shall bear criminal responsibility; however, he shall be given a mitigated punishment or be exempted from punishment.

The provisions of the first paragraph of this Article with respect to averting danger to

oneself shall not apply to a person who is charged with special responsibility in his post or profession.

SECTION 2 PREPARATION FOR A CRIME, CRIMINAL ATTEMPT AND DISCONTINUATION OF A CRIME

Article 22 Preparation for a crime refers to the preparation of the instruments or the creation of the conditions for a crime.

An offender who prepares for a crime may, in comparison with one who completes the crime, be given a lighter or mitigated punishment or be exempted from punishment.

Article 23 A criminal attempt refers to a case where an offender has already started to commit a crime but is prevented from completing it for reasons independent of his will.

An offender who attempts to commit a crime may, in comparison with one who completes the crime, be given a lighter or mitigated punishment.

Article 24 Discontinuation of a crime refers to a case where, in the course of committing a crime, the offender voluntarily discontinues the crime or voluntarily and effectively prevents the consequences of the crime from occurring.

An offender who discontinues a crime shall, if no damage is caused, be exempted from punishment or, if any damage is caused, be given a mitigated punishment.

SECTION 3 JOINT CRIMES

Article 25 A joint crime refers to an intentional crime committed by two or more persons jointly.

A negligent crime committed by two or more persons jointly shall not be punished as a joint crime; however, those who should bear criminal responsibility shall be individually punished according to the crimes they have committed.

Article 26 A principal criminal refers to any person who organizes and leads a criminal group in carrying out criminal activities or plays a principal role in a joint crime.

A criminal group refers to a relatively stable criminal organization formed by three or more persons for the purpose of committing crimes jointly.

Any ringleader who organizes or leads a criminal group shall be punished on the basis

of all the crimes that the criminal group has committed.

Any principal criminal not included in Paragraph 3 shall be punished on the basis of all the crimes that he participates in or that he organizes or directs.

Article 27 An accomplice refers to any person who plays a secondary or auxiliary role in a joint crime.

An accomplice shall be given a lighter or mitigated punishment or be exempted from punishment.

Article 28 Anyone who is coerced to participate in a crime shall be given a mitigated punishment or be exempted from punishment in the light of the circumstances of the crime he commits.

Article 29 Anyone who instigates another to commit a crime shall be punished according to the role he plays in a joint crime. Anyone who instigates a person under the age of 18 to commit a crime shall be given a heavier punishment.

If the instigated person has not committed the instigated crime, the instigator may be given a lighter or mitigated punishment.

SECTION 4 CRIMES COMMITTED BY A UNIT

Article 30 Any company, enterprise, institution, State organ, or organization that commits an act that endangers society, which is prescribed by law as a crime committed by a unit, shall bear criminal responsibility.

Article 31 Where a unit commits a crime, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be given criminal punishment. Where it is otherwise provided for in the Specific Provisions of this Law or in other laws, those provisions shall prevail.

CHAPTER III PUNISHMENTS

SECTION 1 TYPES OF PUNISHMENTS

Article 32 Punishments are divided into principal punishments and supplementary punishments.

Article 33 The principal punishments are as follows:

(1) public surveillance;

- (2) criminal detention;
- (3) fixed-term imprisonment;
- (4) life imprisonment; and
- (5) the death penalty.

Article 34 The supplementary punishments are as follows:

- (1) fine;
- (2) deprivation of political rights; and
- (3) confiscation of property.

Supplementary punishments may be imposed independently.

Article 35 Deportation may be imposed independently or supplementarily to a foreigner who commits a crime.

Article 36 If a victim has suffered economic losses as a result of a crime, the criminal shall, in addition to receiving a criminal punishment according to law, be sentenced to making compensation for the economic losses in the light of the circumstances.

If criminal who is liable for civil compensation is sentenced to a fine at the same time but his property is not sufficient to pay both the compensation and the fine, or if he is sentenced to confiscation of property at the same time, he shall, first of all, bear his liability for civil compensation to the victim.

Article 37 If the circumstances of a person's crime are minor and do not require criminal punishment, he may be exempted from it; however, he may, depending on the different circumstances of the case, be reprimanded or ordered to make a statement of repentance, offer an apology or pay compensation for the losses, or be subjected to administrative penalty or administrative sanctions by the competent department.

SECTION 2 PUBLIC SURVEILLANCE

Article 38 The term of public surveillance shall be not less than three months but not more than two years.

Where a criminal is sentenced to public surveillance, the sentence shall be executed

by a public security organ.

Article 39 Any criminal who is sentenced to public surveillance shall observe the following during the term in which his sentence is being executed:

- (1) observe laws and administrative rules and regulations, and submit to supervision;
- (2) exercise no right of freedom of speech, of the press, of assembly, of association, of procession or of demonstration without the approval of the organ executing the public surveillance;
- (3) report on his own activities as required by the organ executing the public surveillance;
- (4) observe the regulations for receiving visitors stipulated by the organ executing the public surveillance; and
- (5) report to obtain approval from the organ executing the public surveillance for any departure from the city or county he lives in or for any change in residence.

Criminals sentenced to public surveillance shall, while engaged in labour, receive equal pay for equal work.

Article 40 Upon the expiration of a term of public surveillance, the executing organ shall immediately announce the termination of public surveillance to the criminal sentenced to public surveillance and to his work unit or the people of the place where he resides.

Article 41 A term of public surveillance shall be counted from the date the judgment begins to be executed; if the criminal is held in custody before the execution of the judgment, one day in custody shall be considered two days of the term sentenced.

SECTION 3 CRIMINAL DETENTION

Article 42 A term of criminal detention shall be not less than one month but not more than 6 months.

Article 43 Where a criminal is sentenced to criminal detention, the sentence shall be executed by the public security organ in the vicinity.
During the period of execution, a criminal sentenced to criminal detention may go home for one to two days each month; an appropriate remuneration may be given to those who participate in labor.

Article 44 A term of criminal detention shall be counted from the date the judgment

begins to be executed; if the criminal is held in custody before the execution of the judgment, one day in custody shall be considered one day of the term sentenced.

SECTION 4 FIXED-TERM IMPRISONMENT AND LIFE IMPRISONMENT

Article 45 A term of fixed-term imprisonment shall be not less than six months but not more than 15 years, except as stipulated in Articles 50 and 69 of this Law.

Article 46 Any criminal who is sentenced to fixed-term imprisonment or life imprisonment shall serve his sentence in prison or another place for the execution. Anyone who is able to work shall do so to accept education and reform through labor.

Article 47 A term of fixed-term imprisonment shall be counted from the date the judgment begins to be executed; if the criminal is held in custody before the execution of the judgment, one day in custody shall be considered one day of the term sentenced.

SECTION 5 THE DEATH PENALTY

Article 48 The death penalty shall only be applied to criminals who have committed extremely serious crimes. If the immediate execution of a criminal punishable by death is not deemed necessary, a two-year suspension of execution may be pronounced simultaneously with the imposition of the death sentence.

All death sentences, except for those that according to law should be decided by the Supreme People's Court, shall be submitted to the Supreme People's Court for verification and approval. Death sentences with a suspension of execution may be decided or verified and approved by a Higher People's Court.

Article 49 The death penalty shall not be imposed on persons who have not reached the age of 18 at the time the crime is committed or on women who are pregnant at the time of trial.

Article 50 Anyone who is sentenced to death with a suspension of execution commits no intentional crime during the period of suspension, his punishment shall be commuted to life imprisonment upon the expiration of the two-year period; if he has truly performed major meritorious service, his punishment shall be commuted to fixed-term imprisonment of not less than 15 years but not more than 20 years upon the expiration of the two-year period; if it is verified that he has committed an intentional crime, the death penalty shall be executed upon verification and approval of the Supreme People's Court.

Article 51 The term of suspension of execution of a death penalty shall be counted from the date the judgment becomes final. The term of a fixed-term imprisonment that is commuted from a death penalty with suspension of execution shall be counted from

the date the suspension of execution expires.

SECTION 6 FINES

Article 52 The amount of any fine imposed shall be determined according to the circumstances of the crime.

Article 53 A fine may be paid in a lump sum or in installments within the time limit specified in the judgment. If a fine is not paid upon the expiration of that time limit, the payment shall be compelled. If a person is not able to pay the fine in full, the People's Court shall demand the payment whenever it finds the person has property for execution of the fine. If a person has true difficulties in paying because of an irresistible disaster, the fine may be reduced or remitted according to the circumstances.

SECTION 7 DEPRIVATION OF POLITICAL RIGHTS

Article 54 Deprivation of political rights refers to deprivation of the following rights:

- (1) the right to vote and to stand for election;
- (2) the rights of freedom of speech, of the press, of assembly, of association, of procession and of demonstration;
- (3) the right to hold a position in a State organ; and
- (4) the right to hold a leading position in any State-owned company, enterprise, institution or people's organization.

Article 55 A term of deprivation of political rights shall be not less than one year but not more than five years, except as stipulated in Article 57 of this Law.

Anyone who is sentenced to public surveillance is deprived of political rights as a supplementary punishment, the term of deprivation of political rights shall be the same as the term of public surveillance, and the punishments shall be executed simultaneously.

Article 56 Anyone who commits the crime of endangering national security shall be sentenced to deprivation of political rights as a supplementary punishment; anyone who commits the crime of seriously undermining public order by intentional homicide, rape, arson, explosion, poisoning or robbery may be sentenced to deprivation of political rights as a supplementary punishment.

Where deprivation of political rights is imposed exclusively, the Specific Provisions

of this Law shall apply.

Article 57 Any criminal who is sentenced to death or to life imprisonment shall be deprived of his political rights for life.

When a death penalty with a suspension of execution is commuted to a fixed-term imprisonment, or a life imprisonment is commuted to a fixed-term imprisonment, the term of the supplementary punishment of deprivation of political rights shall be changed to not less than three years but not more than 10 years.

Article 58 A term of deprivation of political rights as a supplementary punishment shall be counted from the date on which imprisonment or criminal detention ends or from the date on which parole begins. Deprivation of political rights shall, as a matter of course, be in effect during the period in which the principal punishment is being executed.

Any criminal who is deprived of his political rights shall, during the period of execution, observe laws, administrative rules and regulations and other regulations governing supervision and control stipulated by the department of public security under the State Council and submit to supervision; he shall not exercise any of the rights listed in Article 54 of this Law.

SECTION 8 CONFISCATION OF PROPERTY

Article 59 Confiscation of property refers to the confiscation of part or all of the property personally owned by a criminal. Where confiscation of all the property of a criminal is imposed, the amount necessary for the daily expenses of the criminal himself and the family members supported by him shall be taken out.

When a sentence of confiscation of property is imposed, property that the criminal's family members own or should own shall not be subject to confiscation.

Article 60 Where it is necessary to use part of the confiscated property to repay the legitimate debts that the criminal incurred before his property is confiscated, the debts shall be repaid at the request of the creditors.

CHAPTER IV THE CONCRETE APPLICATION OF PUNISHMENTS

SECTION 1 SENTENCING

Article 61 When sentencing a criminal, a punishment shall be meted out on the basis of the facts, nature and circumstances of the crime, the degree of harm done to society and the relevant provisions of this Law.

Article 62 In cases where the circumstances of a crime call for a heavier or lighter punishment under the provisions of this Law, the criminal shall be sentenced to a punishment within the limits of the prescribed punishment.

Article 63 In cases where the circumstances of a crime call for a mitigated punishment under the provisions of this Law, the criminal shall be sentenced to a punishment less than the prescribed punishment.

In cases where the circumstances of a crime do not warrant a mitigated punishment under the provisions of this Law, however, in the light of the special circumstances of the case, and upon verification and approval of the Supreme People's Court, the criminal may still be sentenced to a punishment less than the prescribed punishment.

Article 64 All money and property illegally obtained by a criminal shall be recovered, or compensation shall be ordered; the lawful property of the victim shall be returned without delay; and contrabands and possessions of the criminal that are used in the commission of the crime shall be confiscated. All the confiscated money and property and fines shall be turned over to the State treasury, and no one may misappropriate or privately dispose of them.

SECTION 2 RECIDIVISTS

Article 65 If a criminal commits another crime punishable by fixed-term imprisonment or heavier penalty within five years after serving his sentence of not less than fixed-term imprisonment or receiving a pardon, he is a recidivist and shall be given a heavier punishment. However, this shall not apply to cases of negligent crime.

For criminals who are paroled, the period stipulated in the preceding paragraph shall be counted from the date the parole expires.

Article 66 If a criminal of endangering national security commits the same crime again at any time after serving his sentence or receiving a pardon shall be dealt with as a recidivist.

SECTION 3 VOLUNTARY SURRENDER AND MERITORIOUS PERFORMANCE

Article 67 Voluntary surrender refers to the act of voluntarily delivering oneself up to justice and truthfully confessing one's crime after one has committed the crime. Any criminal who voluntarily surrenders may be given a lighter or mitigated punishment. The ones whose crimes are relatively minor may be exempted from punishment.

If a criminal suspect or a defendant under compulsory measures or a criminal serving a sentence truthfully confesses his other crimes that the judicial organ does not know,

his act shall be regarded as voluntary surrender.

Article 68 Any criminal who performs such meritorious services as exposing an offence committed by another, which is verified through investigation, or producing important clues for solving other cases may be given a lighter or mitigated punishment. Any criminal who performs major meritorious services may be given a mitigated punishment or be exempted from punishment.

Any criminal who not only voluntarily surrenders after committing the crime but also performs major meritorious services shall be given a mitigated punishment or be exempted from punishment.

SECTION 4 COMBINED PUNISHMENT FOR SEVERAL CRIMES

Article 69 For a criminal who commits several crimes before a judgment is pronounced, unless he is sentenced to death or life imprisonment, his term of punishment shall be not more than the total of the terms for all the crimes but not less than the longest of the terms for the crimes, depending on the circumstances of the crimes. However, the term of public surveillance may not exceed the maximum of three years, the term of criminal detention may not exceed the maximum of one year, and fixed- term imprisonment may not exceed the maximum of 20 years.

If among the crimes there is any for which a supplementary punishment is imposed, the supplementary punishment shall still be executed.

Article 70 If, after a judgment has been pronounced but before the punishment has been completely executed, it is discovered that before the judgment is pronounced the criminal committed another crime for which he is not sentenced, a judgment shall also be rendered for the newly discovered crime; the punishment to be executed shall be determined on the basis of the punishments imposed in the earlier and latest judgments and according to the provisions of Article 69 of this Law. Any portion of the term that has already been served shall count towards fulfilment of the term imposed by the latest judgment.

Article 71 If, after a judgment has been pronounced but before the punishment has been completely executed, the criminal again commits a crime, another judgment shall be rendered for the newly committed crime; the punishment to be executed shall be determined on the basis of the punishment that remains to be executed for the earlier crime and the punishment imposed for the new crime and according to the provisions of Article 69 of this Law.

SECTION 5 SUSPENSION OF SENTENCE

Article 72 A suspension of sentence may be granted to a criminal sentenced to

criminal detention or to fixed-term imprisonment of not more than three years if, according to the circumstances of his crime and his demonstration of repentance, it is certain that suspension of the sentence will not result in further harm to society.

If a supplementary punishment is imposed on a criminal whose sentence is suspended, the supplementary punishment shall still be executed.

Article 73 The probation period for suspension of criminal detention shall be not less than the term originally decided but not more than one year, however, it may not be less than two months.

The probation period for suspension of fixed-term imprisonment shall be not less than the term originally decided but not more than five years, however, it may not be less than one year.

The probation period for suspension of sentence shall be counted from the date the judgment is made final.

Article 74 Suspension of sentence shall not be applied to recidivists.

Article 75 A criminal whose sentence is suspended shall observe the followings:

- (1) to observe laws and administrative rules and regulations, and submit to supervision;
- (2) to report on his own activities as required by the observing organ;
- (3) to observe the regulations for receiving visitors stipulated by the observing organ; and
- (4) to report to obtain approval from the observing organ for any departure from the city or county he lives in or for any change in residence.

Article 76 Any criminal whose sentence is suspended shall, during the probation period for suspension of sentence, be subjected to observation by a public security organ with the cooperation of the work unit to which he belongs or of a grass-roots organization, and in the absence of the circumstances prescribed in Article 77 of this Law, the punishment originally decided shall cease to be executed upon the expiration of the probation period for suspension of sentence, which shall be made known publicly.

Article 77 If, during the probation period for suspension of sentence, a criminal whose sentence is suspended commits a crime again or it is discovered that before the judgment is pronounced, he has committed another crime for which he is not

sentenced, the suspension shall be revoked and another judgment rendered for the newly committed or discovered crime; the punishment to be executed shall be decided on the basis of the punishments for the old crime and the new crime and according to the provisions of Article 69 of this Law.

If, during the probation period for suspension of sentence, a criminal whose sentence is suspended violates laws, administrative rules and regulations or regulations relating to supervision and control over suspension of sentence stipulated by the department of public security under the State Council and if the circumstances are serious, the suspension shall be revoked and the original punishment shall be executed.

SECTION 6 COMMUTATION OF PUNISHMENT

Article 78 The punishment of a criminal sentenced to public surveillance, criminal detention, fixed-term imprisonment or life imprisonment may be commuted if, while serving his sentence, he conscientiously observes prison regulations, accepts education and reform through labor and shows true repentance or performs meritorious services; the punishment shall be commuted if a criminal performs any of the following major meritorious services:

- (1) preventing another person from conducting major criminal activities;
- (2) informing against major criminal activities conducted inside or outside prison and verified through investigation;
- (3) having inventions or important technical innovations to his credit;
- (4) coming to the rescue of another in everyday life and production at the risk of losing his own life;
- (5) performing remarkable services in fighting against natural disasters or curbing major accidents; or
- (6) making other major contributions to the country and society.

After commutation, the term of punishment actually to be served by those sentenced to public surveillance, criminal detention or fixed-term imprisonment may not be less than half of the term originally decided; for those sentenced to life imprisonment, it may not be less than 10 years.

Article 79 If punishment to a criminal is to be commuted, the executing organ shall submit to a People's Court at or above the intermediate level a written proposal for commutation of punishment. The People's Court shall form a collegiate panel for examination and, if the criminal is found to have shown true repentance or performed

meritorious services, issue an order of commutation. However, no punishment shall be commuted without going through legal procedure.

Article 80 A term of fixed-term imprisonment that is commuted from life imprisonment shall be counted from the date the order of commutation is issued.

SECTION 7 PAROLE

Article 81 A criminal sentenced to fixed-term imprisonment who has served more than half of the term of the original sentence or a criminal sentenced to life imprisonment who has served not less than 10 years of the term may be granted parole if he conscientiously observes prison regulations, accepts education and reform through labor, shows true repentance and will no longer cause harm to society. If special circumstances exist, upon verification and approval of the Supreme People's Court, the above restrictions relating to the term served may be disregarded.

No parole shall be granted to recidivists or criminals who are sentenced to more than 10 years of imprisonment or life imprisonment for crimes of violence such as homicide, explosion, robbery, rape and kidnap.

Article 82 Parole shall be granted to a criminal through the procedure prescribed in Article 79 of this Law. No parole shall be granted without going through legal procedure.

Article 83 The probation period for parole in the case of fixed-term imprisonment shall be equal to the portion of the term that has not been completed; the probation period for parole in the case of life imprisonment shall be 10 years.

The probation period for parole shall be counted from the date the criminal is released on parole.

Article 84 Any criminal who is granted parole shall observe the following:

- (1) observe laws and administrative rules and regulations, and submit to supervision;
- (2) report on his own activities as required by the supervising organ;
- (3) observe the regulations for receiving visitors stipulated by the supervising organ; and
- (4) report to obtain approval from the supervising organ for any departure from the city or county he lives in or for any change in residence.

Article 85 Any criminal who is granted parole shall be subject to supervision by a

public security organ during the probation period for parole. If he is not found in any of the circumstances prescribed in Article 86 of this Law, the punishment originally decided shall be considered executed upon the expiration of the probation period for parole, which shall be made known publicly.

Article 86 If a criminal who is granted parole commits another crime during the probation period for parole, the parole shall be revoked, and he shall be given a combined punishment for several crimes as provided in Article 71 of this Law.

If a criminal who is granted parole is discovered to have committed, before the judgment is pronounced, other crimes for which no punishment is imposed, the parole shall be revoked and a combined punishment for several crimes shall be given according to the provisions of Article 70 of this Law.

If a criminal who is granted parole, during the probation period for parole, violates laws, administrative rules and regulations or other regulations relating to supervision and control over parole stipulated by the department of public security under the State Council but the violation does not constitute a new crime, the parole shall be revoked in accordance with legal procedure and he shall be put back into prison to serve the remaining part of criminal punishment.

SECTION 8 LIMITATION

Article 87 Crimes shall not be prosecuted if the following periods have elapsed:

- (1) five years, when the maximum punishment prescribed is fixed-term imprisonment of less than five years;
- (2) 10 years, when the maximum punishment prescribed is fixed-term imprisonment of not less than five years but less than 10 years;
- (3) 15 years, when the maximum punishment prescribed is fixed-term imprisonment of not less than 10 years; and
- (4) 20 years, when the maximum punishment prescribed is life imprisonment or death penalty. If after 20 years it is considered necessary to prosecute a crime, the matter shall be submitted to the Supreme People's Procuratorate for examination and approval.

Article 88 No limitation on the period for prosecution shall be imposed with respect to a criminal who escapes from investigation or trial after a People's Procuratorate, public security organ or national security organ files the case or a People's Court accepts the case.

No limitation on the period for prosecution shall be imposed with respect to a case which should have been but is not filed by a People's Court, People's Procuratorate or public security organ after the victim brings a charge within the period for prosecution.

Article 89 The limitation period for prosecution shall be counted from the date the crime is committed; if the criminal act is of a continual or continuous nature, it shall be counted from the date the criminal act is terminated.

If further crime is committed during a limitation period for prosecution, the limitation period for prosecution of the old crime shall be counted from the date the new crime is committed.

CHAPTER V OTHER PROVISIONS

Article 90 Where the provisions of this Law cannot be completely applied in national autonomous areas, the people's congresses of the autonomous regions or the provinces concerned may formulate adaptive or supplementary provisions on the basis of the political, economic and cultural characteristics of the local ethnic groups and the basic principles stipulated in this Law, and these provisions shall go into effect after they have been submitted to and approved by the Standing Committee of the National People's Congress.

Article 91 "Public property" as mentioned in this Law refers to the following;

- (1) property owned by the State;
- (2) property owned collectively by working people; and
- (3) public donations or special funds used for elimination of poverty or for other public welfare undertakings.

Private property that is being managed, used or transported by State organs, State-owned companies and enterprises, or enterprises owned by collectives, or people's organizations shall be treated as public property.

Article 92 "Citizens' privately owned property" as mentioned in this Law refers to the following;

- (1) citizens' lawful earnings, savings, houses and other means of subsistence;
- (2) any means of production that is under private or family ownership according to law;

(3) property lawfully owned by self-employed workers or private enterprises; and

(4) shares, stocks, bonds and other property that are under private ownership according to law.

Article 93 "State functionaries" as mentioned in this Law refers to persons who perform public service in State organs.

Persons who perform public service in State-owned companies or, enterprises, institutions or people's organizations, persons who are assigned by State organs, State-owned companies, enterprises or institutions to companies, enterprises or institutions that are not owned by the State or people's organizations to perform public service and the other persons who perform public service according to law shall all be regarded as State functionaries.

Article 94 "Judicial officers" as mentioned in this Law refers to persons who exercise the functions of investigation, prosecution, adjudication and supervision and control.

Article 95 "Serious injuries" as mentioned in this Law refers to any of the following:

(1) injuries resulting in a person's disability or disfigurement;

(2) injuries resulting in a person's loss of his hearing, sight or the function of any other organ; or

(3) other injuries that cause grave harm to a person's physical health.

Article 96 "Violation of State regulations" as mentioned in this Law refers to violation of the laws enacted or decisions made by the National People's Congress or its Standing Committee and the administrative rules and regulations formulated, the administrative measures adopted and the decisions or orders promulgated by the State Council.

Article 97 "Ringleader" as mentioned in this Law refers to any criminal who plays the role of organizing, plotting or directing in a crime committed by a criminal group or a crowd.

Article 98 "To be handled only upon complaint" as mentioned in this Law means that a case shall only be handled if the victim brings a complaint. However, if the victim is unable to bring a complaint because of coercion or intimidation, a People's Procuratorate or a close relative of the victim may bring a complaint.

Article 99 "Not less than", "not more than" and "within" as used in this Law all

include the given figure.

Article 100 Anyone who has been subjected to criminal punishment shall, before being recruited in the army or employed, report to the unit concerned about the fact; he may not conceal it.

Article 101 The General Provisions of this Law shall be applicable to other laws with provisions for criminal punishments, unless otherwise specifically provided for in those laws.

PART TWO SPECIFIC PROVISIONS

CHAPTER I CRIMES OF ENDANGERING NATIONAL SECURITY

Article 102 Whoever colludes with a foreign State to endanger the sovereignty, territorial integrity and security of the People's Republic of China shall be sentenced to life imprisonment or fixed-term imprisonment of not less than 10 years.

Whoever commits the crime prescribed in the preceding paragraph in collusion with any organ, organization or individual outside the territory of China shall be punished according to the provisions in the preceding paragraph.

Article 103 Among those who organize, plot or carry out the scheme of splitting the State or undermining unity of the country, the ringleaders and the others who commit major crimes shall be sentenced to life imprisonment or fixed-term imprisonment of not less than 10 years; the ones who take an active part in it shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years; and the other participants shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights.

Whoever incites others to split the State or undermine unity of the country shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention, public surveillance or deprivation of political rights; the ringleaders and the ones who commit major crimes shall be sentenced to fixed-term imprisonment of not less than five years.

Article 104 Among those who organize, plot or carry out armed rebellion or armed riot, the ringleaders and the others who commit major crimes shall be sentenced to life imprisonment or fixed-term imprisonment of not less than 10 years; the ones who take an active part in it shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years; and the other participants shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of

political rights.

Whoever instigates, coerces, lures or bribes State functionaries or members of the armed forces, the people's police or the people's militia to commit armed rebellion or armed riot shall be given a heavier punishment according to the provisions in the preceding paragraph.

Article 105 Among those who organize, plot or carry out the scheme of subverting the State power or overthrowing the socialist system, the ringleaders and the others who commit major crimes shall be sentenced to life imprisonment or fixed-term imprisonment of not less than 10 years; the ones who take an active part in it shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years; and the other participants shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights.

Whoever incites others by spreading rumors or slanders or any other means to subvert the State power or overthrow the socialist system shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention, public surveillance or deprivation of political rights; and the ringleaders and the others who commit major crimes shall be sentenced to fixed-term imprisonment of not less than five years.

Article 106 Whoever commits the crime as prescribed in Article 103, 104 or 105 of this Chapter in collusion with any organ, organization or individual outside the territory of China shall be given a heavier punishment according to the provisions stipulated in these Articles respectively.

Article 107 Where an organ, organization or individual inside or outside of the territory of China provides funds to any organization or individual within the territory of China to commit the crime as prescribed in Article 102, 103, 104 or 105, the person who is directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention, public surveillance or deprivation of political rights; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than five years.

Article 108 Whoever defects to the enemy and turns traitor shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years; if the circumstances are serious or if he leads members of the armed forces, the people's police or the people's militia to defect to the enemy and turn traitor, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment.

Article 109 Any State functionary who, while discharging his official duties at home or abroad, leaves his post without permission and defects to another country, which endangers the security of the People's Republic of China, shall be sentenced to

fixed-term imprisonment of not more than five years, criminal detention, public surveillance or deprivation of political rights; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years.

Any State functionary who has State secrets commits the crime as prescribed in the preceding paragraph shall be given a heavier punishment according to the provisions in the preceding paragraph.

Article 110 Whoever endangers national security by committing any of the following acts of espionage shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment; if the circumstances are minor, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years:

- (1) joining an espionage organization or accepting a mission assigned by the organization or its agent; or
- (2) directing the enemy to any bombing or shelling target.

Article 111 Whoever steals, spies into, buys or unlawfully supplies State secrets or intelligence for an organ, organization or individual outside the territory of China shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment; if the circumstances are minor, he shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention, public surveillance or deprivation of political rights.

Article 112 Whoever aids the enemy during wartime by providing him with weapons and equipment or military materials shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment; if the circumstances are minor, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

Article 113 Whoever commits any of the crimes of endangering national security as mentioned above in this Chapter, with the exception of those provided for in Paragraph 2 of Article 103 and in Articles 105, 107 and 109, if the crime causes particularly grave harm to the State and the people or if the circumstances are especially serious, may be sentenced to death.

Whoever commits any of the crimes mentioned in this Chapter may concurrently be sentenced to confiscation of property.

CHAPTER II CRIMES OF ENDANGERING PUBLIC SECURITY

Article 114 Whoever commits arson, breaches a dike, causes explosion, spreads poison or uses other dangerous means to sabotage any factory, mine, oilfield, harbour, river, water source, warehouse, house, forest, farm, threshing ground, pasture, key pipeline, public building or any other public or private property, thereby endangering public security but causing no serious consequences, shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

Article 115 Whoever commits arson, breaches a dike, causes explosion, spreads poison or inflicts serious injury or death on people or causes heavy losses of public or private property by other dangerous means, shall be sentenced to fixed-term imprisonment of not less than 10 years, life imprisonment or death.

Whoever negligently commits the crime mentioned in the preceding paragraph shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years; if the circumstances are minor, he shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Article 116 Whoever sabotages a train, motor vehicle, tram, ship or aircraft to such a dangerous extent as to overturn or destroy it, but with no serious consequences, shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

Article 117 Whoever sabotages a railroad, bridge, tunnel, highway, airport, waterway, lighthouse or sign or conducts any other sabotaging activities to such a dangerous extent as to overturn or destroy it, but with no serious consequences, shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

Article 118 Whoever sabotages any electric power or gas facility or any other inflammable or explosive equipment, thereby endangering public security, but causing no serious consequences, shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

Article 119 Whoever sabotages any means of transport, transportation facility, electric power facility, gas facility, or inflammable or explosive equipment, thereby causing serious consequences, shall be sentenced to fixed-term imprisonment of not less than 10 years, life imprisonment or death.

Whoever negligently commits the crime mentioned in the preceding paragraph shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years; if the circumstances are minor, he shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Article 120 Whoever forms, leads or actively participates in a terrorist organization shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years; other participants shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance.

Whoever, in addition to the crime mentioned in the preceding paragraph, commits other crimes of homicide, explosion or kidnap shall be punished in accordance with the provisions on combined punishment for several crimes.

Article 121 Whoever hijacks any aircraft by means of violence, coercion or by any other means shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment; any hijacker who causes serious injury to or death of any other person or serious damage to the aircraft shall be sentenced to death.

Article 122 Whoever hijacks a ship or motor vehicle by means of violence, coercion or by any other means shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years; if there are serious consequences, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment.

Article 123 Whoever uses violence against any person on board an aircraft and thereby endangers air safety, if there are no serious consequences, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if there are serious consequences, he shall be sentenced to fixed-term imprisonment of not less than five years.

Article 124 Whoever sabotages any broadcasting, television or public telecommunications facility, thereby endangering public security, shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years; if there are serious consequences, he shall be sentenced to fixed-term imprisonment of not less than seven years.

Whoever negligently commits the crime mentioned in the preceding paragraph shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years; if the circumstances are minor, he shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Article 125 Whoever illegally manufactures, trades in, transports, mails or stores any guns, ammunition or explosives shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than 10 years, life imprisonment or death.

Whoever illegally trades in or transports nuclear materials shall be

punished according to the provisions of the preceding paragraph.

Where a unit commits any of the crimes mentioned in the preceding two paragraphs, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be punished in accordance with the provisions of the first paragraph.

Article 126 If, in violation of the regulations governing control of guns, any enterprise that is designated or determined pursuant to law for manufacturing or selling guns commits any of the following acts, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the act shall be sentenced to fixed-term imprisonment of not more than five years; if the circumstances are serious, they shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years; if the circumstances are especially serious, they shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment:

(1) to manufacture or sell guns in excess of the quotas or at variance with the variety prescribed, for purposes of illegal sale;

(2) to manufacture guns without numbers or with duplicate or false numbers, for purposes of illegal sale; or

(3) to sell guns illegally, or sell guns in China that are manufactured for export.

Article 127 Whoever steals or forcibly seizes any guns, ammunition or explosives shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than 10 years, life imprisonment or death.

Whoever robs any guns, ammunition or explosives or steals or forcibly seizes any guns, ammunition or explosives from State organs, members of the armed forces, the police or the people's militia shall be sentenced to fixed-term imprisonment of not less than 10 years, life imprisonment or death.

Article 128 Whoever, in violation of the regulations governing control of guns, illegally possesses or conceals any guns or ammunition shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

Whoever is lawfully equipped with a gun for the discharge of official duties illegally leases or loans his gun shall be punished according to the provisions of the preceding paragraph.

If persons who are lawfully provided with guns illegally lease or loan such guns, thereby causing serious consequences, they shall be punished according to the provisions of the first paragraph.

Where a unit commits the crime mentioned in the second or third paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be punished according to the provisions of the first paragraph.

Article 129 If persons who are lawfully equipped with guns for the discharge of official duties lose their guns and fail to report about the matter immediately, thereby causing serious consequences, they shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Article 130 Whoever illegally enters a public place or gets on a public transportation vehicle with any gun, ammunition, controlled cutting tool or explosive, inflammable, radioactive, poisonous or corrosive materials and thereby endangers public security, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance.

Article 131 Any member of the crew on board an air craft who operates in violation of rules or regulations and thereby causes a grave air accident, if there are serious consequences, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if an air crash or death of another is caused, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

Article 132 Any railway worker who operates in violation of rules or regulations and thereby causes a railway operational accident, if there are serious consequences, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if there are especially serious consequences, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

Article 133 Whoever violates regulations governing traffic and transportation and thereby causes a serious accident, resulting in serious injuries or deaths or heavy losses of public or private property, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention. Whoever runs away from the spot after he has caused a traffic accident or is involved in other especially flagrant circumstances shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years; if his escape results in the death of another person, he shall be sentenced to fixed-term imprisonment of not less than seven years.

Article 134 If any employee of a factory, mine, tree farm, construction enterprise or

any other enterprise or institution disobeys management or violates rules and regulations or, if anyone forces employees to work under hazardous conditions in violation of rules, thereby causing an accident involving heavy casualties or causing other serious consequences, he shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the circumstances are especially flagrant, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

Article 135 Where the facilities for operational safety of a factory, mine, three farm, construction enterprise or any other enterprise or institution do not meet State requirements and no measures are taken to remove the hidden danger of accident after the warning given by the departments concerned or employees of the unit, so that an accident involving heavy casualties occurs or other serious consequences ensue, the person who is directly responsible for the accident shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the circumstances are especially flagrant, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

Article 136 Whoever violates the regulations on the control of explosive, inflammable, radioactive, poisonous or corrosive materials and thereby causes a serious accident during the production, storage, transportation or use of those materials, if there are serious consequences, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the consequences are especially serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

Article 137 Where any building, designing, construction or engineering supervision unit, in violation of State regulations, lowers the quality standard of a project and thereby causes a serious accident, the person who is directly responsible for the accident shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also be fined; if the consequences are especially serious, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years and shall also be fined.

Article 138 If a person who is directly responsible knowingly fails to adopt measures against dangers in school buildings or in educational or teaching facilities or to make a timely report about the matter, so that an accident involving heavy casualties occurs, he shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the consequences are especially serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

Article 139 If a person who is directly responsible violates the regulations on fire prevention and control and refuses to take measures to set it right after being told by

the organ for supervision over fire prevention and control to do so, if serious consequences ensue, he shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the consequences are especially serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

CHAPTER III CRIMES OF DISRUPTING THE ORDER OF THE SOCIALIST MARKET ECONOMY

SECTION 1 CRIMES OF PRODUCING AND MARKETING FAKE OR SUBSTANDARD COMMODITIES

Article 140 Any producer or seller who mixes impurities into or adulterates the products, or passes a fake product off as a genuine one, a defective product as a high-quality one, or a substandard product as a standard one, if the amount of earnings from sales is more than 50,000 yuan but less than 200,000 yuan, shall be sentenced to fixed-term imprisonment of not more than two years or criminal detention and shall also, or shall only, be fined not less than half but not more than two times the amount of earnings from sales; if the amount of earnings from sales is more than 200,000 yuan but less than 500,000 yuan, he shall be sentenced to fixed-term imprisonment of not less than two years but not more than seven years and shall also be fined not less than half but not more than two times the amount of earnings from sales; if the amount of earnings from sales is more than 500,000 yuan but less than 2,000,000 yuan, he shall be sentenced to fixed-term imprisonment of not less than seven years and shall also be fined not less than half but not more than two times the amount of earnings from sales; if the amount of earnings from sales is more than 2,000,000 yuan, he shall be sentenced to fixed-term imprisonment of 15 years or life imprisonment, and shall also be fined not less than half but not more than two times the amount of earnings from sales or be sentenced to confiscation of property.

Article 141 Whoever produces or sells fake medicines that are harmful enough to seriously endanger human health shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined not less than half but not more than two times the amount of earnings from sales; if human health is seriously harmed, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall also be fined not less than half but not more than two times the amount of earnings from sales; if death is caused to another person or especially serious harm is done to human health, he shall be sentenced to fixed-term imprisonment of not less than 10 years, life imprisonment or death, and shall also be fined not less than half but not more than two times the amount of earnings from sales or be sentenced to confiscation of property.

Fake medicines as mentioned in this Article refer to medicines or any non-medical

substances that fall under the category of or are regarded as fake medicines under the Pharmaceutical Administration Law of the People's Republic of China.

Article 142 Whoever produces or sells medicines of inferior quality and thereby causes serious harm to human health shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall also be fined not less than half but not more than two times the amount of earnings from sales; if the consequences are especially serious, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment, and shall also be fined not less than half but not more than two times the amount of earnings from sales or be sentenced to confiscation of property.

Medicines of inferior quality as mentioned in this Article refer to medicines that fall under the category of medicines of inferior quality under the Pharmaceutical Administration Law of the People's Republic of China.

Article 143 Whoever produces or sells food that is not up to hygiene standards, thus causing an accident of serious food poisoning or resulting in any serious disease caused by food-borne bacteria, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined not less than half but not more than two times the amount of earnings from sales; if serious harm is done to human health, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall also be fined not less than half but not more than two times the amount of earnings from sales; if the consequences are especially serious, he shall be sentenced to fixed-term imprisonment of not less than seven years or life imprisonment, and shall also be fined not less than half but not more than two times the amount of earnings from sales or be sentenced to confiscation of property.

Article 144 Whoever mixes the foods that he produces or sells with toxic or harmful non-food raw materials or knowingly sells such foods shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also, or shall only, be fined not less than half but not more than two times the amount of earnings from sales; if an accident of serious food poisoning or any serious disease caused by food-borne bacteria has resulted, thus seriously harming human health, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years and shall also be fined not less than half but not more than two times the amount of earnings from sales; if death is caused to another person or especially serious harm is done to human health, he shall be punished according to the provisions in Article 141 of this Law.

Article 145 Whoever produces medical apparatus and instruments or medical hygiene materials that are not up to the national or trade standards for safeguarding human health or sells such things while clearly knowing the fact, thereby causing

serious harm to human health, shall be sentenced to fixed-term imprisonment of not more than five years and shall also be fined not less than half but not more than two times the amount of earnings from sales; if the consequences are especially serious, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years and shall also be fined not less than half but not more than two times the amount of earnings from sales; if the circumstances are especially flagrant, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment, and shall also be fined not less than half but not more than two times the amount of earnings from sales or be sentenced to confiscation of property.

Article 146 Whoever produces electrical appliances, pressure containers, inflammable or explosive products or any other products that are not up to the national or trade standards for safeguarding personal or property safety or knowingly sells such products, thereby causing serious consequences, shall be sentenced to fixed-term imprisonment of not more than five years and shall also be fined not less than half but not more than two times the amount of earnings from sales; if the consequences are especially serious, he shall be sentenced to fixed-term imprisonment of not less than five years and shall also be fined not less than half but not more than two times the amount of earnings from sales.

Article 147 Whoever produces fake pesticides, fake animal pharmaceuticals or fake chemical fertilizers or sells pesticides, animal pharmaceuticals, chemical fertilizers or seeds while clearly knowing that they are fake or no longer effective, or any producer or seller who passes substandard pesticides, animal pharmaceuticals, chemical fertilizers or seeds off as up-to-standard ones, thus causing relatively heavy losses to production, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined not less than half but not more than two times the amount of earnings from sales; if heavy losses are caused to production, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall also be fined not less than half but not more than two times the amount of earnings from sales; if especially heavy losses are caused to production, he shall be sentenced to fixed-term imprisonment of not less than seven years or life imprisonment and shall also be fined not less than half but not more than two times the amount of earnings from sales or be sentenced to confiscation of property.

Article 148 Whoever produces cosmetics that are not up to hygiene standards or knowingly sells such cosmetics, thus causing serious consequences, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined not less than half but not more than two times the amount of earnings from sales.

Article 149 Whoever produces or sells products listed in Articles 141 through 148 of this Section, if the case does not constitute the crime as mentioned in these Articles

respectively but more than 50,000 yuan is earned from sales, shall be convicted and punished in accordance with the provisions of Article 140 of this Section.

Whoever produces or sells products listed in Articles 141 through 148 of this Section, if the case constitutes the crime as mentioned in these Articles respectively and also the crime mentioned in Article 140 of this Section, shall be convicted and punished in accordance with the provisions for a heavier punishment.

Article 150 Where a unit commits the crime as mentioned in Articles 141 through 148 of this Section, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be punished in accordance with the provisions of the Articles respectively.

SECTION 2 CRIMES OF SMUGGLING

Article 151 Whoever smuggles weapons, ammunition, nuclear materials or counterfeit currency shall be sentenced to fixed-term imprisonment of not less than seven years and shall also be fined or sentenced to confiscation of property; if the circumstances are minor, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall also be fined.

Whoever smuggles cultural relics, gold, silver or other precious metals, the export of which is forbidden by the State, or precious and rare species of wildlife as well as the products thereof, the import and export of which are forbidden by the State, shall be sentenced to fixed-term imprisonment of not less than five years and shall also be fined; if the circumstances are minor, he shall be sentenced to fixed-term imprisonment of not more than five years and shall also be fined.

Whoever smuggles precious and rare species of plants and the products thereof, the import and export of which is forbidden by the State, shall be sentenced to fixed-term imprisonment of not more than five years and shall also, or shall only, be fined; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than five years and shall also be fined.

Whoever commits the crime as mentioned in the first or the second paragraph, if the circumstances are especially serious, shall be sentenced to life imprisonment or death and also to confiscation of property.

Where a unit commits the crime as mentioned in this Article, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be punished in accordance with the provisions of the paragraphs in this Article respectively.

Article 152 Whoever, for the purpose of making profits or dissemination, smuggles

pornographic movies, videotapes, magnetic tapes, pictures, books or periodicals or other pornographic materials shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall also be fined; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment and shall also be fined or be sentenced to confiscation of property; if the circumstances are minor, he shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and shall also be fined.

Where a unit commits the crime as mentioned in the preceding paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be punished in accordance with the provisions of the preceding paragraph.

Article 153 Whoever smuggles goods or articles not specified in Articles 151, 152 and 347 of this Law shall, in the light of the seriousness of the circumstances, be punished in accordance with the following provisions respectively:

(1) If he smuggles goods or articles and evades or dodges payable duties to the amount of more than 500,000 yuan, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment and shall also be fined not less than one time but not more than five times the amount of payable duties evaded or dodged or be sentenced to confiscation of property; if the circumstances are especially serious, he shall be punished according to the provisions in the fourth paragraph of Article 151 of this Law.

(2) If he smuggles goods or articles and evades or dodges payable duties to the amount of more than 150,000 yuan but less than 500,000 yuan, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall also be fined not less than one time but not more than five times the amount of payable duties evaded or dodged; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment and shall also be fined not less than one time but not more than five times the amount of payable duties evaded or dodged or be sentenced to confiscation of property.

(3) If he smuggles goods or articles and evades or dodges payable duties to the amount of more than 50,000 yuan but less than 150,000 yuan, he shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also be fined not less than one time but not more than five times the amount of payable duties evaded or dodged.

Where a unit commits the crime mentioned in the preceding paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are

directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the circumstances are serious, they shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years; if the circumstances are especially serious, they shall be sentenced to fixed-term imprisonment of not less than 10 years.

Whoever smuggles goods or articles many times, and goes unpunished shall be punished on the basis of the cumulative amount of the payable duties he invades or dodges in smuggling goods or articles.

Article 154 Whoever commits any of the following acts of smuggling that constitutes a crime according to the provisions in this Section shall be convicted and punished in accordance with the provisions of Article 153 of this Law:

(1) without permission of the Customs and without having paid the overdue payable duties, selling for profits within the territory of the People's Republic of China authorized imported bonded goods such as materials supplied by foreign clients for processing, parts supplied by them for assembly, or raw or processed materials, parts, finished products or equipment for compensation trade; or

(2) without permission of the Customs and without having paid the overdue payable duties, selling for profits within the territory of the People's Republic of China imported goods and articles specially designated for reduction of or exemption from duties.

Article 155 Whoever commits any of the following acts shall be deemed to have committed the crime of smuggling and shall be punished in accordance with the relevant provisions of this Section:

(1) directly and illegally purchasing from smugglers articles, the import of which is forbidden by the State, or directly and illegally purchasing from smugglers other smuggled goods and articles in and in relatively large quantities or values;

(2) transporting, purchasing or selling in inland seas or territorial waters articles the import and export of which are forbidden by the State, or transporting, purchasing or selling, without legal certificates and in relatively large quantities or values, goods or articles the import and export of which are restricted by the State; or

(3) transporting solid waste from outside China into the territory of China through evading supervision and control by the Customs.

Article 156 Whoever conspires with criminals of smuggling and provides them with loans, funds, account numbers, invoices or certificates or with such conveniences as transportation, storage and mailing shall be deemed an accomplice in the crime of smuggling and punished as such.

Article 157 Whoever shields smuggling with arms shall be given a heavier punishment in accordance with the provisions in the first or fourth paragraph of Article 151 of this Law.

Whoever, by means of violence or threat, resists the seizure of smuggled goods shall be punished for the crime of smuggling and the crime of preventing State functionaries from performing their duties according to law, as stipulated in Article 277 of this Law, and in accordance with the provisions regarding the combined punishment for several crimes.

SECTION 3 CRIMES OF DISRUPTING THE ORDER OF ADMINISTRATION OF COMPANIES AND ENTERPRISES

Article 158 Whoever, when applying for company registration, obtains the registration by deceiving the competent company registration authority through falsely declaring the capital to be registered with falsified certificates or by other deceptive means shall, if the amount of the falsely registered capital is huge, and the consequences are serious or if there are other serious circumstances, be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined not less than one percent but not more than five percent of the capital falsely declared for registration.

Where a unit commits the crime as mentioned in the preceding paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Article 159 Any sponsor or shareholder of a company who, in violation of the provisions of the Company Law, makes a false capital contribution by failing to pay the promised cash or tangible assets or to transfer property rights, or surreptitiously withdraws the contributed capital after the incorporation of the company shall, if the amount involved is huge, and the consequences are serious, or if there are other serious circumstances, be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also, or shall only, be fined not less than two percent but not more than 10 percent of the false capital contribution or of the amount of the capital contribution surreptitiously withdrawn.

Where a unit commits the crime as mentioned in the preceding paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

Article 160 Whoever issues shares or company or enterprise bonds by concealing important facts or falsifying major information in the prospectus on share offer,

subscription forms or measures for offer of company or enterprise bonds shall, if the amount involved is huge, and the consequences are serious, or if there are other serious circumstances, be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also, or shall only, be fined not less than one percent but not more than five percent of the funds illegally raised.

Where a unit commits the crime as mentioned in the preceding paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

Article 161 Where a company submits to shareholders and the general public false financial and accounting reports, or reports concealing important facts, thus causing serious harm to the interests of shareholders or others, the persons who are directly in charge and the other persons who are directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined not less than 20,000 yuan but not more than 200,000 yuan.

Article 162 Where, in the process of its liquidation, a company or enterprise conceals its assets, records false information in its balance sheet or inventory of assets, or distributes the company or enterprise assets prior to full payment of its debts, thus causing serious harm to the interests of the creditors or others, the persons who are directly in charge and the other persons who are directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also, or shall only, be fined not less than 20,000 yuan but not more than 200,000 yuan.

Article 163 Where an employee of a company or enterprise who, taking advantage of his position, demands money or property from another person or illegally accepts another person's money or property in return for the benefits he seeks for such person, if the amount involved is relatively large, he shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if the amount is huge, he shall be sentenced to fixed-term imprisonment of not less than five years and may also be sentenced to confiscation of property.

Any employee of a company or enterprise who, violating State regulations in economic activities, accepts rebates or service charges of various descriptions and takes them into his own possession shall be punished in accordance with the provisions in the preceding paragraph.

Any employee of a State-owned company or enterprise who, being engaged in public service or who is assigned by a State-owned company or enterprises to engage in public service in a company or enterprise that is not owned by the State, commits any

of the acts mentioned in the preceding two paragraphs shall be convicted and punished according to the provisions in Articles 385 and 386 of this Law.

Article 164 Whoever, for the purpose of seeking illegitimate benefits, gives money or property to any employee of a company or enterprise, if the amount involved is relatively large, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the amount involved is huge, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall also be fined.

Where a unit commits the crime as mentioned in the preceding paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be punished according to the provisions in the preceding paragraph.

Any briber who confesses the bribery voluntarily prior to prosecution may be given a mitigated punishment or be exempted from punishment.

Article 165 Any director or manager of a State-owned company or enterprise who, taking advantage of his office, operates for himself or for another the same business as that of the company or enterprise in which he holds the office and obtains illegal interests, if the amount involved is huge, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined; if the amount is especially huge, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall also be fined.

Article 166 Any employee of a State-owned company, enterprise or institution who, taking advantage of his office, commits any of the following acts and thus causes heavy losses to the interests of the State shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined; if especially heavy losses are caused to the interests of the State, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall also be fined:

(1) turning management of the profitable business of his unit over to his relatives or friends;

(2) purchasing commodities from the unit managed by his relatives or friends at a price obviously higher than the market price, or selling commodities to such unit at a price obviously lower than the market price; or

(3) purchasing from the unit managed by his relatives or friends commodities that are not up to standards.

Article 167 If a person who is directly in charge of a State-owned company, enterprise or institution, when signing or fulfilling a contract, is defrauded due to serious neglect of responsibility and thus causes heavy losses to the interests of the State, he shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if especially heavy losses are caused to the interests of the State, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

Article 168 If a person who is directly in charge of a State-owned company or enterprise, practises irregularities for selfish ends and causes bankruptcy or heavy losses to the said company or enterprise, thus resulting in heavy losses of the interests of the State, he shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Article 169 If a person who is directly in charge of a State-owned company or enterprise or the competent department at a higher level practises irregularities for selfish ends by converting State-owned assets to shares at a low price or selling them at a low price and thus causes heavy losses to the interests of the State, he shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if especially heavy losses are caused to the interests of the State, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

SECTION 4 CRIMES OF DISRUPTING THE ORDER OF FINANCIAL ADMINISTRATION

Article 170 Whoever counterfeits currencies shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan. Whoever is found to be in any of the following situations shall be sentenced to fixed-term imprisonment of not less than 10 years, life imprisonment or death and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan or be sentenced to confiscation of property:

- (1) being a ringleader of a gang engaged in counterfeiting currencies;
- (2) having counterfeited currencies in especially huge, amounts; or
- (3) being involved in other especially serious circumstances.

Article 171 Whoever sells or buys counterfeit currencies or knowingly transports such currencies shall, if the amount involved is relatively large, be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also be fined not less than 20,000 yuan but not more than 200,000 yuan; if the amount

involved is huge, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan; if the amount involved is especially huge, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan or be sentenced to confiscation of property.

Any employee of a bank or of any other banking institution who buys counterfeit currencies or, taking advantage of his position, exchanges such currencies for genuine ones shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall also be fined not less than 20,000 yuan but not more than 200,000 yuan; if the amount involved is huge, or if there are other serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment and shall also be fined not less than 20,000 yuan but not more than 200,000 yuan or be sentenced to confiscation of property; if the circumstances are minor, he shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined not less than 10,000 yuan but not more than 100,000 yuan.

Whoever counterfeits currencies and also sells or transports counterfeit currencies shall be convicted and given a heavier punishment according to the provisions in Article 170 of this Law.

Article 172 Whoever knowingly holds or uses counter-feit currencies shall, if the amount involved is relatively large, be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined not less than 10,000 yuan but not more than 100,000 yuan; if the amount involved is huge, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall also be fined not less than 20,000 yuan but not more than 200,000 yuan; if the amount involved is especially huge, he shall be sentenced to fixed-term imprisonment of not less than 10 years and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan or be sentenced to confiscation of property.

Article 173 Whoever alters currencies shall, if the amount involved is relatively large, be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined not less than 10,000 yuan but not more than 100,000 yuan; if the amount involved is huge, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall also be fined not less than 20,000 yuan but not more than 200,000 yuan.

Article 174 Whoever establishes a commercial bank or any other banking institution without the approval of the People's Bank of China shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined not less than 20,000 yuan but not more than 200,000 yuan; if the

circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan.

Whoever forges, alters or transfers the permit for operation of a commercial bank or any other banking institution shall be punished in accordance with the provisions of the preceding paragraph.

Where a unit commits any of the crimes mentioned in the preceding two paragraphs, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be punished in accordance with the provisions of the first paragraph.

Article 175 Whoever, for the purpose of making profits through transferring loans, fraudulently obtains credit funds from a banking institution and transfers the funds to another at usury shall, if the amount of illegal gains is relatively large, be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also be fined not less than one time but not more than five times the illegal gains; if the amount involved is huge, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall also be fined not less than one time but not more than five times the illegal gains.

Where a unit commits the crime as mentioned in the preceding paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Article 176 Whoever illegally takes in deposits from the general public or does so in disguised form, thus disrupting the financial order, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined not less than 20,000 yuan but not more than 200,000 yuan; if the amount involved is huge, or if there are other serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan.

Where a unit commits the crime as mentioned in the preceding paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be punished according to the provisions in the preceding paragraph.

Article 177 Whoever commits any of the following acts of forging or altering financial bills shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also, or shall only, be fined not less than 20,000 yuan but not more than 200,000 yuan; if the circumstances are serious, he shall be

sentenced to fixed-term imprisonment of not less than five years but not more than 10 years and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan or be sentenced to confiscation of property:

- (1) forging or altering bills of exchange, promissory notes or cheques;
- (2) forging or altering settlement certificates of a bank such as certificates of entrustment with the receipt of payment, certificates of remittance and deposit receipts;
- (3) forging or altering letters of credit or their attached bills and documents; or
- (4) forging credit cards.

Where a unit commits any of the crimes mentioned in the preceding paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be punished according to the provisions in the preceding paragraph.

Article 178 Whoever forges or alters treasury certificates or any other negotiable securities issued by the State shall, if the amount involved is relatively large, be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined not less than 20,000 yuan but not more than 200,000 yuan; if the amount involved is huge, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan; if the amount involved is especially huge, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan or be sentenced to confiscation of property.

Whoever forges or alters stocks or corporate or enterprise bonds shall, if the amount involved is relatively large, be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined not less than 10,000 yuan but not more than 100,000 yuan; if the amount involved is huge, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall also be fined not less than 20,000 yuan but not more than 200,000 yuan.

Any unit that commits any of the crimes mentioned in the preceding two paragraphs, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be punished according to the provisions in the preceding two paragraphs respectively.

Article 179 Whoever issues stocks or corporate or enterprise bonds without approval of the competent departments of the State shall, if the amount involved is huge, and the consequences are serious, or if there are other serious circumstances, be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also, or shall only, be fined not less than one percent but not more than five percent of the funds illegally raised.

Where a unit commits the crime mentioned in the preceding paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

Article 180 Any insider who possesses inside information about any stock exchange transactions or anyone who illegally obtains such information, prior to the publication of the information that concerns stock issuing or exchange or that has a vital bearing on the stock price, buys or sells the very stock or divulges the very information shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also, or shall only, be fined not less than one time but not more than five times the illegal gains; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years and shall also be fined not less than one time but not more than five times the illegal gains.

Where a unit commits the crime as mentioned in the preceding paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

The range of inside information shall be determined in accordance with the provisions of laws or administrative rules and regulations.

The range of insiders shall be determined in accordance with the provisions of laws or administrative rules and regulations.

Article 181 Whoever fabricates and spreads false information to adversely affect stock exchange and disrupt the stock exchange market shall, if the consequences are serious, be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also, or shall only, be fined not less than 10,000 yuan but not more than 100,000 yuan.

Any employee of a stock exchange or securities company or any member of a securities association or department for securities administration who deliberately provides false information or forges, alters or destroys transaction records in order to cajole investors into buying or selling securities and thus serious consequences have

resulted, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also, or shall only, be fined not less than 10,000 yuan but not more than 100,000 yuan; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years and shall also be fined not less than 20,000 yuan but not more than 200,000 yuan.

Where a unit commits any of the crimes mentioned in the preceding two paragraphs, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

Article 182 Whoever commits any of the following acts by rigging stock prices in order to obtain illegitimate profits or transfer risks shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also, or shall only, be fined not less than one time but not more than five times the illegal gains:

(1) rigging stock prices by working alone or plotting with another in concluding transactions jointly or continuously through a mustering superiority in the holding of funds or shares or in the use of information;

(2) affecting stock prices or the volume of stock transactions by colluding with another and carrying out stock exchange between themselves upon a time, at a price and in a manner previously agreed, or buying or selling between themselves the securities they do not hold;

(3) affecting stock prices or the volume of stock transactions by taking himself as the counterpart of transaction and trading in stocks with himself without transferring ownership of the stock; or

(4) rigging stock prices by any other means.

Where a unit commits any of the crimes mentioned in the preceding paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

Article 183 Any employee of an insurance company who, taking advantage of his position, deliberately fabricates the occurrence of an insured accident and falsely settles a fictitious claim, thereby swindling the insured amount of money out of the company and taking it into his own possession, shall be convicted and punished according to the provisions in Article 271 of this Law.

If an employee of a State-owned insurance company or any person who is assigned by a State-owned insurance company to an insurance company that is not owned by the State to engage in public service commits the act prescribed in the preceding paragraph, he shall be convicted and punished according to the provisions in Articles 382 and 383 of this Law.

Article 184 Any employee of a bank or of any other banking institution who in financial activities demands money or property from another person or illegally accepts money or property from another person in return for the benefits secured for such person or, in violation of State regulations, accepts rebates or service charges of various descriptions and takes them into his own possession shall be convicted and punished according to the provisions in Article 163 of this Law.

Any employee of a State-owned banking institution or any person assigned by a State-owned banking institution to a banking institution that is not owned by the State to engage in public service who commits the act mentioned in the preceding paragraph shall be convicted and punished according to the provisions in Articles 385 and 386 of this Law.

Article 185 Any employee of a bank or of any other banking institution who, taking advantage of his position, misappropriates money belonging to the bank or any client shall be convicted and punished according to the provisions in Article 272 of this Law.

If any employee of a State-owned banking institution or any person who is assigned by a State-owned banking institution to a banking institution that is not owned by the State to engage in public service commits the act mentioned in the preceding paragraph, he shall be convicted and punished according to the provisions in Article 384 of this Law.

Article 186 Any employee of a bank or of any other banking institution who, against laws or administrative rules and regulations, grants fiduciary loans or guaranteed loans to his connections on conditions that are more preferential than those for granting the same type of loans to other borrowers, thus causing relatively heavy losses, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also be fined not less than 10,000 yuan but not more than 100,000 yuan; if heavy losses are caused, he shall be sentenced to fixed-term imprisonment of not less than five years and shall also be fined not less than 20,000 yuan but not more than 200,000 yuan.

Any employee of a bank or of any other banking institution who, against laws or administrative rules and regulations, grants loans to persons other than his connections, thus causing heavy losses, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also be fined not less than 10,000 yuan but not more than 100,000 yuan; if especially heavy losses are caused, he

shall be sentenced to fixed-term imprisonment of not less than five years and shall also be fined not less than 20,000 yuan but not more than 200,000 yuan.

Where a unit commits any of the crimes mentioned in the preceding two paragraphs, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be punished according to the provisions in the preceding two paragraphs respectively.

The range of connections shall be determined in accordance with the provisions in the Law of the People's Republic of China on Commercial Banks and the relevant regulations on banking.

Article 187 Any employee of a bank or of any other banking institution who, for the purpose of making profits, illegally lends the funds he absorbed from the clients instead of entering them into the account book, or uses the funds as loans, thus causing heavy losses, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also be fined not less than 20,000 yuan but not more than 200,000 yuan; if especially heavy losses are caused, he shall be sentenced to fixed-term imprisonment of not less than five years and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan.

Where a unit commits the crime mentioned in the preceding paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be punished according to the provisions in the preceding paragraph.

Article 188 Any employee of a bank or of any other banking institution who, against regulations, issues letters of credit or other letters of guaranty, negotiable instruments, deposit certificates or certificates of financial standing, thus causing relatively heavy losses, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if heavy losses are caused, he shall be sentenced to fixed-term imprisonment of not less than five years.

Where a unit commits the crime mentioned in the preceding paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be punished according to the provisions in the preceding paragraph.

Article 189 Any employee of a bank or of any other banking institution who, in dealing with negotiable instruments, accepts, pays or guarantees a negotiable instrument which is at variance with the provisions in the Law on Negotiable Instruments, thus causing heavy losses, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if especially heavy losses are caused, he shall be sentenced to fixed-term imprisonment of not less than five years.

Where a unit commits the crime mentioned in the preceding paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be punished according to the provisions in the preceding paragraph.

Article 190 Any State-owned company, enterprise or any other State-owned unit that, against State regulations, deposits foreign exchange outside China or illegally transfers foreign exchange inside China out to any other countries shall, if the circumstances are serious, be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

Article 191 Whoever, while clearly knowing that the proceeds are illegally obtained from drug-related crimes or from crimes committed by organizations in nature of syndicate or smugglers or from terrorist crimes and gains derived therefrom, commits any of the following acts in order to cover up or conceal the source or nature of the proceeds shall, in addition to being confiscated of the said proceeds and gains, be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also, or shall only, be fined not less than five percent but not more than 20 percent of the amount of money laundered; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than five but not more than 10 years and shall also be fined not less than five percent but not more than 20 percent of the amount of money laundered:

- (1) providing fund accounts;
- (2) helping exchange property into cash or any financial negotiable instruments;
- (3) helping transfer capital through transferring accounts or any other form of settlement;
- (4) helping remit funds to any other country; or
- (5) covering up or concealing by any other means the nature or source of the illegally obtained proceeds and the gains derived therefrom.

Where a unit commits any of the crimes mentioned in the preceding paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

SECTION 5 CRIMES OF FINANCIAL FRAUD

Article 192 Whoever, for the purpose of illegal possession, unlawfully raises funds by means of fraud shall, if the amount involved is relatively large, be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also be fined not less than 20,000 yuan but not more than 200,000 yuan; if the amount involved is huge, or if there are other serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan; if the amount involved is especially huge, or if there are other especially serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan or be sentenced to confiscation of property.

Article 193 Whoever commits any of the following acts to defraud a bank or any other financial institution of loans for the purpose of illegal possession shall, if the amount involved is relatively large, be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also be fined not less than 20,000 yuan but not more than 200,000 yuan; if the amount involved is huge, or if there are other serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan; if the amount involved is especially huge, or if there are other especially serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan or be sentenced to confiscation of property:

- (1) inventing false reasons for obtaining funds, projects, etc. from abroad;
- (2) using a false economic contract;
- (3) using a false supporting document;
- (4) using a false property right certificate as guaranty or repeatedly using the same mortgaged property as guaranty in excess of its value; or
- (5) defrauding loans by any other means.

Article 194 Whoever commits fraud by means of financial bills in any of the following ways shall, if the amount involved is relatively large, be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also be fined not less than 20,000 yuan but not more than 200,000 yuan; if the amount involved is huge, or if there are other serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan; if the amount involved is especially huge, or if there are other especially serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than 10

years or life imprisonment and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan or be sentenced to confiscation of property:

- (1) knowingly using forged or altered bills of exchange, promissory notes or cheques;
- (2) knowingly using invalidated bills of exchange, promissory notes or cheques;
- (3) illegally using another's bills of exchange, promissory notes or cheques;
- (4) signing and issuing a rubber cheque or a cheque, on which the seal is not in conformity with the reserved specimen seal, in order to defraud money or property; or
- (5) signing or issuing bills of exchange or promissory notes without funds as a guaranty, in the capacity of a drawer, falsely specifying the particulars thereon at the time of issue, in order to defraud money or property.

Whoever uses forged or altered settlement certificates of a bank such as certificates of entrustment with the receipt of payment, certificates of remittance and deposit receipts shall be punished in accordance with the provisions in the preceding paragraph.

Article 195 Whoever commits fraud by means of a letter of credit in any of the following ways shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also be fined not less than 20,000 yuan but not more than 200,000 yuan; if the amount involved is huge, or if there are other serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan; if the amount involved is especially huge, or if there are other especially serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan or be sentenced to confiscation of property:

- (1) using a forged or altered letter of credit or any of its attached bills or documents;
- (2) using an invalidated letter of credit;
- (3) fraudulently obtaining a letter of credit; or
- (4) in any other ways.

Article 196 Whoever commits fraud by means of a credit card in any of the following ways shall, if the amount involved is relatively large, be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also be fined not less than 20,000 yuan but not more than 200,000 yuan; if the amount

involved is huge, or if there are other serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan; if the amount involved is especially huge, or if there are other especially serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan or be sentenced to confiscation of property:

- (1) using a forged credit card;
- (2) using an invalidated credit card;
- (3) illegally using another's credit card; or
- (4) overdrawing with ill intentions.

Overdrawing with ill intentions as mentioned in the preceding paragraph means that a credit card holder who, for the purpose of illegal possession, overdraws beyond the norm set or beyond the time limit and refuses to repay the overdrawn amount after the bank that issues the card urges him to do so.

Whoever steals a credit card and uses it shall be convicted and punished in accordance with the provisions in Article 264 of this Law.

Article 197 Whoever commits fraud by using forged or altered treasury certificates or any other securities issued by the State shall, if the amount involved is relatively large, be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also be fined not less than 20,000 yuan but not more than 200,000 yuan; if the amount involved is huge, or if there are other serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan; if the amount involved is especially huge, or if there are other especially serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan or be sentenced to confiscation of property.

Article 198 Any of the following persons who commit insurance fraud in any of the following ways shall, if the amount involved is relatively large, be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also be fined not less than 10,000 yuan but not more than 100,000 yuan; if the amount involved is huge, or if there are other serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years and shall also be fined not less than 20,000 yuan but not more than 200,000 yuan; if the

amount involved is especially huge, or if there are other especially serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment and shall also be fined not less than 20,000 yuan but not more than 200,000 yuan or be sentenced to confiscation of property:

(1) an applicant defrauds insurance money by deliberately falsifying the subject matter of the insurance;

(2) an applicant, an insured or a beneficiary defrauds insurance money by cooking up the cause of an insured accident or overstates the extent of loss;

(3) an applicant, an insured or a beneficiary defrauds insurance money by inventing stories of an insured accident that does not occur;

(4) an applicant or an insured defrauds insurance money by deliberately causing the occurrence of an insured accident that leads to property damage; or

(5) an applicant or a beneficiary defrauds insurance money by deliberately causing the death, disability or illness of the insured.

Whoever commits the act listed in sub-paragraph (4) or (5) of the preceding paragraph, which also constitutes another crime, shall be punished in accordance with the provisions on combined punishment for several crimes.

Where a unit commits the crime mentioned in the first paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if the amount involved is huge, or if there are other serious circumstances, they shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years; if the amount involved is especially huge, or if there are other especially serious circumstances, they shall be sentenced to fixed-term imprisonment of not less than 10 years.

Any expert witness, witness or property assessor of an insured accident who deliberately provides false supporting documents, thus creating the conditions for another to practise defraudation, shall be deemed an accomplice in insurance fraud and punished as such.

Article 199 Whoever commits the crime mentioned in Article 192, 194 or 195 of this Section shall, if the amount involved is especially huge, and especially heavy losses are caused to the interests of the State and the people, be sentenced to life imprisonment or death and also to confiscation of property.

Article 200 Where a unit commits the crime mentioned in Article 192, 194 or 195 of

this Section, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if the amount involved is huge, or if there are other serious circumstances, they shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years; if the amount involved is especially huge, or if there are other especially serious circumstances, they shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment.

SECTION 6 CRIMES OF JEOPARDIZING ADMINISTRATION OF TAX COLLECTION

Article 201 Any taxpayer who fails to pay or underpays the amount of taxes payable by means of forging, altering, concealing or destroying without authorization account books or vouchers for the accounts, or overstating expenses or omitting or understating incomes in account books, or refusing to file his tax returns after the tax authorities have notified him to do so or filing false tax returns shall, if the amount of tax evaded accounts for over 10 percent but under 30 percent of the total of taxes payable and over 10,000 yuan but under 100,000 yuan, or if he commits tax evasion again after having been twice subjected to administrative sanctions by the tax authorities for tax evasion, be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also be fined not less than one time but not more than five times the amount of tax evaded; if the amount of tax evaded accounts for over 30 percent of the total of taxes payable or is over 100,000 yuan, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall also be fined not less than one time but not more than five times the amount of tax evaded.

Where a withholding agent who, by using the means mentioned in the preceding paragraph, fails to pay or under-pays the taxes which he has withheld or collected shall, if the amount accounts for over 10 percent of the total of taxes payable or is over 10,000 yuan, be punished in accordance with the provisions in the preceding paragraph.

Whoever repeatedly commits the acts mentioned in the preceding two paragraphs and goes unpunished shall be punished on the basis of the cumulative total.

Article 202 Whoever refuses to pay taxes by means of violence or threat shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also be fined not less than one time but not more than five times the amount he refuses to pay; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall also be fined not less than one time but not more than five times the amount he refuses to pay.

Article 203 Any taxpayer who does not pay the taxes due and adopts the means of transferring or concealing his property so that the tax authorities cannot pursue the amount of taxes in arrears shall, if the amount involved is over 10,000 yuan but under 100,000 yuan, be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined not less than one time but not more than five times the amount of taxes in arrears; if the amount involved is over 100,000 yuan, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall also be fined not less than one time but not more than five times the amount of taxes in arrears.

Article 204 Whoever, by filing false export declaration or by any other deceptive means, obtains from the State a tax refund for exports shall, if the amount involved is relatively large, be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also be fined not less than one time but not more than five times the amount defrauded; if the amount involved is huge, or if there are other serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years and shall also be fined not less than one time but not more than five times the amount defrauded; if the amount involved is especially huge, or if there are other especially serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment and shall also be fined not less than one time but not more than five times the amount defrauded or be sentenced to confiscation of property.

Any taxpayer who, after having paid the taxes, adopts the deceptive means mentioned in the preceding paragraph to obtain a tax refund shall be convicted and punished according to the provisions in Article 201 of this Law, and for the defrauded part that exceeds what he has paid, he shall be punished according to the provisions in the preceding paragraph.

Article 205 Whoever falsely makes out special invoices for value-added tax or any other invoices to defraud a tax refund for exports or to offset tax money shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also be fined not less than 20,000 yuan but not more than 200,000 yuan; if the amount of money involved is relatively large or if there are other serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan; if the amount of money involved is huge, or if there are other especially serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan or be sentenced to confiscation of property.

Whoever commits the act mentioned in the preceding paragraph to defraud tax money

of the State shall, if the amount involved is especially huge, and the circumstances are especially serious, thus causing especially heavy losses to the interests of the State, shall be sentenced to life imprisonment or death and also to confiscation of property.

Where a unit commits the crime mentioned in this Article, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the amount involved is relatively large or if there are other serious circumstances, they shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years; if the amount involved is huge, or if there are other especially serious circumstances, they shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment.

Falsely making out special invoices for value-added tax or any other invoices to defraud a tax refund for exports or to offset tax money refers to any act of falsely making out the said invoices for another, for oneself, or asking another to do so for oneself, or recommending another to do so.

Article 206 Whoever forges or sells forged special invoices for value-added tax shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall also be fined not less than 20,000 yuan but not more than 200,000 yuan; if the number involved is relatively large or if there are other serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan; if the number involved is huge, or if there are other especially serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan or be sentenced to confiscation of property.

Whoever forges or sells forged special invoices for value-added tax shall, if the number involved is especially huge, and the circumstances are especially serious so that economic order is seriously disrupted, be sentenced to life imprisonment or death and also to confiscation of property.

Where a unit commits the crime mentioned in this Article, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance; if the number involved is relatively large or if there are other serious circumstances, they shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years; if the number involved is huge, or if there are other especially serious circumstances, they shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment.

Article 207 Whoever illegally sells special invoices for value-added tax shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall also be fined not less than 20,000 yuan but not more than 200,000 yuan; if the number involved is relatively large, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan; if the number involved is huge, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan or be sentenced to confiscation of property.

Article 208 Whoever unlawfully purchases special invoices for value-added tax or purchases forged special invoices for value-added tax shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also, or shall only, be fined not less than 20,000 yuan but not more than 200,000 yuan.

Whoever, in addition to unlawfully purchasing special invoices for value-added tax or purchasing forged special invoices for value-added tax, falsely makes out such invoices or sells them shall be convicted and punished according to the provisions of Article 205, 206 or 207 of this Law respectively.

Article 209 Whoever forges or makes without authorization any other invoices, which can be used to defraud a tax refund for exports or to offset tax money, or sells such invoices shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall also be fined not less than 20,000 yuan but not more than 200,000 yuan; if the number involved is large, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan; if the number involved is especially huge, he shall be sentenced to fixed-term imprisonment of not less than seven years and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan or be sentenced to confiscation of property.

Whoever forges or makes without authorization invoices other than the ones specified in the preceding paragraph or sells such invoices shall be sentenced to fixed-term imprisonment of not more than two years, criminal detention or public surveillance and shall also, or shall only, be fined not less than 10,000 yuan but not more than 50,000 yuan; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than two years but not more than seven years and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan.

Whoever illegally sells any other invoices which can be used to defraud a tax refund for exports or to offset tax money shall be punished according to the provisions in the first paragraph.

Whoever illegally sells invoices other than the ones specified in the third paragraph shall be punished according to the provisions in the second paragraph.

Article 210 Whoever steals special invoices for value-added tax or any other invoices which can be used to defraud a tax refund for exports or to offset tax money shall be convicted and punished in accordance with the provisions in Article 264 of this Law.

Whoever fraudulently obtains special invoices for value-added tax or other invoices which can be used to defraud a tax refund for exports or to offset tax money shall be convicted and punished in accordance with the provisions in Article 266 of this Law.

Article 211 Where a unit commits the crime mentioned in Article 201, 203, 204, 207, 208 or 209 of this Section, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be punished in accordance with the provisions of the Articles respectively.

Article 212 Whoever commits the crime mentioned in Article 201, 202, 203, 204 or 205 and is fined or sentenced to confiscation of property shall be so punished after the tax authorities have recovered the taxes evaded and the defrauded tax refund for exports.

SECTION 7 CRIMES OF INFRINGING ON INTELLECTUAL PROPERTY RIGHTS

Article 213 Whoever, without permission from the owner of a registered trademark, uses a trademark which is identical with the registered trademark on the same kind of commodities shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall also be fined.

Article 214 Whoever knowingly sells commodities bearing counterfeit registered trademarks shall, if the amount of sales is relatively large, be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined; if the amount of sales is huge, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall also be fined.

Article 215 Whoever forges or without authorization of another makes representations of the person's registered trademarks or sells such representations shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall also, or shall

only, be fined; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall also be fined.

Article 216 Whoever counterfeits the patent of another shall, if the circumstances are serious, be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined.

Article 217 Whoever, for the purpose of making profits, commits any of the following acts of infringement on copyright shall, if the amount of illegal gains is relatively large, or if there are other serious circumstances, be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined; if the amount of illegal gains is huge or if there are other especially serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall also be fined:

(1) reproducing and distributing a written work, musical work, motion picture, television programme or other visual works, computer software or other works without permission of the copyright owner;

(2) publishing a book of which the exclusive right of publication is enjoyed by another person;

(3) reproducing and distributing an audio or video recording produced by another person without permission of the producer; or

(4) producing or selling a work of fine art with forged signature of another painter.

Article 218 Whoever, for the purpose of making profits, knowingly sells works reproduced by infringing on the copyright of the owners as mentioned in Article 217 of this Law shall, if the amount of illegal gains is huge, be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined.

Article 219 Whoever commits any of the following acts of infringing on business secrets and thus causes heavy losses to the obligee shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined; if the consequences are especially serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall also be fined:

(1) obtaining an obligee's business secrets by stealing, luring, coercion or any other illegitimate means;

(2) disclosing, using or allowing another to use the business secrets obtained from the obligee by the means mentioned in the preceding paragraph; or

(3) in violation of the agreement on or against the obligee's demand for keeping business secrets, disclosing, using or allowing another person to use the business secrets he has.

Whoever obtains, uses or discloses another's business secrets, which he clearly knows or ought to know falls under the categories of the acts listed in the preceding paragraph, shall be deemed an offender who infringes on business secrets.

"Business secrets" as mentioned in this Article refers to technology information or business information which is unknown to the public, can bring about economic benefits to the obligee, is of practical use and with regard to which the obligee has adopted secret-keeping measures.

"Obligee" as mentioned in this Article refers to the owner of business secrets and the person who is permitted by the owner to use the business secrets.

Article 220 Where a unit commits any of the crimes mentioned in the Articles from 213 through 219 of this Section, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be punished in accordance with the provisions of the Articles respectively.

SECTION 8 CRIMES OF DISRUPTING MARKET ORDER

Article 221 Whoever fabricates stories and spreads them to damage another person's business credit or commodity reputation, if heavy losses are caused to the person, or if there are other serious circumstances, shall be sentenced to fixed-term imprisonment of not more than two years or criminal detention and shall also, or shall only, be fined.

Article 222 Any advertiser, advertisement agent or advertisement publisher who, in violation of State regulations, takes advantage of advertisement to make false publicity of commodities or services, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than two years or criminal detention and shall also, or shall only, be fined.

Article 223 Bidders who act in collusion with each other in offering bidding prices and thus jeopardize the interests of bid-inviter or of other bidders, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined.

If a bidder and bid-inviter act in collusion with each other in bidding and thus jeopardize the lawful interests of the State, the collective or citizens, they shall be

punished according to the provisions of the preceding paragraph.

Article 224 Whoever, during the course of signing or fulfilling a contract, commits any of the following acts to defraud money or property of the other party for the purpose of illegal possession, if the amount involved is relatively large, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined; if the amount involved is huge, or if there are other serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall also be fined; if the amount involved is especially huge or if there are other especially serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment and shall also be fined or be sentenced to confiscation property:

- (1) signing a contract in the name of a fictitious unit or in the name of another person;
- (2) offering as guaranty forged, altered or invalidated negotiable instruments or any other false property right certificates;
- (3) while having no ability to fulfil a contract, conjoling the other party into continuing to sign and fulfil a contract by way of fulfilling a contract that involves a small amount of money or fulfilling part of the contract;
- (4) going into hiding after receiving the other party's goods, payment for goods, cash paid in advance or property for guaranty; or
- (5) any other acts.

Article 225 Whoever, in violation of State regulations, commits any of the following illegal acts in business operation and thus disrupts market order, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also, or shall only, be fined not less than one time but not more than five times the amount of illegal gains; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than five years and shall also be fined not less than one time but not more than five times the amount of illegal gains or be sentenced to confiscation of property:

- (1) without permission, dealing in goods that are designated by laws or administrative rules and regulations as goods to be dealt in or sold in a monopoly way or other goods that are restricted in trading;
- (2) buying or selling import or export licenses, import or export certificates of origin or other business licenses or approval papers required by laws or administrative rules and regulations; or

(3) other illegal operations that seriously disrupt market order.

Article 226 Whoever buys or sells commodities by violence or intimidation, or compels another person to provide or receive a service, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined.

Article 227 Whoever counterfeits or scalps any counterfeit train or ship tickets, stamps or any other negotiable tickets, if the amount involved is relatively large, shall be sentenced to fixed-term imprisonment of not more than two years, criminal detention or public surveillance and shall also, or shall only, be fined not less than one time but not more than five times the value of the tickets; if the amount involved is huge, he shall be sentenced to fixed-term imprisonment of not less than two years but not more than seven years and shall also be fined not less than one time but not more than five times the value of the tickets.

Whoever scalps train or ship tickets, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and shall also, or shall only, be fined not less than one time but not more than five times the value of the tickets.

Article 228 Whoever, in violation of the rules and regulations on land administration, illegally transfers or scalps land-use right to make profits, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined not less than five percent but not more than 20 percent of the money gained therefrom; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall also be fined not less than five percent but not more than 20 percent of the money gained therefrom.

Article 229 If a member of a intermediary organization, whose duty is to make capital assessment, verification or validation, to do accounting or auditing, or to provide legal service, etc, deliberately provides false testifying papers, if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also be fined.

Any member mentioned in the preceding paragraph who commits the crime prescribed in the preceding paragraph demands money or property from another or illegally accepts money or property from another shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years and shall also be fined.

Any member mentioned in the first paragraph who, grossly neglecting his duty,

produces testifying papers that are highly inconsistent with the facts, thus causing serious consequences, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined.

Article 230 Whoever, in violation of the provisions in the Law on Import and Export Commodity Inspection, evades commodity inspection and markets or uses import commodities that are subject to inspection by the commodity inspection authorities but are not declared for such inspection, or exports commodities that are subject to inspection by the commodity inspection authorities but are not proved up to standard through declaration for such inspection, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined.

Article 231 Where a unit commits the crime mentioned in the Articles from 221 through 230 of this Section, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be punished in accordance with the provisions of the Articles respectively.

CHAPTER IV CRIMES OF INFRINGING UPON CITIZENS' RIGHT OF THE PERSON AND DEMOCRATIC RIGHTS

Article 232 Whoever intentionally commits homicide shall be sentenced to death, life imprisonment or fixed-term imprisonment of not less than 10 years; if the circumstances are relatively minor, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

Article 233 Whoever negligently causes death to another person shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years; if the circumstances are relatively minor, he shall be sentenced to fixed-term imprisonment of not more than three years, except as otherwise specifically provided in this Law.

Article 234 Whoever intentionally inflicts injury upon another person shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance.

Whoever commits the crime mentioned in the preceding paragraph, thus causing severe injury to another person, shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years; if he causes death to the person or, by resorting to especially cruel means, causes severe injury to the person, reducing the person to utter disability, he shall be sentenced to fixed-term imprisonment of not less than 10 years, life imprisonment or death, except as otherwise specifically provided in this Law.

Article 235 Whoever negligently injures another person and causes severe injury to the person shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention, except as otherwise specifically provided in this Law.

Article 236 Whoever rapes a woman by violence, coercion or any other means shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

Whoever has sexual intercourse with a girl under the age of 14 shall be deemed to have committed rape and shall be given a heavier punishment.

Whoever rapes a woman or has sexual intercourse with a girl under the age of 14 shall, in any of the following circumstances, be sentenced to fixed-term imprisonment of not less than 10 years, life imprisonment or death:

- (1) the circumstances being flagrant;
- (2) raping a number of women or girls under the age of 14;
- (3) raping a woman before the public in a public place;
- (4) raping a woman with one or more persons in succession; or
- (5) causing serious injury or death to the victim or any other serious consequences.

Article 237 Whoever acts indecently against or insults a woman by violence, coercion or any other forcible means shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

Whoever gathers a number of people to commit the crime mentioned in the preceding paragraph or commits the crime before the public in a public place shall be sentenced to fixed-term imprisonment of not less than five years.

Whoever acts indecently against a child shall be given a heavier punishment in accordance with the provisions of the preceding two paragraphs.

Article 238 Whoever unlawfully detains another person or unlawfully deprives the personal freedom of another person by any other means shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights. If he resorts to battery or humiliation, he shall be given a heavier punishment.

Whoever commits the crime mentioned in the preceding paragraph and causes serious injury to the victim shall be sentenced to fixed-term imprisonment of not less than

three years but not more than 10 years; if he causes death to the victim, he shall be sentenced to fixed-term imprisonment of not less than 10 years. If he causes injury, disability or death to the victim by violence, he shall be convicted and punished in accordance with the provisions of Article 234 or 232 of this Law.

Whoever unlawfully detains or confines another person in order to get payment of a debt shall be punished in accordance with the provisions of the preceding two paragraphs.

Where a functionary of a State organ commits any of the crimes mentioned in the preceding three paragraphs by taking advantage of his functions and powers, he shall be given a heavier punishment in accordance with the provisions in the preceding three paragraphs correspondingly.

Article 239 Whoever kidnaps another person for the purpose of extorting money or property or kidnaps another person as a hostage shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment and also to a fine or confiscation of property; if he causes death to the kidnapped person or kills the kidnapped person, he shall be sentenced to death and also to confiscation of property.

Whoever steals a baby or an infant for the purpose of extorting money or property shall be punished in accordance with the provisions of the preceding paragraph.

Article 240 Whoever abducts and traffics in a woman or child shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years and shall also be fined; if he falls under any of the following categories, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment and shall also be fined or sentenced to confiscation of property; if the circumstances are especially serious, he shall be sentenced to death and also to confiscation of property:

(1) being a ringleader of a gang engaged in abducting and trafficking in women and children;

(2) abducting and trafficking in three or more women and/or children;

(3) raping the woman who is abducted and trafficked in;

(4) enticing or forcing the woman who is abducted and trafficked in to engage in prostitution, or selling such woman to any other person who would force her to engage in prostitution;

(5) kidnapping a woman or child by means of violence, coercion or anaesthesia for the purpose of selling the victim;

- (6) stealing a baby or an infant for the purpose of selling the victim;
- (7) causing serious injury or death to the woman or child who is abducted and trafficked in or to her or his relatives or any other serious consequences; or
- (8) selling a woman or a child out of the territory of China.

By abducting and trafficking in a woman or child is meant any of the following acts: abducting, kidnapping, buying, trafficking in, fetching, sending, or transferring a woman or child, for the purpose of selling the victim.

Article 241 Whoever buys an abducted woman or child shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance.

Whoever buys an abducted woman and forces her to have sexual intercourse with him shall be convicted and punished in accordance with the provisions of Article 236 of this Law.

Whoever buys an abducted woman or child and illegally deprives the victim of his or her personal freedom or restricts his or her personal freedom, or commits any criminal acts such as harming and humiliating the victim, shall be convicted and punished in accordance with the relevant provisions of this Law.

Whoever buys an abducted woman or child and commits the criminal act as specified in the second or third paragraph of this Article shall be punished in accordance with the provisions on combined punishment for several crimes.

Whoever buys an abducted woman or child and sells the victim afterwards shall be convicted and punished in accordance with the provisions of Article 240 of this Law.

Whoever buys an abducted woman or child but does not obstruct the woman from returning to her original place of residence as she wishes or does not maltreat the child nor obstruct his or her rescue may be exempted from being investigated for criminal responsibility.

Article 242 Whoever, through violence or threat, obstructs functionaries of a State organ from rescuing a sold woman or child shall be convicted and punished in accordance with the provisions of Article 277 of this Law.

The major culprit who gathers people to prevent functionaries of a State organ from rescuing a sold woman or child shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; the other participants who resort to

violence or threat shall be punished in accordance with the provisions of the preceding paragraph.

Article 243 Whoever invents stories to implicate another person with the intention of having him investigated for criminal responsibility, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance; if the consequences are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

Any functionary of a State organ who commits the crime mentioned in the preceding paragraph shall be given a heavier punishment.

The provisions of the preceding two paragraphs shall not be applicable to cases of unintentional false charge, mistaken complaint or unfounded accusation.

Article 244 Where an employer, in violation of the laws and regulations on labour administration, compels its employees to work by restricting their personal freedom, if the circumstances are serious, the persons who are directly responsible for the offence shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined.

Article 245 Whoever unlawfully subjects another person to a body search or a search of his residence or unlawfully intrudes into another person's residence shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Any judicial officer who abuses his power and commits the crime mentioned in the preceding paragraph shall be given a heavier punishment.

Article 246 Whoever, by violence or other methods, publicly humiliates another person or invents stories to defame him, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights.

The crime mentioned in the preceding paragraph shall be handled only upon complaint, except where serious harm is done to public order or to the interests of the State.

Article 247 Any judicial officer who extorts confession from a criminal suspect or defendant by torture or extorts testimony from a witness by violence shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention. If he causes injury, disability or death to the victim, he shall be convicted and given a heavier punishment in accordance with the provisions of Article 234 or 232 of this Law.

Article 248 Any policeman or other officer of an institution of confinement like a prison, a detention house or a custody house who beats a prisoner or maltreats him by subjecting him to corporal punishment, if the circumstances are serious shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years. If he causes injury, disability or death to the victim, he shall be convicted and given a heavier punishment in accordance with the provisions of Article 234 or 232 of this Law.

Any policeman or other officer who instigates a person held in custody to beat or maltreat another person held in custody by subjecting him to corporal punishment, the policeman or officer shall be punished in accordance with the provisions of the preceding paragraph.

Article 249 Whoever incites national enmity or discrimination, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

Article 250 Where a publication carries an article designed to discriminate or humiliate an ethnic group, if the circumstances are flagrant and the consequences are serious, the persons who are directly responsible for the offence shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance.

Article 251 Any functionary of a State organ who unlawfully deprives a citizen of his or her freedom of religious belief or infringes upon the customs and habits of an ethnic group, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than two years or criminal detention.

Article 252 Whoever conceals, destroys or unlawfully opens another person's letter, thereby infringing upon the citizen's right to freedom of correspondence, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than one year or criminal detention.

Article 253 Any postal worker who opens without authorization or conceals or destroys mail or telegrams shall be sentenced to fixed-term imprisonment of not more than two years or criminal detention.

Whoever steals money or property by committing the crime mentioned in the preceding paragraph shall be convicted and given a heavier punishment in accordance

with the provisions of Article 264 of this Law.

Article 254 Any functionary of a State organ who, abusing his power or using his public office for private ends, retaliates against or frames up complainants, petitioners, critics or persons who report against him shall be sentenced to fixed-term imprisonment of not more than two years or criminal detention; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than two years but not more than seven years.

Article 255 Any leading member of a company, enterprise, institution, State organ or people's organization who retaliates against the accountants or statisticians who perform their functions and duties according to law and resist any acts violating the Accounting Law or the Statistics Law, if the circumstances are flagrant, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Article 256 Whoever, in election of the deputies to the people's congresses and the leading members of State organs at various levels, disrupts election or obstructs the electorate and deputies from freely exercising their right to vote and to stand for election by such means as violence, threat, deception, bribery, falsification of electoral documents or false report of ballots, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or deprivation of political rights.

Article 257 Whoever uses violence to interfere with another person's freedom of marriage shall be sentenced to fixed-term imprisonment of not more than two years or criminal detention.

Whoever commits the crime mentioned in the preceding paragraph and causes death to the victim shall be sentenced to fixed-term imprisonment of not less than two years but not more than seven years.

The crime mentioned in the first paragraph of this Article shall be handled only upon complaint.

Article 258 Whoever has a spouse and commits bigamy or knowingly marries a person who has a spouse shall be sentenced to fixed-term imprisonment of not more than two years or criminal detention.

Article 259 Whoever knowingly cohabits with or marries a person who is the spouse of an active serviceman shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Whoever, by taking advantage of his functions and powers or the subordinate relationship, have sexual intercourse with the wife of an active serviceman by means

of coercion shall be convicted and punished in accordance with the provisions of Article 236 of this Law.

Article 260 Whoever maltreats a member of his family, if the circumstances are flagrant, shall be sentenced to fixed-term imprisonment of not more than two years, criminal detention or public surveillance.

Whoever commits the crime mentioned in the preceding paragraph and causes serious injury or death to the victim shall be sentenced to fixed-term imprisonment of not less than two years but not more than seven years.

The crime mentioned in the first paragraph of this Article shall be handled only upon complaint.

Article 261 Whoever refuses to fulfill his duty to support an aged person, minor, sick person or any other person who cannot live independently, if the circumstances are flagrant, shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention or public surveillance.

Article 262 Whoever abducts a minor under the age of 14, thereby separating the child from his family or guardian, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

CHAPTER V CRIMES OF PROPERTY VIOLATION

Article 263 Whoever robs public or private property by violence, coercion or other methods shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall also be fined; whoever falls under any of the following categories shall be sentenced to fixed-term imprisonment of not less than 10 years, life imprisonment or death and shall also be fined or sentenced to confiscation of property:

- (1) intruding into another person's residence to rob;
- (2) robbing on board the means of public transportation;
- (3) robbing a bank or any other banking institution;
- (4) committing robbery repeatedly or robbing a huge, sum of money;
- (5) causing serious injury or death to another person in the course of robbery;
- (6) impersonating a serviceman or policeman in robbing;

(7) robbing with a gun; or

(8) robbing military materials or the materials for emergency rescue, disaster relief or social relief.

Article 264 Whoever steals a relatively large amount of public or private property or commits theft repeatedly shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall also, or shall only, be fined; if the amount is huge, or if there are other serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall also be fined; if the amount is especially huge, or if there are other especially serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment and shall also be fined or be sentenced to confiscation of property; whoever falls under any of the following categories shall be sentenced to life imprisonment or death, and shall also be sentenced to confiscation of property:

(1) stealing a banking institution and the amount involved is especially huge; or

(2) stealing precious cultural relics and the circumstances are serious.

Article 265 Whoever, for the purpose of making profits, stealthily connects his telecommunications line with that of another person, duplicates another person's telecommunications code or number or uses the telecommunication equipment or device while clearly knowing that it is stealthily connected with another person's or duplicated shall be convicted and punished in accordance with the provisions of Article 264 of this Law.

Article 266 Whoever swindles public or private money or property, if the amount is relatively large, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall also, or shall only, be fined; if the amount is huge, or if there are other serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall also be fined; if the amount is especially huge, or if there are other especially serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment and shall also be fined or be sentenced to confiscation of property, except as otherwise specifically provided in this Law.

Article 267 Whoever forcibly seizes public or private money or property, if the amount is relatively large, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall also, or shall only, be fined; if the amount is huge, or there are other serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall also be fined; if the amount is especially huge, or there are other especially serious circumstances, he shall be sentenced to fixed-term imprisonment of

not less than 10 years or life imprisonment and shall also be fined or be sentenced to confiscation of property.

Whoever commits the crime with lethal weapons shall be convicted and punished in accordance with the provisions of Article 263 of this Law.

Article 268 Where people are gathered to forcibly seize public or private money or property, if the amount is relatively large or if there are other serious circumstances, the ringleaders and active participants shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall also be fined; if the amount is huge, or there are other serious circumstances, they shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall also be fined.

Article 269 Whoever commits the crime of theft, fraud or forcible seizure of money or property and uses violence on the spot or threatens to use violence in order to conceal the booty, resist arrest or destroy the criminal evidence shall be convicted and punished in accordance with the provisions of Article 263 of this Law.

Article 270 Whoever unlawfully takes possession of another person's money or property under his custody and refuses to return it, if the amount is relatively large, shall be sentenced to fixed-term imprisonment of not more than two years, or criminal detention or be fined; if the amount is huge, or if there are other serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than two years but not more than five years and shall also be fined.

Whoever unlawfully takes possession of an object, which another person has forgotten about or buried, and refuses to hand it over, if the amount is relatively large, shall be punished in accordance with the provisions of the preceding paragraph.

The crime mentioned in this Article shall be handled only upon complaint.

Article 271 Any employee of a company, enterprise or any other unit who, taking advantage of his position, unlawfully takes possession of the money or property of his own unit, if the amount is relatively large, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if the amount is huge, he shall be sentenced to fixed-term imprisonment of not less than five years and may also be sentenced to confiscation of property.

If an employee who is engaged in public service in a State-owned company, enterprise or any other State-owned unit or if a person who is assigned by a State-owned company, enterprise or any other State-owned unit to a company, enterprise or any other unit that is not owned by the State to engage in public service commits the act mentioned in the preceding paragraph, he shall be convicted and punished in

accordance with the provisions of Article 382 or 383 of this Law.

Article 272 Any employee of a company, enterprise or any other unit who, taking advantage of his position, misappropriates the funds of his own unit for personal use or for loaning them to another person, if the amount is relatively large and the funds are not repaid at the expiration of three months, or if the funds are repaid before the expiration of three months but the amount involved is relatively large and the funds are used for profit-making activities or for illegal activities, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the amount involved is huge, or if it is relatively large but is not returned, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

If an employee who is engaged in public service in a State-owned company, enterprise or any other State-owned unit or any person who is assigned by a State-owned company, enterprise, or any other State-owned unit to a company, enterprise or any other unit that is not owned by the State to engage in public service commits any act mentioned in the preceding paragraph, he shall be convicted and punished in accordance with the provisions of Article 384 of this Law.

Article 273 In cases of misappropriation of funds or materials that are allocated for disaster relief, emergency rescue, flood prevention and control, support to disabled servicemen and families of revolutionary martyrs and servicemen, aid to the poor, migration and social relief, if the circumstances are serious and major harm is caused to the interests of the State and the people, the person who is directly responsible for the offence shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

Article 274 Whoever extorts public or private money or property by blackmail, if the amount is relatively large, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance; if the amount is huge, or if there are other serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

Article 275 Whoever intentionally destroys or damages public or private money or property, if the amount involved is relatively large or if there are other serious circumstances, shall be sentenced to fixed-term imprisonment of not more than three years, or criminal detention or be fined; if the amount involved is huge, or if there are other especially serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

Article 276 Anyone who, for purposes of giving vent to spite or retaliating or out of

other personal motives, destroys or damages machines or equipment, cruelly injures or slaughters farm animals or sabotages production and business operation by other means, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

CHAPTER VI CRIMES OF OBSTRUCTING THE ADMINISTRATION OF PUBLIC ORDER

SECTION 1 CRIMES OF DISTURBING PUBLIC ORDER

Article 277 Whoever by means of violence or threat, obstructs a functionary of a State organ from carrying out his functions according to law shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, or public surveillance or be fined.

Whoever by means of violence or threat, obstructs a deputy to the National People's Congress or a deputy to a local people's congress at any level from carrying out his functions as a deputy according to law shall be punished in accordance with the provisions of the preceding paragraph.

Whoever during natural calamities or emergencies obstructs, by means of violence or threat, the workers of the Red Cross Society from performing their functions and duties according to law shall be punished in accordance with the provisions of the first paragraph.

Whoever intentionally obstructs officers of a State security organ or a public security organ from maintaining State security in accordance with law and causes serious consequences, though without resort to violence or threat, shall be punished in accordance with the provisions of the first paragraph.

Article 278 Whoever incites people to resist by violence the implementation of the laws and administrative rules and regulations of the State shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights; if the consequences are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

Article 279 Whoever impersonates a functionary of a State organ to go about and deceive people shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

Whoever impersonates a people's policeman to go about and deceive people shall be given a heavier punishment in accordance with the provisions of the preceding paragraph.

Article 280 Whoever forges, alters, buys, sells or steals, forcibly seizes or destroys the official documents, certificates or seals of a State organ shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

Whoever forges the seals of a company, enterprise, institution or a people's organization shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights.

Whoever forges or alters identity cards of citizens shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

Article 281 Whoever illegally manufactures, buys or sells the people's police uniforms, number plates of police vehicles and other police insignia or police implements, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall also, or shall only, be fined.

Where a unit commits the crime mentioned in the preceding paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the offence shall be punished in accordance with the provisions of the preceding paragraph.

Article 282 Whoever unlawfully obtains State secrets by stealing, spying or buying shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

Whoever unlawfully holds the documents, material or other objects classified as "strictly confidential" or "confidential" State secrets and refuses to explain their sources and purposes shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance.

Article 283 Whoever unlawfully manufactures or sells any specialized espionage equipment or devices such as those for eavesdropping or secret photographing shall

be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance.

Article 284 Whoever unlawfully uses any special equipment or devices for eavesdropping or secret photographing, if the consequences are serious, shall be sentenced to fixed-term imprisonment of not more than two years, criminal detention or public surveillance.

Article 285 Whoever, in violation of State regulations, invades the computer information system in the fields of State affairs, national defence construction or sophisticated science and technology shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Article 286 Whoever, in violation of State regulations, cancels, alters, increases or jams the functions of the computer information system, thereby making it impossible for the system to operate normally, if the consequences are serious, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if the consequences are especially serious, he shall be sentenced to fixed-term imprisonment of not less than five years.

Whoever, in violation of State regulations, cancels, alters or increases the data stored in or handled or transmitted by the computer information system or its application program, if the consequences are serious, shall be punished in accordance with the provisions of the preceding paragraph.

Whoever intentionally creates or spreads destructive programs such as the computer viruses, thus affecting the normal operation of the computer system, if the consequences are serious, shall be punished in accordance with the provisions of the first paragraph.

Article 287 Whoever uses computers to commit the crimes such as financial fraud, theft, embezzlement, misappropriation of public funds and theft of State secrets shall be convicted and punished in accordance with the relevant provisions of this Law.

Article 288 Whoever, in violation of State regulations, sets up or uses a radio station or occupies radio frequency without authorization and refuses to stop the use after being ordered to do so, thus disrupting the normal operation of radio communications and causing serious consequences, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall also, or shall only, be fined.

Where a unit commits the crime mentioned in the preceding paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the offence shall be punished in accordance with the

provisions of the preceding paragraph.

Article 289 Where people are gathered to commit "beating, smashing or looting", thus causing injury, disability or death to a person, the offenders shall be convicted and punished in accordance with the provisions of Article 234 or 232 of this Law. If public or private money or property is destroyed, damaged, or forcibly taken, the offenders shall be ordered to return the money or property or make compensation and, in addition, the ringleaders shall be convicted and punished in accordance with the provisions of Article 263 of this Law.

Article 290 Where people are gathered to disturb public order to such a serious extent that work in general, production, business operation, teaching or scientific research cannot go on and heavy losses are caused, the ringleaders shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years; the active participants shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights.

Where people are gathered to assault a State organ, making it impossible for the State organ to conduct its work and causing heavy losses, the ringleaders shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years; the active participants shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention, public surveillance or deprivation of political rights.

Article 291 Where people are gathered to disturb order at railway stations or bus terminals, wharves, civil airports, marketplaces, parks, theaters, cinemas, exhibition halls, sports grounds or other public places, or to block traffic or undermine traffic order, or resist or obstruct public security administrators of the State from carrying out their duties according to law, if the circumstances are serious, the ringleaders shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention or public surveillance.

Article 292 Where people are gathered to engage in affrays, the ringleaders and the active participants shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance; the ringleaders and the active participants who fall under any of the following categories, shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years:

- (1) gathering people to engage in affrays repeatedly;
- (2) the number of people gathered to engage in affrays is large and so is the scale, thus bringing about a bad effect on society;
- (3) gathering people to engage in affrays in public places or on vital traffic lines and causing serious public disorder; or

(4) gathering people to engage in affrays with weapons.

Where people are gathered to engage in affrays, thus causing serious injury or death to a person, he shall be convicted and punished in accordance with the provisions of Article 234 or 232 of this Law.

Article 293 Whoever commits any of the following acts of creating disturbances, thus disrupting public order, shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention or public surveillance:

(1) beating another person at will and to a flagrant extent;

(2) chasing, intercepting or hurling insults to another person to a flagrant extent;

(3) forcibly taking or demanding, willfully damaging, destroying or occupying public or private money or property to a serious extent; or

(4) creating disturbances in a public place, thus causing serious disorder in such place.

Article 294 Whoever forms, leads or takes an active part in organizations in the nature of criminal syndicate to commit organized illegal or criminal acts through violence, threat or other means, such as lording it over the people in an area, perpetrating outrages, riding roughshod over or cruelly injuring or killing people, thus seriously disrupting economic order and people's daily activities, shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years; other participants shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights.

Members of Mafia abroad who recruit members within the territory of the People's Republic of China shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

Whoever, in addition to the offenses mentioned in the preceding two paragraphs, commits any other offences shall be punished in accordance with the provisions on combined punishment for several crimes.

Any functionary of a State organ who harbors an organization in the nature of criminal syndicate or connives at such organization to conduct illegal or criminal acts shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or deprivation of political rights; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

Article 295 Whoever teaches another person how to commit a crime shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention or public surveillance; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than five years; if the circumstances are especially serious, he shall be sentenced to life imprisonment or death.

Article 296 Where an assembly, a procession or a demonstration is held with no application made in accordance with the provisions of law or no permission granted for the application or where it is held not in accordance with the time for start and stop, venue and routes permitted by the competent authorities, and the order of dismissal is disobeyed and public order seriously disrupted, the persons who are in charge and the persons who are directly responsible for the assembly, procession or demonstration shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention, public surveillance or deprivation of political rights.

Article 297 Whoever, in violation of the provisions of law, participates in an assembly, a procession or a demonstration with weapons, controlled cutting tools or explosives shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights.

Article 298 Whoever disturbs, breaks into or disrupts by any other means an assembly, a procession or a demonstration held in compliance with law, thus causing public disorder, shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention, public surveillance or deprivation of political rights.

Article 299 Whoever desecrates the National Flag or the National Emblem of the People's Republic of China by intentionally burning, mutilating, scrawling on, defiling or trampling upon it in a public place shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights.

Article 300 Whoever forms or uses superstitious sects or secret societies or weird religious organizations or uses superstition to undermine the implementation of the laws and administrative rules and regulations of the State shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than seven years.

Whoever forms or uses superstitious sects or secret societies or weird religious organizations or uses superstition to cheat another person, and causes death to the person shall be punished in accordance with the provisions of the preceding paragraph.

Whoever forms or uses superstitious sects or secret societies or weird religious

organizations or uses superstition to rape a woman or swindle money or property shall be convicted and punished in accordance with the provisions of Articles 236 and Article 266 of this Law respectively.

Article 301 Where people are gathered to engage in licentious activities, the ringleaders and the persons who repeatedly take part in such activities shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention or public surveillance.

Whoever entices a minor to join people in licentious activities shall be given a heavier punishment in accordance with the provisions of the preceding paragraph.

Article 302 Whoever steals or insults a corpse shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance.

Article 303 Whoever, for the purpose of profit, gathers people to engage in gambling, runs a gambling house or makes gambling his profession shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall also be fined.

Article 304 Any postal worker who, grossly neglecting his duty, intentionally delays the delivery of mail, thus causing grave losses to public money or property or to the interests of the State or the people, shall be sentenced to fixed-term imprisonment of not more than two years or criminal detention.

SECTION 2 CRIMES OF IMPAIRING JUDICIAL ADMINISTRATION

Article 305 If, in criminal proceedings, a witness, expert witness, recorder or interpreter intentionally gives false testimony or makes a false expert evaluation, record or translation concerning the circumstances that have an important bearing on a case, in order to frame another person or conceal criminal evidence, he shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

Article 306 If, in criminal proceedings, a defender or agent ad litem destroys or forges evidence, helps any of the parties destroy or forge evidence, or coerces the witness or entices him into changing his testimony in defiance of the facts or give false testimony, he shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

Where a witness's testimony or other evidence provided, shown or quoted by a defender or agent ad litem is inconsistent with the facts but is not forged intentionally,

it shall not be regarded as forgery of evidence.

Article 307 Whoever, by violence, threat, bribery or any other means, obstructs a witness from giving testimony or instigates another person to give false testimony shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

Whoever helps any of the parties destroy or forge evidence, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Any judicial officer who commits any of the crimes mentioned in the preceding two paragraphs shall be given a heavier punishment.

Article 308 Whoever retaliates against a witness shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

Article 309 Whoever gathers people to stir up trouble in a court or assault the court or beats a judicial officer, thus seriously disrupting the order of the court, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, or public surveillance or be fined.

Article 310 Whoever knowingly provides a hiding place, money or property to a criminal, or helps the criminal escape or gives false testimony to protect the criminal shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

Conspirators to a crime mentioned in the preceding paragraph shall be regarded as joint offenders and punished as such.

Article 311 Whoever, while clearly knowing that another person has committed the crime of espionage, refuses to provide relevant particulars or relevant evidence when an officer from a State security organ asks him to do so, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance.

Article 312 Whoever knowingly conceals, transfers, purchases or helps to sell illegally acquired goods shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall also, or shall only,

be fined.

Article 313 Whoever has the ability to execute the judgment or order made by a People's Court but refuses to do so, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or be fined.

Article 314 Whoever conceals, transfers, sells or intentionally destroys or damages the property sealed up, distrained or frozen by judicial organs, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or be fined.

Article 315 Any criminal who is held in custody according to law commits any of the following acts, thus undermining the order of prison administration, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years:

- (1) beating a prison policeman or any other officer;
- (2) organizing another person held in custody to under-mine the order of prison administration;
- (3) gathering persons held in custody to stir up trouble, thus disrupting the normal order of prison administration; or
- (4) beating or subjecting another person held in custody to corporal punishment or instigating another person to do so.

Article 316 Any criminal, defendant or criminal suspect who escapes after being held in custody according to law shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

Whoever rescues the criminal, defendant or criminal suspect under escort shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than seven years.

Article 317 Ringleaders who organize a jailbreak and the active participants shall be sentenced to fixed-term imprisonment of not less than five years; other participants shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

Ringleaders who instigate a riot to escape from prison or gather people to raid a prison with weapons and the active participants shall be sentenced to fixed-term

imprisonment of not less than 10 years or life imprisonment; if the circumstances are especially serious, they shall be sentenced to death; other participants shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

SECTION 3 CRIMES AGAINST CONTROL OF NATIONAL BORDER (FRONTIER)

Article 318 Whoever makes arrangements for another person to illegally cross the national border (frontier) shall be sentenced to fixed-term imprisonment of not less than two years but not more than seven years and shall also be fined; if he falls under any of the following categories, he shall be sentenced to fixed-term imprisonment of not less than seven years or life imprisonment, and shall also be fined or be sentenced to confiscation of property:

- (1) being a ringleader of a group that makes arrangements for other persons to illegally cross the national border (frontier);
- (2) repeatedly making arrangements for other persons to illegally cross the national border (frontier), or making arrangements for a large number of persons to do so;
- (3) causing serious injury or death to the persons for whom he makes arrangements to illegally cross the national border (frontier);
- (4) depriving or restricting personal freedom of the persons for whom he makes arrangements to illegally cross the national border (frontier);
- (5) resisting inspection by means of violence or threat;
- (6) the sum of illegal earnings being huge; or
- (7) other especially serious circumstances being involved.

Whoever, in addition to the crime mentioned in the preceding paragraph, kills, injures, rapes, or abducts and sells the persons for whom he makes arrangements to illegally cross the national border (frontier) or commits other criminal acts against them or kills, injures or commits other criminal acts against the inspectors shall be punished in accordance with the provisions on combined punishment for several crimes.

Article 319 Whoever, in the name of export of labour service, economic exchange, trade, etc., practises fraud to obtain the passport, visa or other exit certificates for the purpose of helping other persons to illegally cross the national border (frontier) shall be sentenced to fixed-term imprisonment of not more than three years and shall also be fined; if the circumstances are serious, he shall be sentenced to fixed-term

imprisonment of not less than three years but not more than 10 years and shall also be fined.

Where a unit commits the crime mentioned in the preceding paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the offence shall be punished in accordance with the provisions of the preceding paragraph.

Article 320 Whoever provides another person with a counterfeit or altered passport, visa or other exit and entry certificates or sells passports, visa or other exit and entry certificates shall be sentenced to fixed-term imprisonment of not more than five years and shall also be fined; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than five years and shall also be fined.

Article 321 Whoever transports another person to illegally cross the national border (frontier) shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention or public surveillance and shall also be fined; if he falls under any of the following categories, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years and shall also be fined:

- (1) repeatedly transporting persons to illegally cross the national border (frontier), or transporting a large number of persons;
- (2) the vessels, vehicles or other means of transportation employed not meeting the necessary safety conditions to such an extent that it would cause serious consequences;
- (3) the sum of illegal earnings being huge; or
- (4) other especially serious circumstances being involved.

Whoever in transporting other persons to illegally cross the national border (frontier) causes serious injury or death to the persons being transported or resists inspection by means of violence or threat shall be sentenced to fixed-term imprisonment of not less than seven years and shall also be fined.

Whoever, in addition to any of the crimes mentioned in the preceding two paragraphs, kills, injures, rapes, or abducts and sells the persons being transported or commits other criminal acts against them or kills, injures or commits other criminal acts against the inspectors shall be punished in accordance with the provisions on combined punishment for several crimes.

Article 322 Whoever, in violation of the laws or regulations on administration of the national border (frontier), illegally crosses the national border (frontier), if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more

than one year, criminal detention or public surveillance and shall also be fined.

Article 323 Whoever intentionally damages the boundary tablets, boundary markers or permanent survey indicators along the national border shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

SECTION 4 CRIMES AGAINST CONTROL OF CULTURAL RELICS

Article 324 Whoever intentionally damages or destroys valuable cultural relics under State protection or the major sites designated to be protected at the national or provincial level for their historical and cultural value shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall also be fined.

Whoever intentionally damages or destroys places of historical and cultural interest under State protection, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also, or shall only, be fined.

Whoever negligently damages or destroys valuable cultural relics under State protection or the major sites designated to be protected at the national or provincial level for their historical and cultural value, if the consequences are serious, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Article 325 Whoever, in violation of the laws or regulations on protection of cultural relics, sells or presents as a gift to a foreigner without authorization any valuable cultural relic in his collection, the export of which is prohibited by the State, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention and may also be fined.

Where a unit commits the crime mentioned in the preceding paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the offence shall be punished in accordance with the provisions of the preceding paragraph.

Article 326 Whoever, for the purpose of profit, resells the cultural relics, the sale of which is prohibited by the State, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and shall also be fined; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years and shall also be fined.

Where a unit commits the crime mentioned in the preceding paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the offence shall be punished in accordance with the provisions of the preceding paragraph.

Article 327 Where a State-owned museum, library or other institution sells or presents as gifts without permission any cultural relics in its collection, which is under State protection, to any non-State-owned institution or individual, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the offence shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Article 328 Whoever excavates and robs a site of ancient culture or ancient tomb of historical, artistic or scientific value shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall also be fined; if the circumstances are relatively minor, he shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall also be fined; if he falls under any of the following categories, he shall be sentenced to fixed-term imprisonment of not less than 10 years, or life imprisonment or death and shall also be fined or be sentenced to confiscation of property:

- (1) excavating and robbing a site of ancient culture or ancient tomb which is designated as a major site to be protected at the national or provincial level for their historical and cultural value;
- (2) being a ringleader of a gang engaged in excavating and robbing sites of ancient culture or ancient tombs;
- (3) repeatedly excavating and robbing sites of ancient culture or ancient tombs; or
- (4) excavating a site of ancient culture or ancient tomb and robbing valuable cultural relics therein, or causing serious damage to such relics.

Whoever excavates and robs fossils of paleoanthropoids or paleovertebrates of scientific value which is under State protection shall be punished in accordance with the provisions of the preceding paragraph.

Article 329 Whoever forcibly seizes or steals archives owned by the State shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

Whoever, in violation of the provisions of the Archives Law, sells or transfers without authorization State-owned archives, if the circumstances are serious, shall be

sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Whoever commits any of the acts mentioned in the preceding two paragraphs, which concurrently constitutes another crime provided in this Law, shall be convicted and punished in accordance with the provisions on heavier punishment for such crime.

SECTION 5 CRIMES OF IMPAIRING PUBLIC HEALTH

Article 330 Whoever, in violation of the provisions of the Law on Prevention and Treatment of Infectious Diseases, commits any of the following acts and thus causes the spread or a grave danger of the spread of an A Class infectious disease shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the consequences are especially serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years:

(1) failure on the part of a water supply unit to supply drinking water in conformity with the hygienic standards set by the State;

(2) refusal to give disinfection treatment, according to the sanitary requirements raised by the health and anti-epidemic agencies, to sewage, wastes or feces contaminated with the pathogen of infectious diseases;

(3) approving or conniving at the employment of patients of infectious diseases, pathogen carriers or suspected patients of infectious diseases at jobs, which they are prohibited from taking by the health administration department under the State Council because of the likelihood of causing the spread of infectious diseases; or

(4) refusal to execute the preventive and control measures proposed by the health and anti-epidemic agencies according to the Law on Prevention and Treatment of Infectious Diseases.

Where a unit commits the crime mentioned in the preceding paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the offence shall be punished in accordance with the provisions of the preceding paragraph.

The scope of A Class infectious diseases shall be determined in accordance with the Law of the People's Republic of China on the Prevention and Treatment of Infectious Diseases and relevant regulations of the State Council.

Article 331 Any person engaged in the experimentation, storage, carrying or transportation of bacterial strains and virus strains of infectious diseases who, in violation of the relevant provisions of the health administration department under the State Council, causes the spread of the bacterial strains and virus strains of infectious

diseases, if the consequences are serious, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the consequences are especially serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

Article 332 Whoever, in violation of the provisions on frontier health and quarantine, causes the spread or a grave danger of the spread of a quarantinable infectious disease shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined.

Where a unit commits the crime mentioned in the preceding paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the offence shall be punished in accordance with the provisions of the preceding paragraph.

Article 333 Whoever illegally arranges for another person to sell blood shall be sentenced to fixed-term imprisonment of not more than five years and shall also be fined; whoever compels another person to sell blood by violence or threat shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years and shall also be fined.

Whoever commits an act mentioned in the preceding paragraph, thus causing injury to another person, shall be convicted and punished in accordance with the provisions of Article 234 of this Law.

Article 334 Whoever unlawfully collects or supplies blood or makes or supplies blood products which do not meet the standards prescribed by the State to such an extent as to harm human health shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also be fined; if serious harm has been caused to human health, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years and shall also be fined; if the consequences are especially serious, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment and shall also be fined or be sentenced to confiscation of property.

Where a department that is approved by the competent department of the State for collecting or supplying blood or making or supplying blood products does not carry out testing as required or violates other operating procedure, thus harming another person's health, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the offence shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

Article 335 Any medical worker who, grossly neglecting his duty, causes death or severe harm to the health of the person seeking medical service shall be sentenced to

fixed-term imprisonment of not more than three years or criminal detention.

Article 336 Whoever, without obtaining the qualification for practising medicine, unlawfully practises medicine, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall also, or shall only, be fined; if severe harm is caused to the health of the person seeking medical service, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall also be fined; if death is caused, he shall be sentenced to fixed-term imprisonment of not less than 10 years and shall also be fined.

Whoever, without obtaining the qualification for practising medicine, undoes a contraception operation, or performs a false contraception operation or an operation for terminating gestation or for removing intrauterine devices, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall also, or shall only, be fined; if severe harm is caused to the health of the person seeking medical service, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall also be fined; if death is caused, he shall be sentenced to fixed-term imprisonment of not less than 10 years and shall also be fined.

Article 337 Whoever, in violation of the provisions of the Law on the Entry and Exit Animal and Plant Quarantine, evades animal and plant quarantine and thereby causes a serious animal or plant epidemic shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined.

Where a unit commits the crime mentioned in the preceding paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the offence shall be punished in accordance with the provisions of the preceding paragraph.

SECTION 6 CRIMES OF IMPAIRING THE PROTECTION OF ENVIRONMENT AND RESOURCES

Article 338 Whoever, in violation of the regulations of the State, discharges, dumps or treats radioactive waste, waste containing pathogen of infectious diseases, toxic substances or other hazardous waste on the land or in the water bodies or the atmosphere, thus causing a major environmental pollution accident which leads to the serious consequences of heavy losses of public or private property or human casualties, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined; if the consequences are especially serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall also be fined.

Article 339 Whoever, in violation of the regulations of the State, has solid waste from abroad dumped, piled up, or treated within the territory of China shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also be fined; if a major environmental pollution accident is caused, which leads to heavy losses of public or private property or serious harm to human health, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years and shall also be fined; if the consequences are especially serious, he shall be sentenced to fixed-term imprisonment of not less than 10 years and shall also be fined.

Whoever, without permission of the competent administration department under the State Council, imports solid waste as raw material, thus causing a major environmental pollution accident, which leads to heavy losses of public or private property or serious harm to human health, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also be fined; if the consequences are especially serious, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years and shall also be fined.

Whoever, under the pretext of using it as raw material, imports solid waste that cannot be used as such shall be convicted and punished in accordance with the provisions of Article 155 of this Law.

Article 340 Whoever, in violation of the law or regulations on protection of aquatic resources, catches aquatic products in an area or during a season closed to fishing, or uses prohibited fishing gear or methods for the purpose, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance or be fined.

Article 341 Whoever illegally catches or kills precious and endangered species of wildlife under special State protection or illegally purchases, transports or sells such species of wildlife as well as the products thereof shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also be fined; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years and shall also be fined; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than 10 years and shall also be fined or be sentenced to confiscation of property.

Whoever, in violation of the law or regulations on hunting, hunts wildlife in an area or during a season closed to hunting or uses prohibited hunting gear or methods for the purpose, thus damaging wildlife resources, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, or public surveillance or be fined.

Article 342 Whoever, in violation of the law or regulations on land administration, unlawfully occupies cultivated land and uses it for other purposes, if the area involved is relatively large and a large area of such land is damaged, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also, or shall only, be fined.

Article 343 Whoever, in violation of the provisions of the Mineral Resources Law, mines without a mining license, enters and mines in a mining area that is embraced in State plans or a mining area that is of great value to the national economy or another person's mining area, or mines specified minerals of which protective mining is prescribed by the State, if he refuses to stop mining after being ordered to do so, thus damaging the mineral resources, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall also, or shall only, be fined; if severe damage is caused to mineral resources, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall also be fined.

Whoever, in violation of the provisions of the Mineral Resources Law, mines mineral resources in a destructive way, thus causing severe damage to mineral resources, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also be fined.

Article 344 Whoever, in violation of the provisions of the Forestry Law, illegally fells or destroys precious trees shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall also be fined; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall also be fined.

Article 345 Whoever stealthily fells trees, bamboo, etc. in forest or woods, if the amount involved is relatively large, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall also, or shall only, be fined; if the amount involved is huge, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall also be fined; if the amount involved is especially huge, he shall be sentenced to fixed-term imprisonment of not less than seven years and shall also be fined;

Whoever, in violation of the provisions of the Forestry Law, arbitrarily fells trees, bamboo, etc. in forest or woods, if the amount involved is relatively large, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall also, or shall only, be fined; if the amount involved is huge, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall also be fined.

Whoever, for the purpose of profit, illegally purchases in a forest area trees, bamboo, etc., which he knows are felled stealthily or arbitrarily, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall also, or shall only, be fined; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall also be fined.

Whoever stealthily or arbitrarily fells trees, bamboo, etc. in forest or woods, of nature reserves at the national level shall be given a heavier punishment.

Article 346 Where a unit commits any of the crimes mentioned in the Articles from 338 through 345 of this Section, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the offence shall be punished in accordance with the provisions of the Articles of this Section respectively.

SECTION 7 CRIMES OF SMUGGLING, TRAFFICKING IN, TRANSPORTING AND MANUFACTURING NARCOTIC DRUGS

Article 347 Whoever smuggles, traffics in, transports or manufactures narcotic drugs, regardless of the quantity involved, shall be investigated for criminal responsibility and given criminal punishment.

Whoever smuggles, traffics in, transports or manufactures narcotic drugs and falls under any of the following categories, shall be sentenced to fixed-term imprisonment of 15 years, life imprisonment or death and also to confiscation of property:

- (1) persons who smuggle, traffic in, transport or manufacture opium of not less than 1,000 grams, heroin or methylaniline of not less than 50 grams or other narcotic drugs of large quantities;
- (2) ringleaders of gangs engaged in smuggling, trafficking in, transporting or manufacturing narcotic drugs;
- (3) persons who shield with arms the smuggling, trafficking in, transporting or manufacturing of narcotic drugs;
- (4) persons who violently resist inspection, detention or arrest to a serious extent; or
- (5) persons involved in organized international drug trafficking.

Whoever smuggles, traffics in, transports or manufactures opium of not less than 200 grams but less than 1,000 grams, or heroin or methylaniline of not less than 10 grams but less than 50 grams or any other narcotic drugs of relatively large quantities shall

be sentenced to fixed-term imprisonment of not less than seven years and shall also be fined.

Whoever smuggles, traffics in, transports or manufactures opium of less than 200 grams, or heroin or methylaniline of less than 10 grams or any other narcotic drugs of small quantities shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall also be fined; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall also be fined.

Where a unit commits any crime mentioned in the preceding three paragraphs, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the offence shall be punished in accordance with the provisions of the preceding three paragraphs respectively.

Whoever makes use of minors or aids and abets them to smuggle, traffic in, transport or manufacture narcotic drugs or sells narcotic drugs to minors shall be given a heavier punishment.

With respect to persons who have repeatedly smuggled, trafficked in, transported or manufactured narcotic drugs and have not been dealt with, the quantity of narcotic drugs thus involved shall be computed cumulatively.

Article 348 Whoever illegally possesses opium of not less than 1,000 grams, or heroin or methylaniline of not less than 50 grams, or any other narcotic drugs of large quantities shall be sentenced to fixed-term imprisonment of not less than seven years or life imprisonment and shall also be fined; whoever illegally possesses opium of not less than 200 grams but less than 1,000 grams, or heroin or methylaniline of not less than 10 grams but less than 50 grams or any other narcotic drugs of relatively large quantities shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall also be fined; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall also be fined.

Article 349 Whoever shields offenders engaged in smuggling, trafficking in, transporting or manufacturing of narcotic drugs or whoever harbors, transfers or covers up, for such offenders, narcotic drugs or their pecuniary and other gains from such criminal activities shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

Anti-drug officers or functionaries of a State organ who shield or cover up offenders

engaged in smuggling, trafficking in, transporting or manufacturing of narcotic drugs shall be given a heavier punishment in accordance with the provisions of the preceding paragraph.

Conspirators to the crimes mentioned in the preceding two paragraphs shall be regarded as joint offenders in the crime of smuggling, trafficking in, transporting or manufacturing of narcotic drugs and punished as such.

Article 350 Whoever, in violation of the regulations of the State, illegally transports or carries into or out of the territory of China acetic anhydride, ether, chloroform or any other raw material or elixir used in the manufacture of narcotic drugs or, in violation of the regulations of the State, illegally buys or sells the substances mentioned above shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall also be fined; if the amount involved is large, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall also be fined.

Whoever provides another person with the substances mentioned in the preceding paragraph, while clearly knowing that the person manufactures narcotic drugs, shall be regarded as a joint offender in the crime of manufacturing narcotic drugs and punished as such.

Where a unit commits any crime mentioned in the preceding two paragraphs, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the offence shall be punished in accordance with the provisions of the preceding two paragraphs.

Article 351 Whoever illegally cultivates mother plants of narcotic drugs, such as opium poppy and marijuana, shall be forced to uproot them. Whoever falls under any of the following categories shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention or public surveillance and shall also be fined:

(1) cultivating opium poppy of not less than 500 plants but less than 3,000 plants or any mother plants of other narcotic drugs in relatively large quantities;

(2) cultivating any mother plants of narcotic drugs again after being dealt with by the public security organ; or

(3) resisting the uprooting of such mother plants.

Whoever illegally cultivates opium poppy of not less than 3,000 plants or any mother plants of other narcotic drugs in large quantities shall be sentenced to fixed-term imprisonment of not less than five years and shall also be fined or be sentenced to confiscation of property.

Persons who illegally cultivate opium poppy or any mother plants of other narcotic drugs but voluntarily uproot them before harvest may be exempted from punishment.

Article 352 Whoever illegally buys or sells, transports, carries or possesses a relatively large quantity of the seeds or seedlings of mother plants of narcotic drugs, such as opium poppy, which have not been inactivated, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall also, or shall only, be fined.

Article 353 Whoever lures, aids and abets, or cheats another person into drug ingestion or injection shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall also be fined; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall also be fined.

Whoever forces another person to ingest or inject narcotic drugs shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall also be fined.

Whoever lures, aids and abets or cheats a minor into drug ingestion or injection or forces a minor to ingest or inject narcotic drugs shall be given a heavier punishment.

Article 354 Whoever provides shelter for another person to ingest or inject narcotic drugs shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall also be fined.

Article 355 Persons allowed by law to engage in manufacture, transportation, administration or utilization of State-controlled narcotic and psychotropic substances who, in violation of the regulations of the State, provide narcotic and psychotropic substances that can make people addicted to their use and are controlled under State regulations to persons who ingest or inject narcotic drugs shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also be fined; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall also be fined. If they provide offenders engaged in drug smuggling or trafficking with State-controlled narcotic and psychotropic substances that can make people addicted to their use and are controlled under State regulations, for the purpose of profit, provide narcotic and psychotropic substances to persons who ingest or inject narcotic drugs shall be convicted and punished in accordance with the provisions of Article 347 of this Law.

Where a unit commits the crime mentioned in the preceding paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are

directly responsible for the offence shall be punished in accordance with the provisions of the preceding paragraph.

Article 356 Any person who was punished for the crime of smuggling, trafficking in, transporting, manufacturing or illegally possessing narcotic drugs commits again any of the crimes mentioned in this Section shall be given a heavier punishment.

Article 357 The term "narcotic drugs" as used in this Law means opium, heroin, methylaniline (ice), morphine, marijuana, cocaine and other narcotic and psychotropic substances that can make people addicted to their use and are controlled under State regulations.

The quantity of narcotic drugs smuggled, trafficked in, transported, manufactured or illegally possessed shall be calculated on the basis of the verified amount and shall not be converted according to its purity.

SECTION 8 CRIMES OF ORGANIZING, FORCING, LURING, SHELTERING OR PROCURING OTHER PERSONS TO ENGAGE IN PROSTITUTION

Article 358 Whoever arranges for or forces another person to engage in prostitution shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years and shall also be fined; whoever falls under any of the following categories shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment and shall also be fined or be sentenced to confiscation of property:

- (1) making arrangements for another person to engage in prostitution and the circumstances being serious;
- (2) forcing a girl under the age of 14 to engage in prostitution;
- (3) forcing a number of persons to engage in prostitution or repeatedly forcing another person to engage in prostitution;
- (4) forcing the victim to engage in prostitution after raping her; or
- (5) causing serious injury, death or other serious consequences to the person who is forced to engage in prostitution.

Whoever falls under any of the categories mentioned in the preceding paragraph, if the circumstances are especially serious, shall be sentenced to life imprisonment or death and shall also be sentenced to confiscation of property.

Whoever assists in arranging for another person to engage in prostitution shall be sentenced to fixed-term imprisonment of not more than five years and shall also be

fined; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years and shall also be fined.

Article 359 Whoever lures other persons into or shelters prostitution or procures other persons to engage in prostitution shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention or public surveillance and shall also be fined; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than five years and shall also be fined.

Whoever lures a girl under the age of 14 to engage in prostitution shall be sentenced to fixed-term imprisonment of not less than five years and shall also be fined.

Article 360 Any person who knows clearly that he or she is suffering from serious venereal diseases such as syphilis and gonorrhea goes whoring or engages in prostitution shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention or public surveillance and shall also be fined.

Whoever whores with a girl under the age of 14 shall be sentenced to fixed-term imprisonment of not less than five years and shall also be fined.

Article 361 Any employee of a unit in the trade of hotels, in the catering or entertainment services, or in the taxi services who, by taking advantage of his or her work unit, arranges for, forces or lures another person to engage in prostitution or provides shelter for prostitution or procures other persons to engage in prostitution, shall be convicted and punished in accordance with the provisions of Articles 358 and 359 of this Law.

If the chief leading member of any of the units listed above commits the crime mentioned in the preceding paragraph, he or she shall be given a heavier punishment.

Article 362 Where an employee of a unit in the trade of hotels, in the catering or entertainment services, or in the taxi services, informs law-breakers of a public security organ's plan to ferret out or deal with activities of prostitution or whoring, if the circumstances are serious, he shall be convicted and punished in accordance with the provisions of Article 310 of this Law.

SECTION 9 CRIMES OF PRODUCING, SELLING, DISSEMINATING PORNOGRAPHIC MATERIALS

Article 363 Whoever, for the purpose of profit, produces, duplicates, publishes, sells or disseminates pornographic materials shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall also be fined; if the circumstances are serious, he shall be sentenced to fixed-term

imprisonment of not less than three years but not more than 10 years and shall also be fined; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment, and shall also be fined or be sentenced to confiscation of property.

Whoever provides book numbers for another person to publish pornographic books or periodicals shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall also, or shall only, be fined; whoever knowingly provides books numbers to another person who will use them for publishing pornographic books or periodicals shall be punished in accordance with the provisions of the preceding paragraph.

Article 364 Whoever disseminates pornographic materials including books, periodicals, movies, video-audio tapes and pictures, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than two years, criminal detention or public surveillance.

Whoever arranges for shows of pornographic audio-video products including movies and video-tapes shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall also be fined; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall also be fined.

Whoever produces or duplicates pornographic audio-video products including movies and video-tapes and arranges for their show shall be given a heavier punishment in accordance with the provisions of the second paragraph of this Article.

Whoever disseminates pornographic materials to a minor under the age of 18 shall be given a heavier punishment.

Article 365 Whoever arranges for pornographic performances shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall also be fined; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall also be fined.

Article 366 Where a unit commits any of the crimes mentioned in Articles 363, 364 and 365 of this Section, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the offence shall be punished in accordance with the provisions of the Articles respectively.

Article 367 For the purpose of this Law, pornographic materials refer to obscene books, periodicals, movies, video-and audio-tapes, pictures, etc. that explicitly portray sexual behavior or undisguisedly publicize pornographic materials.

Scientific works on human physiology or medical knowledge are not pornographic materials.

Literary and art works of artistic value which contain erotic contents shall not be regarded as pornographic materials.

CHAPTER VII CRIMES OF IMPAIRING THE INTERESTS OF NATIONAL DEFENCE

Article 368 Whoever by violence or threat obstructs a serviceman from performing his duties according to law shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance or be fined.

Whoever intentionally obstructs military operations of armed forces, if the consequences are serious, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

Article 369 Whoever sabotages weapons or equipment, military installations or military telecommunications shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance; whoever sabotages major weapons or equipment, military installations or military telecommunications shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than 10 years, life imprisonment or death. He shall be given a heavier punishment during wartime.

Article 370 Whoever knowingly provides substandard weapons or equipment or military installations to the armed forces shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than 10 years, life imprisonment or death.

Whoever commits the crime mentioned in the preceding paragraph through negligence, thus causing serious consequences, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the consequences are especially serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

Where a unit commits the crime mentioned in the first paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the offence shall be punished in accordance with the provisions of the

first paragraph.

Article 371 Where people are gathered to assault a military restricted zone, thus severely disturbing the order of the zone, the ringleaders shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years; other active participants shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention, public surveillance or deprivation of political rights.

Where people are gathered to disturb the order of a military administrative zone, if the circumstances are so serious that work in the zone cannot be carried on and heavy losses are caused, the ringleaders shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years; other active participants shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights.

Article 372 Whoever impersonates a serviceman to go about and deceive people shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

Article 373 Whoever incites a serviceman to desert from the unit or knowingly employs such a deserter, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance.

Article 374 Whoever engages in malpractice for selfish ends in enlistment, accepting or sending unqualified recruits, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the consequences are especially serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

Article 375 Whoever forges, alters, buys, sells or steals or forcibly seizes the official documents, certificates or seals of the armed forces shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

Whoever illegally manufactures, buys or sells uniforms or special symbols such as number plates of vehicles of the armed forces, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall also, or shall only, be fined.

Where a unit commits the crime mentioned in the second paragraph, it shall be fined,

and the persons who are directly in charge and the other persons who are directly responsible for the offence shall be punished in accordance with the provisions of the said paragraph.

Article 376 Any reservist who refuses or escapes enlistment or military training in wartime, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Any citizen who refuses or escapes military service in wartime, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than two years or criminal detention.

Article 377 Whoever intentionally provides false information about the enemy to the armed forces during wartime, if the consequences are serious, shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years; if the consequences are especially serious, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment.

Article 378 Whoever spreads rumors to create confusion among the troops and disturb their morale during wartime shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

Article 379 Whoever during wartime knowingly provides shelter, money or property to a serviceman who has deserted from the unit, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Article 380 Where a unit, during wartime, refuses to accept orders for military supplies or intentionally delays the provision of such supplies, if the circumstances are serious, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the offence shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if the consequences are serious, they shall be sentenced to fixed-term imprisonment of not less than five years.

Article 381 Whoever, during wartime, rejects requisition for military purposes, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

CHAPTER VIII CRIMES OF EMBEZZLEMENT AND BRIBERY

Article 382 Any State functionary who, by taking advantage of his office, appropriates,

steals, swindles public money or property or by other means illegally take it into his own possession shall be guilty of embezzlement.

Any person authorized by State organs, State-owned companies, enterprises, institutions or people's organizations to administer and manage State-owned property who, by taking advantage of his office, appropriates, steals, swindles the said property or by other means illegally take it into his own possession shall be regarded as being guilty of embezzlement.

Whoever conspires with the person mentioned in the preceding two paragraphs to engage in embezzlement shall be regarded as joint offenders in the crime and punished as such.

Article 383 Persons who commit the crime of embezzlement shall be punished respectively in the light of the seriousness of the circumstances and in accordance with the following provisions:

(1) An individual who embezzles not less than 100,000 yuan shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment and may also be sentenced to confiscation of property; if the circumstances are especially serious, he shall be sentenced to death and also to confiscation of property.

(2) An individual who embezzles not less than 50,000 yuan but less than 100,000 yuan shall be sentenced to fixed-term imprisonment of not less than five years and may also be sentenced to confiscation of property; if the circumstances are especially serious, he shall be sentenced to life imprisonment and confiscation of property.

(3) An individual who embezzles not less than 5,000 yuan but less than 50,000 yuan shall be sentenced to fixed-term imprisonment of not less than one year but not more than seven years; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than seven years but not more than 10 years. If an individual who embezzles not less than 5,000 yuan and less than 10,000 yuan, shows true repentance after committing the crime, and gives up the embezzled money of his own accord, he may be given a mitigated punishment, or he may be exempted from criminal punishment but shall be subjected to administrative sanctions by his work unit or by the competent authorities at a higher level.

(4) An individual who embezzles less than 5,000 yuan, if the circumstances are relatively serious, shall be sentenced to fixed-term imprisonment of not more than two years or criminal detention; if the circumstances are relatively minor, he shall be given administrative sanctions at the discretion of his work unit or of the competent authorities at a higher level.

Whoever repeatedly commits the crime of embezzlement and goes unpunished shall

be punished on the basis of the cumulative amount of money he has embezzled.

Article 384 Any State functionary who, by taking advantage of his position, misappropriates public funds for his own use or for conducting illegal activities, or misappropriates a relatively large amount of public funds for profit-making activities, or misappropriates a relatively large amount of public funds and fails to return it after the lapse of three months, shall be guilty of misappropriation of public funds and shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than five years. Whoever misappropriates a huge amount of public funds and fails to return it shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment.

Whoever misappropriates for his own use funds or materials allocated for disaster relief, emergency rescue, flood prevention and control, special care for disabled servicemen and the families of revolutionary martyrs and servicemen, aid to the poor, migration and social relief shall be given a heavier punishment.

Article 385 Any State functionary who, by taking advantage of his position, extorts money or property from another person, or illegally accepts another person's money or property in return for securing benefits for the person shall be guilty of acceptance of bribes.

Any State functionary who, in economic activities, violates State regulations by accepting rebates or service charges of various descriptions and taking them into his own possession shall be regarded as guilty of acceptance of bribes and punished for it.

Article 386 Whoever has committed the crime of acceptance of bribes shall, on the basis of the amount of money or property accepted and the seriousness of the circumstances, be punished in accordance with the provisions of Article 383 of this Law. Whoever extorts bribes from another person shall be given a heavier punishment.

Article 387 Where a State organ, State-owned company, enterprise, institution or people's organization extorts from another person or illegally accepts another person's money or property in return for securing benefits for the person, if the circumstances are serious, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the offence shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

Any of the units mentioned in the preceding paragraph that, in economic activities, secretly accepts off-the-book rebates or service charges of various descriptions shall be regarded as guilty of acceptance of bribes and punished in accordance with the provisions of the preceding paragraph.

Article 388 Any State functionary who, by taking advantage of his own functions and powers or position, secures illegitimate benefits for an entrusting person through another State functionary's performance of his duties and extorts from the entrusting person or accepts the entrusting person's money or property shall be regarded as guilty of acceptance of bribes and punished for it.

Article 389 Whoever, for the purpose of securing illegitimate benefits, gives money or property to a State functionary shall be guilty of offering bribes.

Whoever, in economic activities, violates State regulations by giving a relatively large amount of money or property to a State functionary or by giving him rebates or service charges of various descriptions shall be regarded as guilty of offering bribes and punished for it.

Any person who offers money or property to a State functionary through extortion but gains no illegitimate benefits shall not be regarded as offering bribes.

Article 390 Whoever commits the crime of offering bribes shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; whoever offers bribes to secure illegitimate benefits, if the circumstances are serious or if heavy losses are caused to the interests of the State, shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment and may also be sentenced to confiscation of property.

Any briber who, before he is investigated for criminal responsibility, voluntarily confesses his act of offering bribes may be given a mitigated punishment or exempted from punishment.

Article 391 Whoever, for the purpose of securing illegitimate benefits, gives money or property to a State organ, State-owned company, enterprise, institution or people's organization or, in economic activities, violates State regulations by giving rebates or service charges of various descriptions shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Where a unit commits the crime mentioned in the preceding paragraph, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the offence shall be punished in accordance with the provisions of the preceding paragraph.

Article 392 Whoever introduces a bribe to a State functionary, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Any person who introduces a bribe but voluntarily confesses the act before he is investigated for criminal responsibility may be given a mitigated punishment or exempted from punishment.

Article 393 Where a unit offers bribes for the purpose of securing illegitimate benefits or, in violation of State regulations, gives rebates or service charges to a State functionary, if the circumstances are serious, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the offence shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention. Any person who takes into his own possession the illegal gains derived from bribing shall be convicted and punished in accordance with the provisions of Articles 389 and 390 of this Law.

Article 394 Any State functionary who, in his activities of domestic public service or in his contacts with foreigners, accepts gifts and does not hand them over to the State as is required by State regulations, if the amount involved is relatively large, shall be convicted and punished in accordance with the provisions of Articles 382 and 383 of this Law.

Article 395 Any State functionary whose property or expenditure obviously exceeds his lawful income, if the difference is enormous, may be ordered to explain the sources of his property. If he cannot prove that the sources are legitimate, the part that exceeds his lawful income shall be regarded as illegal gains, and he shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and the part of property that exceeds his lawful income shall be recovered.

Any State functionary shall, in accordance with State regulations, declare to the State his bank savings outside the territory of China. Whoever has a relatively large amount of such savings and does not declare them to the State shall be sentenced to fixed-term imprisonment of not more than two years or criminal detention; if the circumstances are relatively minor, he shall be given administrative sanctions at the discretion of his work unit or the competent authorities at a higher level.

Article 396 Where a State organ, State-owned company, enterprise, institution or people's organization, in violation of State regulations and in the name of the unit, divides up State-owned assets in secret among all the individuals of the unit, if the amount involved is relatively large, the persons who are directly in charge and the other persons who are directly responsible for the offence shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined; if the amount involved is huge, they shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall also be fined.

Any judicial organ or administrative law-enforcing organ that, in violation of State regulations and in the name of the organ, divides up in secret the fines or confiscated money or property, which should be turned over to the State, among all the individuals of the organ shall be punished in accordance with the provisions of the preceding paragraph.

CHAPTER IX CRIMES OF DERELICTION OF DUTY

Article 397 Any functionary of a State organ who abuses his power or neglects his duty, thus causing heavy losses to public money or property or the interests of the State and the people, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years, except as otherwise specifically provided in this Law.

Any functionary of a State organ who engages in malpractice for personal gain and commits the crime mentioned in the preceding paragraph shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years, except as otherwise specifically provided in this Law.

Article 398 Any functionary of a State organ who, in violation of the provisions of the Law on Guarding State Secrets, intentionally or negligently divulges State secrets, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

Any person who is not a functionary of a State organ commits the crime mentioned in the preceding paragraph shall, in the light of the circumstances, be punished in accordance with the provisions of the preceding paragraph.

Article 399 Any judicial officer who, bending the law for selfish ends or twisting the law for a favor, subjects to investigation for criminal responsibility a person he knows to be innocent or intentionally protects from investigation for criminal responsibility a person he knows to be guilty or, intentionally running counter to the facts and law, twists the law when rendering judgments or orders in criminal proceedings shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than 10 years.

Whoever, in civil or administrative proceedings, intentionally runs counter to the facts and law and twists the law when rendering judgments or orders, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years.

Any judicial officer who takes a bribe and bends the law and commits any act mentioned in the preceding two paragraphs, which also constitutes a crime as provided for in Article 385 of this Law, shall be convicted and punished in accordance with the provisions for a heavier punishment.

Article 400 Any judicial officer who, without authorization, releases a criminal suspect, a defendant or a criminal held in custody shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than 10 years.

Any judicial officer who, because of his gross neglect of duty, makes it possible for a criminal suspect, a defendant or a criminal held in custody to escape, if the consequences are serious, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the consequences are especially serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

Article 401 Any judicial officer who, engaging in malpractices for personal gain, grants commutation of punishment, parole or temporary execution of the sentence outside prison to a criminal who does not meet the conditions for it shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

Article 402 Any administrative law-enforcing officer who, engaging in malpractices for personal gain, does not transfer a person that should be transferred to a judicial organ according to law to be investigated for criminal responsibility, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the consequences are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

Article 403 Any functionary of a relevant competent department of the State who, engaging in malpractices for personal gain and abusing his power, approves an application for the incorporation and registration of a company or an application for the issue and listing of shares or bonds submitted by a company that does not meet the

conditions provided by law, thus causing heavy losses to public money or property and the interests of the State and the people, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

Where a department at a higher level compels a registration office and its staff member to commit the acts mentioned in the preceding paragraph, the leading members of the department who are directly responsible for the offence shall be punished in accordance with the provisions of the preceding paragraph.

Article 404 Any tax official who, engaging in malpractices for personal gain, fails to collect or undercollects the tax payable, thus causing heavy losses to the revenue of the State, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if especially heavy losses are caused, he shall be sentenced to fixed-term imprisonment of not less than five years.

Article 405 Any tax official who, in violation of the provisions of law and administrative rules and regulations, engages in malpractices for personal gain in selling invoices, offsetting the tax payable and making tax refund for exports, thus causing heavy losses to the interests of the State, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if especially heavy losses are caused to the interests of the State, he shall be sentenced to fixed-term imprisonment of not less than five years.

Any functionaries of other State organs who, in violation of State regulations, engage in malpractices for personal gain in providing certificates for exports tax refund such as the declaration forms for exports and the verification and writing off documents for export proceeds, thus causing heavy losses to the interests of the State, shall be punished in accordance with the provisions of the preceding paragraph.

Article 406 Any functionary of a State organ who, in concluding or performing a contract, is defrauded as a result of his gross neglect of duty, thus causing heavy losses to the interests of the State, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if especially heavy losses are caused to the interests of the State, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

Article 407 Any functionary of a competent forestry department who, in violation of the provisions of the Forestry Law, issues forest tree felling licenses in excess of the approved annual felling quotas or, in violation of the regulations, arbitrarily issues forest tree felling licenses, if to such an extent as to cause serious damage to the forest, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Article 408 Any functionary of a State organ who is responsible for environmental

protection, supervision and control, through his gross neglect of duty, causes a serious environmental pollution accident, which results in heavy losses of public or private property or the grave consequences of injuries or deaths of persons, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Article 409 Any functionary of an administrative department for public health who is engaged in prevention and treatment of infectious diseases, through his gross neglect of duty, causes the spread or epidemic of an infectious disease, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Article 410 Any functionary of a State organ who, engaging in malpractices for personal gain, violating the law and regulations on land administration and abusing his power, illegally approves the requisition or occupation of land or illegally transfers at low prices the right to the use of State-owned land, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if especially heavy losses are caused to the interests of the State or the collective, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

Article 411 Any Customs officer who, engaging in malpractices for personal gain, connives at smuggling, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than five years.

Article 412 Any officer of the department in charge of commodity inspection at the national or local level who, engaging in malpractices for personal gain, falsifies inspection results, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if the consequences are serious, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years.

The officer as mentioned in the preceding paragraph who, through his gross neglect of duty, fails to inspect the commodities that should be inspected, delays the inspection or the issuance of a certificate or issues a false certificate, thus causing heavy losses to the interests of the State, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Article 413 Any officer of an animal and plant quarantine organ who, engaging in malpractices for personal gain, forges a quarantine result, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if the consequences are serious, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years.

Any officer as mentioned in the preceding paragraph who, through his gross neglect of duty, fails to conduct quarantine inspection of the items that should be inspected, delays the performance of quarantine inspection or the issuance of certificates, or issues false certificates, thus causing heavy losses to the interests of the State, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Article 414 Any functionary of a State organ who, being responsible for investigating the offences such as production and sale of fake or substandard commodities, engages in malpractices for personal gain and does not perform his duty of investigation as is required by law, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

Article 415 Any functionary of a State organ who is in charge of handling passports, visa or other exit or entry certificates, knowingly grants an exit or entry certificate to a person attempting to illegally cross the national (frontier) border or, a functionary of a State organ such as the frontier authorities or a Customs office knowingly allows a person illegally crossing the national (frontier) border to pass shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

Article 416 Any functionary of a State organ who is charged with the functions and responsibilities to rescue a woman or child who is abducted, sold or kidnapped fails to do so on receiving a request for rescue by the victim or by his or her family members or on receiving a report thereon made by any other person, thus causing serious consequences, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

Any functionary of a State organ charged with the said functions and responsibilities who, by taking advantage of his office, hinders the rescue effort shall be sentenced to fixed-term imprisonment of not less than two years but not more than seven years; if the circumstances are relatively minor, he shall be sentenced to fixed-term imprisonment of not more than two years or criminal detention.

Article 417 Any functionary of a State organ, charged with the functions and responsibilities to investigate and prohibit criminal activities, who divulges information or provides convenience to criminals so as to help them escape punishment shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

Article 418 Any functionary of a State organ who engages in malpractices for personal gain in recruiting public servants or students, if the circumstances are serious,

shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Article 419 Any functionary of a State organ who, through his gross neglect of duty, causes damage to or losses of precious cultural relics, if the consequences are serious, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

CHAPTER X CRIMES OF SERVICEMEN'S TRANSGRESSION OF DUTIES

Article 420 Any act committed by a serviceman in transgression of his duties, an act that endangers the military interests of the State and should therefore be subjected to criminal punishment in accordance with law, constitutes a crime of a serviceman's transgression of duties.

Article 421 Any serviceman who disobeys an order during wartime, thereby jeopardizing a military operation, shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years; if heavy losses are caused to a battle or campaign, he shall be sentenced to fixed-term imprisonment of not less than 10 years, life imprisonment or death.

Article 422 Any serviceman who intentionally conceals or makes a false report about the military situation, refuses to convey a military order or conveys a false military order, thereby jeopardizing a military operation, shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years; if heavy losses are caused to a battle or campaign, he shall be sentenced to fixed-term imprisonment of not less than 10 years, life imprisonment or death.

Article 423 Any serviceman who cares for nothing but saving his skin on the battlefield voluntarily lays down his arms and surrenders to the enemy shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment.

Any serviceman who, after surrendering to the enemy, works for the enemy shall be sentenced to fixed-term imprisonment of not less than 10 years, life imprisonment or death.

Article 424 Any serviceman who deserts from the battlefield shall be sentenced to fixed-term imprisonment of not more than three years; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years; if heavy losses are caused to a battle or campaign, he shall be sentenced to fixed-term imprisonment of not less than 10 years, life imprisonment or death.

Article 425 Any person in command or on duty who leaves his post without permission or neglects his duties, thereby causing serious consequences, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the consequences are especially serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

Whoever in wartime commits the crime mentioned in the preceding paragraph shall be sentenced to fixed-term imprisonment of not less than five years.

Article 426 Whoever, by violence or threat, obstructs a commander or a person on duty from performing his duties shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than five years; if serious injury or death is caused to a person or if there are other especially serious circumstances involved, he shall be sentenced to life imprisonment or death. The punishment for such a crime committed during wartime shall be heavier than in peacetime.

Article 427 Any officer who abuses his power and instigates his subordinates to act in transgression of their duties, thereby causing serious consequences, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years.

Article 428 Any commander who disobeys an order, or flinches before a battle or is inactive in a military operation, thereby causing serious consequences, shall be sentenced to fixed-term imprisonment of not more than five years; if heavy losses are caused to a battle or campaign or if there are other especially serious circumstances involved, he shall be sentenced to fixed-term imprisonment of not less than five years.

Article 429 Any commander on a battlefield who is in a position to rescue the neighbourly forces he knows are in a critical situation but does not do so upon request, thus causing heavy losses to the latter, shall be sentenced to fixed-term imprisonment of not more than five years.

Article 430 Any serviceman who, in performing his duties, leaves his post without permission or defects from China or does so when being outside of the country, thus jeopardizing the military interests of the State, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than five years.

Any serviceman who, piloting an aircraft or a vessel, defects, or if there are other especially serious circumstances involved, shall be sentenced to fixed-term

imprisonment of not less than 10 years, life imprisonment or death.

Article 431 Whoever, by means of stealing, spying or buying, illegally obtains military secrets shall be sentenced to fixed-term imprisonment of not more than five years; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than 10 years.

Whoever steals, spies into or buys military secrets for or illegally offers such secrets to the agencies, organizations or individuals outside the territory of China shall be sentenced to fixed-term imprisonment of not less than 10 years, life imprisonment or death.

Article 432 Whoever, in violation of the law and regulations on protection of State secrets, intentionally or negligently divulges military secrets, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years.

Whoever during wartime commits the crime mentioned in the preceding paragraph shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment.

Article 433 Whoever during wartime fabricates rumors to mislead others and shake the morale of troops shall be sentenced to fixed-term imprisonment of not more than three years; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

Whoever colludes with the enemy to fabricate rumors so as to mislead others and shake the morale of troops shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment; if the circumstances are especially serious, he may be sentenced to death.

Article 434 Whoever during wartime injures himself in order to evade his military obligation shall be sentenced to fixed-term imprisonment of not more than three years; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

Article 435 Whoever, in violation of the military service law, deserts from the armed forces, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Whoever during wartime commits the crime mentioned in the preceding paragraph

shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

Article 436 Whoever violates the regulations on the use of weapons and equipment, if the circumstances are serious and an accident leading to serious injury or death of another person occurs due to his neglect of duty, or if there are other serious consequences, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the consequences are especially serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

Article 437 Whoever in violation of the regulations on control of weapons and equipment, alters without authorization the use of weapons and equipment allocated, if the consequences are serious, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the consequences are especially serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

Article 438 Whoever steals or forcibly seizes weapons, equipment or military supplies shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than 10 years, life imprisonment or death.

Whoever steals or forcibly seizes firearms, ammunition or explosives shall be punished in accordance with the provisions of Article 127 of this Law.

Article 439 Whoever illegally sells or transfers weapons or equipment of the armed forces shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years; if a large amount of weapons or equipment is sold or transferred or if there are other especially serious circumstances involved, he shall be sentenced to fixed-term imprisonment of not less than 10 years, life imprisonment or death.

Article 440 Whoever, in violation of an order, abandons weapons or equipment shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if he abandons important or a large amount of weapons or equipment or if there are other serious circumstances involved, he shall be sentenced to fixed-term imprisonment of not less than five years.

Article 441 Whoever loses weapons or equipment and fails to report the matter immediately, or if there are other serious circumstances involved, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Article 442 Where the real estate of the armed forces is sold or transferred in violation of the regulations, if the circumstances are serious, the persons who are directly responsible for the offence shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the circumstances are especially serious, they shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

Article 443 Any person who abuses his power and maltreats a subordinate, if the circumstances are so flagrant that the victim is seriously injured or if there are other serious consequences, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if he causes death of the victim, he shall be sentenced to fixed-term imprisonment of not less than five years.

Article 444 Where a wounded or sick serviceman is deliberately abandoned on a battlefield, if the circumstances are flagrant, the persons who are directly responsible for the offence shall be sentenced to fixed-term imprisonment of not more than five years.

Article 445 Whoever, being charged with the duty of saving and treating servicemen during wartime, refuses to do so to a serviceman who, through critically sick or wounded, can be saved or treated, he shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if he causes serious disability or death of the sick or wounded serviceman or if there are other serious circumstances involved, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years.

Article 446 Any serviceman who, during wartime, cruelly injures innocent residents in an area of military operation or plunders their money or property shall be sentenced to fixed-term imprisonment of not more than five years; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than 10 years, life imprisonment or death.

Article 447 Whoever sets free a prisoner of war without authorization shall be sentenced to fixed-term imprisonment of not more than five years; if he, without authorization, sets free an important prisoner of war or a number of prisoners of war or if there are other serious circumstances involved, he shall be sentenced to fixed-term imprisonment of not less than five years.

Article 448 Whoever maltreats a prisoner of war, if the circumstances are flagrant, shall be sentenced to fixed-term imprisonment of not more than three years.

Article 449 If during wartime a serviceman is sentenced to fixed-term imprisonment of not more than three years for a crime he commits and is granted suspension of sentence because he presents no real danger, he may be allowed to atone for his crime by performing meritorious deeds. If he truly performs meritorious deeds, the original sentence may be rescinded and he shall not be regarded as a criminal.

Article 450 This Chapter shall apply to officers, civilian staff, soldiers in active service and cadets with military status of the Chinese People's Liberation Army, police officers, civilian staff and soldiers in active service and cadets with military status of the Chinese People's Armed Police, and reservists and other persons performing military tasks.

Article 451 The word "wartime" as used in this Law means the time when the State declares the state of war, the armed forces receive tasks of operations or when the enemy launches a surprise attack.

The time when the armed forces execute martial-law tasks or cope with emergencies of violence shall be regarded as wartime.

CHAPTER XI SUPPLEMENTARY PROVISIONS

Article 452 This Law shall go into effect as of October 1, 1997.

The regulations, supplementary provisions and decisions enacted by the Standing Committee of the National People's Congress, as listed in Appendix I of this Law, which have been incorporated into this Law or are no longer applicable, shall be invalidated as of the date this Law goes into effect.

The supplementary provisions and decisions enacted by the Standing Committee of the National People's Congress, as listed in Appendix II of this Law, shall be retained. Among them the provisions on administrative penalty and administrative measures shall remain in force; however, since the provisions on criminal responsibility have been incorporated into this Law, the relevant provisions of this Law shall prevail as of the date this Law goes into effect.

Appendix I

The following regulations, supplementary provisions and decisions enacted by the Standing Committee of the National People's Congress which have been incorporated into this Law or are no longer applicable shall be invalidated as of the date this Law goes into effect:

1. Interim Regulations of the People's Republic of China on Punishment of

Servicemen Who Commit Crimes Contrary to Their Duties

2. Decision Regarding the Severe Punishment of Criminals Who Seriously Sabotage the Economy
3. Decision Regarding the Severe Punishment of Criminals Who Seriously Endanger Public Security
4. Supplementary Provisions Concerning the Punishment of the Crimes of Smuggling
5. Supplementary Provisions Concerning the Punishment of the Crimes of Embezzlement and Bribery
6. Supplementary Provisions Concerning the Punishment of the Crimes of Divulging State Secrets
7. Supplementary Provisions Concerning the Punishment of the Crimes of Catching or Killing Precious and Endangered Species of Wildlife Under Special State Protection
8. Decision Regarding the Punishment of the Crimes of Desecrating the National Flag and the National Emblem of the People's Republic of China
9. Supplementary Provisions Regarding the Punishment of the Crime of Excavating and Robbing Sites of Ancient Culture or Ancient Tombs
10. Decision Regarding the Punishment of the Criminals Engaged in Aircraft Hijacking
11. Supplementary Provisions Regarding Punishing Crimes of Counterfeiting Registered Trademarks
12. Decision on Punishment of the Crimes of Production and Sale of Fake or Substandard Commodities
13. Decision Regarding the Punishment of the Crimes of Infringement of Copyright
14. Decision Concerning Punishment of Crimes Against the Company Law
15. Decision Regarding the Handling of Criminals Undergoing Reform Through Labor and Persons Undergoing Rehabilitation Through Labor Who Escape or Commit New Crimes

Appendix II

The following supplementary provisions and decisions enacted by the Standing Committee of the National People's Congress shall be retained. Among them the provisions on administrative penalty and administrative measures shall remain in force; since the provisions on criminal responsibility have been incorporated into this Law, the relevant provisions of this Law shall prevail as of the date this Law goes into effect:

1. Decision on the Prohibition Against Narcotic Drugs
2. Decision on the Punishment of Criminals Who Smuggle, Produce, Sell or Disseminate Pornographic materials
3. Decision on the Strict Prohibition Against Prostitution and Whoring
4. Decision Regarding the Severe Punishment of Criminals Who Abduct and Traffic in or Kidnap Women or Children
5. Supplementary Provisions Regarding the Imposition of Punishment in Respect of Offences of Tax Evasion and Refusal to Pay Tax
6. Supplementary Provisions on the Severe Punishment of the Crimes of Organizing or Transporting Other Person(s) To illegally cross the National Border (Frontier)
7. Decision on Punishment of Crimes of Disrupting Financial Order
8. Decision on Punishing Crimes of Falsely Making Out, Forging or Illegally Selling Special Invoices for Value-added Tax

中华人民共和国刑法

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中华人民共和国主席令

(第八十三号)

《中华人民共和国刑法》已由中华人民共和国第八届全国人民代表大会第五次会议于1997年3月14日修订，现将修订后的《中华人民共和国刑法》公布，自1997年10月1日起施行。

中华人民共和国主席江

泽民

1997年3月1

4日

中华人民共和国刑法

(1979年7月1日第五届全国人民代表大会第二次会议通过
1997年3月14日第八届全国人民代表大会第五次会议修订)

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第一编 总则

第一章 刑法的任务、基本原则和适用范围

第一条 为了惩罚犯罪，保护人民，根据宪法，结合我国同犯罪作斗争的具体经验及实际情况，制定本法。

第二条 中华人民共和国刑法的任务，是用刑罚同一切犯罪行为作斗争，以保卫国家安全，保卫人民民主专政的政权和社会主义制度，保护国有财产和劳动群众集体所有的财产，保护公民私人所有的财产，保护公民的人身权利、民主权利和其他权利，维护社会秩序、经济秩序，保障社会主义建设事业的顺利进行。

第三条 法律明文规定为犯罪行为的，依照法律定罪处刑；法律没有明文规定为犯罪行为的，不得定罪处刑。

第四条 对任何人犯罪，在适用法律上一律平等。不允许任何人有超越法律的特权。

第五条 刑罚的轻重，应当与犯罪分子所犯罪行和承担的刑事责任相适应。

第六条 凡在中华人民共和国领域内犯罪的，除法律有特别规定的以外，都适用本法。

凡在中华人民共和国船舶或者航空器内犯罪的，也适用本法。

犯罪的行为或者结果有一项发生在中华人民共和国领域内的，就认为是在中华人民共和国领域内犯罪。

第七条 中华人民共和国公民在中华人民共和国领域外犯本法规定之罪的，适用本法，但是按本法规定的最高刑为三年以下有期徒刑的，可以不予追究。

中华人民共和国国家工作人员和军人在中华人民共和国领域外犯本法规定之罪的，适用本法。

第八条 外国人在中华人民共和国领域外对中华人民共和国国家或者公民犯罪，而按本法规定的最低刑为三年以上有期徒刑的，可以适用本法，但是按照犯罪地的法律不受处罚的除外。

第九条 对于中华人民共和国缔结或者参加的国际条约所规定的罪行，中华人民共和国在所承担条约义务的范围内行使刑事管辖权的，适用本法。

第十条 凡在中华人民共和国领域外犯罪，依照本法应当负刑事责任的，虽然经过外国审判，仍然可以依照本法追究，但是在外国已经受过刑罚处罚的，可以免除或者减轻处罚。

第十一条 享有外交特权和豁免权的外国人的刑事责任，通过外交途径解决。

第十二条 中华人民共和国成立以后本法施行以前的行为，如果当时的法律不认为是犯罪的，适用当时的法律；如果当时的法律认为是犯罪的，依照本法总则第四章第八节的规定应当追诉的，按照当时的法律追究刑事责任，但是如果本法不认为是犯罪或者处刑较轻的，适用本法。

本法施行以前，依照当时的法律已经作出的生效判决，继续有效。

第二章 犯罪

第一节 犯罪和刑事责任

第十三条 一切危害国家主权、领土完整和安全，分裂国家、颠覆人民民主专政的政权和推翻社会主义制度，破坏社会秩序和经济秩序，侵犯国有财产或者劳动群众集体所有的财产，侵犯公民私人所有的财产，侵犯公民的人身权利、民主权利和其他权利，以及其他危害社会的行为，依照法律应当受刑罚处罚的，都是犯罪，但是情节显著轻微危害不大的，不认为是犯罪。

第十四条 明知自己的行为会发生危害社会的结果，并且希望或者放任这种结果发生，因而构成犯罪的，是故意犯罪。

故意犯罪，应当负刑事责任。

第十五条 应当预见自己的行为可能发生危害社会的结果，因为疏忽大意而没有预见，或者已经预见而轻信能够避免，以致发生这种结果的，是过失犯罪。

过失犯罪，法律有规定的才负刑事责任。

第十六条 行为在客观上虽然造成了损害结果，但是不是出于故意或者过失，而是由于不能抗拒或者不能预见的原因所引起的，不是犯罪。

第十七条 已满十六周岁的人犯罪，应当负刑事责任。

已满十四周岁不满十六周岁的人，犯故意杀人、故意伤害致人重伤或者死亡、强奸、抢劫、贩卖毒品、放火、爆炸、投毒罪的，应当负刑事责任。

已满十四周岁不满十八周岁的人犯罪，应当从轻或者减轻处罚。

因不满十六周岁不予刑事处罚的，责令他的家长或者监护人加以管教；在必要的时候，也可以由政府收容教养。

第十八条 精神病人在不能辨认或者不能控制自己行为的时候造成危害结果，经法定程序鉴定确认的，不负刑事责任，但是应当责令他的家属或者监护人严加看管和医疗；在必要的时候，由政府强制医疗。

间歇性的精神病人在精神正常的时候犯罪，应当负刑事责任。

尚未完全丧失辨认或者控制自己行为能力的精神病人犯罪的，应当负刑事责任，但是可以从轻或者减轻处罚。

醉酒的人犯罪，应当负刑事责任。

第十九条 又聋又哑的人或者盲人犯罪，可以从轻、减轻或者免除处罚。

第二十条 为了使国家、公共利益、本人或者他人的人身、财产和其他权利免受正在进行的不法侵害，而采取的制止不法侵害的行为，对不法侵害人造成损

害的，属于正当防卫，不负刑事责任。

正当防卫明显超过必要限度造成重大损害的，应当负刑事责任，但是应当减轻或者免除处罚。

对正在进行行凶、杀人、抢劫、强奸、绑架以及其他严重危及人身安全的暴力犯罪，采取防卫行为，造成不法侵害人伤亡的，不属于防卫过当，不负刑事责任。

第二十一条 为了使国家、公共利益、本人或者他人的人身、财产和其他权利免受正在发生的危险，不得已采取的紧急避险行为，造成损害的，不负刑事责任。

紧急避险超过必要限度造成不应有的损害的，应当负刑事责任，但是应当减轻或者免除处罚。

第一款中关于避免本人危险的规定，不适用于职务上、业务上负有特定责任的人。

第二节 犯罪的预备、未遂和中止

第二十二条 为了犯罪，准备工具、制造条件的，是犯罪预备。

对于预备犯，可以比照既遂犯从轻、减轻处罚或者免除处罚。

第二十三条 已经着手实行犯罪，由于犯罪分子意志以外的原因而未得逞的，是犯罪未遂。

对于未遂犯，可以比照既遂犯从轻或者减轻处罚。

第二十四条 在犯罪过程中，自动放弃犯罪或者自动有效地防止犯罪结果发生的，是犯罪中止。

对于中止犯，没有造成损害的，应当免除处罚；造成损害的，应当减轻处罚。

第三节 共同犯罪

第二十五条 共同犯罪是指二人以上共同故意犯罪。

二人以上共同过失犯罪，不以共同犯罪论处；应当负刑事责任的，按照他们所犯的罪分别处罚。

第二十六条 组织、领导犯罪集团进行犯罪活动的或者在共同犯罪中起主要作用的，是主犯。

三人以上为共同实施犯罪而组成的较为固定的犯罪组织，是犯罪集团。

对组织、领导犯罪集团的首要分子，按照集团所犯的全部罪行处罚。

对于第三款规定以外的主犯，应当按照其所参与的或者组织、指挥的全部罪行处罚。

第二十七条 在共同犯罪中起次要或者辅助作用的，是从犯。

对于从犯，应当从轻、减轻处罚或者免除处罚。

第二十八条 对于被胁迫参加犯罪的，应当按照他的犯罪情节减轻处罚或者免除处罚。

第二十九条 教唆他人犯罪的，应当按照他在共同犯罪中所起的作用处罚。教唆不满十八周岁的人犯罪的，应当从重处罚。

如果被教唆的人没有犯被教唆的罪，对于教唆犯，可以从轻或者减轻处罚。

第四节 单位犯罪

第三十条 公司、企业、事业单位、机关、团体实施的危害社会的行为，法律规定为单位犯罪的，应当负刑事责任。

第三十一条 单位犯罪的，对单位处罚金，并对其直接负责的主管人员和其他直接责任人员判处刑罚。本法分则和其他法律另有规定的，依照规定。

第三章 刑罚

第一节 刑罚的种类

第三十二条 刑罚分为主刑和附加刑。

第三十三条 主刑的种类如下：

- (一) 管制；
- (二) 拘役；
- (三) 有期徒刑；
- (四) 无期徒刑；
- (五) 死刑。

第三十四条 附加刑的种类如下：

- (一) 罚金；
- (二) 剥夺政治权利；
- (三) 没收财产。

附加刑也可以独立适用。

第三十五条 对于犯罪的外国人，可以独立适用或者附加适用驱逐出境。

第三十六条 由于犯罪行为而使被害人遭受经济损失的，对犯罪分子除依法给予刑事处罚外，并应根据情况判处赔偿经济损失。

承担民事赔偿责任的犯罪分子，同时被判处罚金，其财产不足以全部支付的，或者被判处没收财产的，应当先承担对被害人的民事赔偿责任。

第三十七条 对于犯罪情节轻微不需要判处刑罚的，可以免于刑事处罚，但是可以根据案件的不同情况，予以训诫或者责令具结悔过、赔礼道歉、赔偿损失，或者由主管部门予以行政处罚或者行政处分。

第二节 管制

第三十八条 管制的期限，为三个月以上二年以下。

被判处管制的犯罪分子，由公安机关执行。

第三十九条 被判处管制的犯罪分子，在执行期间，应当遵守下列规定：

- (一) 遵守法律、行政法规，服从监督；
 - (二) 未经执行机关批准，不得行使言论、出版、集会、结社、游行、示威自由的权利；
 - (三) 按照执行机关规定报告自己的活动情况；
 - (四) 遵守执行机关关于会客的规定；
 - (五) 离开所居住的市、县或者迁居，应当报经执行机关批准。
- 对于被判处管制的犯罪分子，在劳动中应当同工同酬。

第四十条 被判处管制的犯罪分子，管制期满，执行机关应即向本人和其所在单位或者居住地的群众宣布解除管制。

第四十一条 管制的刑期，从判决执行之日起计算；判决执行以前先行羁押的，羁押一日折抵刑期二日。

第三节 拘役

第四十二条 拘役的期限，为一个月以上六个月以下。

第四十三条 被判处拘役的犯罪分子，由公安机关就近执行。

在执行期间，被判处拘役的犯罪分子每月可以回家一天至两天；参加劳动的，可以酌量发给报酬。

第四十四条 拘役的刑期，从判决执行之日起计算；判决执行以前先行羁押的，羁押一日折抵刑期一日。

第四节 有期徒刑、无期徒刑

第四十五条 有期徒刑的期限，除本法第五十条、第六十九条规定外，为六个月以上十五年以下。

第四十六条 被判处有期徒刑、无期徒刑的犯罪分子，在监狱或者其他执行场所执行；凡有劳动能力的，都应当参加劳动，接受教育和改造。

第四十七条 有期徒刑的刑期，从判决执行之日起计算；判决执行以前先行羁押的，羁押一日折抵刑期一日。

第五节 死刑

第四十八条 死刑只适用于罪行极其严重的犯罪分子。对于应当判处死刑的犯罪分子，如果不是必须立即执行的，可以判处死刑同时宣告缓期二年执行。

死刑除依法由最高人民法院判决的以外，都应当报请最高人民法院核准。死刑缓期执行的，可以由高级人民法院判决或者核准。

第四十九条 犯罪的时候不满十八周岁的人和审判的时候怀孕的妇女，不适用死刑。

第五十条 判处死刑缓期执行的，在死刑缓期执行期间，如果没有故意犯罪，二年期满以后，减为无期徒刑；如果确有重大立功表现，二年期满以后，减为十五年以上二十年以下有期徒刑；如果故意犯罪，查证属实的，由最高人民法院核准，执行死刑。

第五十一条 死刑缓期执行的期间，从判决确定之日起计算。死刑缓期执行减为有期徒刑的刑期，从死刑缓期执行期满之日起计算。

第六节 罚金

第五十二条 判处罚金，应当根据犯罪情节决定罚金数额。

第五十三条 罚金在判决指定的期限内一次或者分期缴纳。期满不缴纳的，强制缴纳。对于不能全部缴纳罚金的，人民法院在任何时候发现被执行人有可以执行的财产，应当随时追缴。如果由于遭遇不能抗拒的灾祸缴纳确实有困难的，

可以酌情减少或者免除。

第七节 剥夺政治权利

第五十四条 剥夺政治权利是剥夺下列权利：

- (一) 选举权和被选举权；
- (二) 言论、出版、集会、结社、游行、示威自由的权利；
- (三) 担任国家机关职务的权利；
- (四) 担任国有公司、企业、事业单位和人民团体领导职务的权利。

第五十五条 剥夺政治权利的期限，除本法第五十七条规定外，为一年以上五年以下。

判处管制附加剥夺政治权利的，剥夺政治权利的期限与管制的期限相等，同时执行。

第五十六条 对于危害国家安全的犯罪分子应当附加剥夺政治权利；对于故意杀人、强奸、放火、爆炸、投毒、抢劫等严重破坏社会秩序的犯罪分子，可以附加剥夺政治权利。

独立适用剥夺政治权利的，依照本法分则的规定。

第五十七条 对于被判处死刑、无期徒刑的犯罪分子，应当剥夺政治权利终身。

在死刑缓期执行减为有期徒刑或者无期徒刑减为有期徒刑的时候，应当把附加剥夺政治权利的期限改为三年以上十年以下。

第五十八条 附加剥夺政治权利的刑期，从徒刑、拘役执行完毕之日或者从假释之日起计算；剥夺政治权利的效力当然施用于主刑执行期间。

被剥夺政治权利的犯罪分子，在执行期间，应当遵守法律、行政法规和国务院公安部门有关监督管理的规定，服从监督；不得行使本法第五十四条规定的各项权利。

第八节 没收财产

第五十九条 没收财产是没收犯罪分子个人所有财产的一部或者全部。没收全部财产的，应当对犯罪分子个人及其扶养的家属保留必需的生活费用。

在判处没收财产的时候，不得没收属于犯罪分子家属所有或者应有的财产。

第六十条 没收财产以前犯罪分子所负的正当债务，需要以没收的财产偿还的，经债权人请求，应当偿还。

第四章 刑罚的具体运用

第一节 量刑

第六十一条 对于犯罪分子决定刑罚的时候，应当根据犯罪的事实、犯罪的性质、情节和对于社会的危害程度，依照本法的有关规定判处。

第六十二条 犯罪分子具有本法规定的从重处罚、从轻处罚情节的，应当在法定刑的限度以内判处刑罚。

第六十三条 犯罪分子具有本法规定的减轻处罚情节的，应当在法定刑以下

判处刑罚。

犯罪分子虽然不具有本法规定的减轻处罚情节，但是根据案件的特殊情况，经最高人民法院核准，也可以在法定刑以下判处刑罚。

第六十四条 犯罪分子违法所得的一切财物，应当予以追缴或者责令退赔；对被害人的合法财产，应当及时返还；违禁品和供犯罪所用的本人财物，应当予以没收。没收的财物和罚金，一律上缴国库，不得挪用和自行处理。

第二节 累犯

第六十五条 被判处有期徒刑以上刑罚的犯罪分子，刑罚执行完毕或者赦免以后，在五年以内再犯应当判处有期徒刑以上刑罚之罪的，是累犯，应当从重处罚，但是过失犯罪除外。

前款规定的期限，对于被假释的犯罪分子，从假释期满之日起计算。

第六十六条 危害国家安全的犯罪分子在刑罚执行完毕或者赦免以后，在任何时候再犯危害国家安全罪的，都以累犯论处。

第三节 自首和立功

第六十七条 犯罪以后自动投案，如实供述自己的罪行的，是自首。对于自首的犯罪分子，可以从轻或者减轻处罚。其中，犯罪较轻的，可以免除处罚。

被采取强制措施的犯罪嫌疑人、被告人和正在服刑的罪犯，如实供述司法机关还未掌握的本人其他罪行的，以自首论。

第六十八条 犯罪分子有揭发他人犯罪行为，查证属实的，或者提供重要线索，从而得以侦破其他案件等立功表现的，可以从轻或者减轻处罚；有重大立功表现的，可以减轻或者免除处罚。

犯罪后自首又有重大立功表现的，应当减轻或者免除处罚。

第四节 数罪并罚

第六十九条 判决宣告以前一人犯数罪的，除判处死刑和无期徒刑的以外，应当在总和刑期以下、数刑中最高刑期以上，酌情决定执行的刑期，但是管制最高不能超过三年，拘役最高不能超过一年，有期徒刑最高不能超过二十年。

如果数罪中有判处附加刑的，附加刑仍须执行。

第七十条 判决宣告以后，刑罚执行完毕以前，发现被判刑的犯罪分子在判决宣告以前还有其他罪没有判决的，应当对新发现的罪作出判决，把前后两个判决所判处的刑罚，依照本法第六十九条的规定，决定执行的刑罚。已经执行的刑期，应当计算在新判决决定的刑期以内。

第七十一条 判决宣告以后，刑罚执行完毕以前，被判刑的犯罪分子又犯罪的，应当对新犯的罪作出判决，把前罪没有执行的刑罚和后罪所判处的刑罚，依照本法第六十九条的规定，决定执行的刑罚。

第五节 缓刑

第七十二条 对于被判处拘役、三年以下有期徒刑的犯罪分子，根据犯罪分

子的犯罪情节和悔罪表现，适用缓刑确实不致再危害社会的，可以宣告缓刑。

被宣告缓刑的犯罪分子，如果被判处附加刑，附加刑仍须执行。

第七十三条 拘役的缓刑考验期限为原判刑期以上一年以下，但是不能少于二个月。

有期徒刑的缓刑考验期限为原判刑期以上五年以下，但是不能少于一年。

缓刑考验期限，从判决确定之日起计算。

第七十四条 对于累犯，不适用缓刑。

第七十五条 被宣告缓刑的犯罪分子，应当遵守下列规定：

- (一) 遵守法律、行政法规，服从监督；
- (二) 按照考察机关的规定报告自己的活动情况；
- (三) 遵守考察机关关于会客的规定；
- (四) 离开所居住的市、县或者迁居，应当报经考察机关批准。

第七十六条 被宣告缓刑的犯罪分子，在缓刑考验期限内，由公安机关考察，所在单位或者基层组织予以配合，如果没有本法第七十七条规定的情形，缓刑考验期满，原判的刑罚就不再执行，并公开予以宣告。

第七十七条 被宣告缓刑的犯罪分子，在缓刑考验期限内犯新罪或者发现判决宣告以前还有其他罪没有判决的，应当撤销缓刑，对新犯的罪或者新发现的罪作出判决，把前罪和后罪所判处的刑罚，依照本法第六十九条的规定，决定执行的刑罚。

被宣告缓刑的犯罪分子，在缓刑考验期限内，违反法律、行政法规或者国务院公安部门有关缓刑的监督管理规定，情节严重的，应当撤销缓刑，执行原判刑罚。

第六节 减刑

第七十八条 被判处管制、拘役、有期徒刑、无期徒刑的犯罪分子，在执行期间，如果认真遵守监规，接受教育改造，确有悔改表现的，或者有立功表现的，可以减刑；有下列重大立功表现之一的，应当减刑：

- (一) 阻止他人重大犯罪活动的；
- (二) 检举监狱内外重大犯罪活动，经查证属实的；
- (三) 有发明创造或者重大技术革新的；
- (四) 在日常生产、生活中舍己救人的；
- (五) 在抗御自然灾害或者排除重大事故中，有突出表现的；
- (六) 对国家和社会有其他重大贡献的。

减刑以后实际执行的刑期，判处管制、拘役、有期徒刑的，不能少于原判刑期的二分之一；判处无期徒刑的，不能少于十年。

第七十九条 对于犯罪分子的减刑，由执行机关向中级以上人民法院提出减刑建议书。人民法院应当组成合议庭进行审理，对确有悔改或者立功事实的，裁定予以减刑。非经法定程序不得减刑。

第八十条 无期徒刑减为有期徒刑的刑期，从裁定减刑之日起计算。

第七节 假释

第八十一条 被判处有期徒刑的犯罪分子，执行原判刑期二分之一以上，被

判处无期徒刑的犯罪分子，实际执行十年以上，如果认真遵守监规，接受教育改造，确有悔改表现，假释后不致再危害社会的，可以假释。如果有特殊情况，经最高人民法院核准，可以不受上述执行刑期的限制。

对累犯以及因杀人、爆炸、抢劫、强奸、绑架等暴力性犯罪被判处十年以上有期徒刑、无期徒刑的犯罪分子，不得假释。

第八十二条 对于犯罪分子的假释，依照本法第七十九条规定的程序进行。非经法定程序不得假释。

第八十三条 有期徒刑的假释考验期限，为没有执行完毕的刑期；无期徒刑的假释考验期限为十年。

假释考验期限，从假释之日起计算。

第八十四条 被宣告假释的犯罪分子，应当遵守下列规定：

- (一) 遵守法律、行政法规，服从监督；
- (二) 按照监督机关的规定报告自己的活动情况；
- (三) 遵守监督机关关于会客的规定；
- (四) 离开所居住的市、县或者迁居，应当报经监督机关批准。

第八十五条 被假释的犯罪分子，在假释考验期限内，由公安机关予以监督，如果没有本法第八十六条规定的情形，假释考验期满，就认为原判刑罚已经执行完毕，并公开予以宣告。

第八十六条 被假释的犯罪分子，在假释考验期限内犯新罪，应当撤销假释，依照本法第七十一条的规定实行数罪并罚。

在假释考验期限内，发现被假释的犯罪分子在判决宣告以前还有其他罪没有判决的，应当撤销假释，依照本法第七十条的规定实行数罪并罚。

被假释的犯罪分子，在假释考验期限内，有违反法律、行政法规或者国务院公安部门有关假释的监督管理规定的行为，尚未构成新的犯罪的，应当依照法定程序撤销假释，收监执行未执行完毕的刑罚。

第八节 时效

第八十七条 犯罪经过下列期限不再追诉：

- (一) 法定最高刑为不满五年有期徒刑的，经过五年；
- (二) 法定最高刑为五年以上不满十年有期徒刑的，经过十年；
- (三) 法定最高刑为十年以上有期徒刑的，经过十五年；
- (四) 法定最高刑为无期徒刑、死刑的，经过二十年。如果二十年以后认为必须追诉的，须报请最高人民检察院核准。

第八十八条 在人民检察院、公安机关、国家安全机关立案侦查或者在人民法院受理案件以后，逃避侦查或者审判的，不受追诉期限的限制。

被害人在追诉期限内提出控告，人民法院、人民检察院、公安机关应当立案而不予立案的，不受追诉期限的限制。

第八十九条 追诉期限从犯罪之日起计算；犯罪行为有连续或者继续状态的，从犯罪行为终了之日起计算。

在追诉期限以内又犯罪的，前罪追诉的期限从犯后罪之日起计算。

第五章 其他规定

第九十条 民族自治地方不能全部适用本法规定的，可以由自治区或者省的人民代表大会根据当地民族的政治、经济、文化的特点和本法规定的基本原则，制定变通或者补充的规定，报请全国人民代表大会常务委员会批准施行。

第九十一条 本法所称公共财产，是指下列财产：

- (一) 国有财产；
- (二) 劳动群众集体所有的财产；
- (三) 用于扶贫和其他公益事业的社会捐助或者专项基金的财产。

在国家机关、国有公司、企业、集体企业和人民团体管理、使用或者运输中的私人财产，以公共财产论。

第九十二条 本法所称公民私人所有的财产，是指下列财产：

- (一) 公民的合法收入、储蓄、房屋和其他生活资料；
- (二) 依法归个人、家庭所有的生产资料；
- (三) 个体户和私营企业的合法财产；
- (四) 依法归个人所有的股份、股票、债券和其他财产。

第九十三条 本法所称国家工作人员，是指国家机关中从事公务的人员。

国有公司、企业、事业单位、人民团体中从事公务的人员和国家机关、国有公司、企业、事业单位委派到非国有公司、企业、事业单位、社会团体从事公务的人员，以及其他依照法律从事公务的人员，以国家工作人员论。

第九十四条 本法所称司法工作人员，是指有侦查、检察、审判、监管职责的工作人员。

第九十五条 本法所称重伤，是指有下列情形之一的伤害：

- (一) 使人肢体残废或者毁人容貌的；
- (二) 使人丧失听觉、视觉或者其他器官机能的；
- (三) 其他对于人身健康有重大伤害的。

第九十六条 本法所称违反国家规定，是指违反全国人民代表大会及其常务委员会制定的法律和决定，国务院制定的行政法规、规定的行政措施、发布的决定和命令。

第九十七条 本法所称首要分子，是指在犯罪集团或者聚众犯罪中起组织、策划、指挥作用的犯罪分子。

第九十八条 本法所称告诉才处理，是指被害人告诉才处理。如果被害人因受强制、威吓无法告诉的，人民检察院和被害人的近亲属也可以告诉。

第九十九条 本法所称以上、以下、以内，包括本数。

第一百条 依法受过刑事处罚的人，在入伍、就业的时候，应当如实向有关单位报告自己曾受过刑事处罚，不得隐瞒。

第一百零一条 本法总则适用于其他有刑罚规定的法律，但是其他法律有特别规定的除外。

第二编 分则

第一章 危害国家安全罪

第一百零二条 勾结外国，危害中华人民共和国的主权、领土完整和安全的，处无期徒刑或者十年以上有期徒刑。

与境外机构、组织、个人相勾结，犯前款罪的，依照前款的规定处罚。

第一百零三条 组织、策划、实施分裂国家、破坏国家统一的，对首要分子或者罪行重大的，处无期徒刑或者十年以上有期徒刑；对积极参加的，处三年以上十年以下有期徒刑；对其他参加的，处三年以下有期徒刑、拘役、管制或者剥夺政治权利。

煽动分裂国家、破坏国家统一的，处五年以下有期徒刑、拘役、管制或者剥夺政治权利；首要分子或者罪行重大的，处五年以上有期徒刑。

第一百零四条 组织、策划、实施武装叛乱或者武装暴乱的，对首要分子或者罪行重大的，处无期徒刑或者十年以上有期徒刑；对积极参加的，处三年以上十年以下有期徒刑；对其他参加的，处三年以下有期徒刑、拘役、管制或者剥夺政治权利。

策动、胁迫、勾引、收买国家机关工作人员、武装部队人员、人民警察、民兵进行武装叛乱或者武装暴乱的，依照前款的规定从重处罚。

第一百零五条 组织、策划、实施颠覆国家政权、推翻社会主义制度的，对首要分子或者罪行重大的，处无期徒刑或者十年以上有期徒刑；对积极参加的，处三年以上十年以下有期徒刑；对其他参加的，处三年以下有期徒刑、拘役、管制或者剥夺政治权利。

以造谣、诽谤或者其他方式煽动颠覆国家政权、推翻社会主义制度的，处五年以下有期徒刑、拘役、管制或者剥夺政治权利；首要分子或者罪行重大的，处五年以上有期徒刑。

第一百零六条 与境外机构、组织、个人相勾结，实施本章第一百零三条、第一百零四条、第一百零五条规定之罪的，依照各该条的规定从重处罚。

第一百零七条 境内外机构、组织或者个人资助境内组织或者个人实施本章第一百零二条、第一百零三条、第一百零四条、第一百零五条规定之罪的，对直接责任人员，处五年以下有期徒刑、拘役、管制或者剥夺政治权利；情节严重的，处五年以上有期徒刑。

第一百零八条 投敌叛变的，处三年以上十年以下有期徒刑；情节严重或者带领武装部队人员、人民警察、民兵投敌叛变的，处十年以上有期徒刑或者无期徒刑。

第一百零九条 国家机关工作人员在履行公务期间，擅离岗位，叛逃境外或者在境外叛逃，危害中华人民共和国国家安全的，处五年以下有期徒刑、拘役、管制或者剥夺政治权利；情节严重的，处五年以上十年以下有期徒刑。

掌握国家秘密的国家工作人员犯前款罪的，依照前款的规定从重处罚。

第一百一十条 有下列间谍行为之一，危害国家安全的，处十年以上有期徒刑或者无期徒刑；情节较轻的，处三年以上十年以下有期徒刑：

- (一) 参加间谍组织或者接受间谍组织及其代理人的任务的；
- (二) 为敌人指示轰击目标的。

第一百一十一条 为境外的机构、组织、人员窃取、刺探、收买、非法提供国家秘密或者情报的，处五年以上十年以下有期徒刑；情节特别严重的，处十年以上有期徒刑或者无期徒刑；情节较轻的，处五年以下有期徒刑、拘役、管制或者剥夺政治权利。

第一百一十二条 战时供给敌人武器装备、军用物资资敌的，处十年以上有期徒刑或者无期徒刑；情节较轻的，处三年以上十年以下有期徒刑。

第一百一十三条 本章上述危害国家安全罪行中，除第一百零三条第二款、第一百零五条、第一百零七条、第一百零九条外，对国家和人民危害特别严重、

情节特别恶劣的，可以判处死刑。

犯本章之罪的，可以并处没收财产。

第二章 危害公共安全罪

第一百一十四条 放火、决水、爆炸、投毒或者以其他危险方法破坏工厂、矿场、油田、港口、河流、水源、仓库、住宅、森林、农场、谷场、牧场、重要管道、公共建筑物或者其他公私财产，危害公共安全，尚未造成严重后果的，处三年以上十年以下有期徒刑。

第一百一十五条 放火、决水、爆炸、投毒或者以其他危险方法致人重伤、死亡或者使公私财产遭受重大损失的，处十年以上有期徒刑、无期徒刑或者死刑。

过失犯前款罪的，处三年以上七年以下有期徒刑；情节较轻的，处三年以下有期徒刑或者拘役。

第一百一十六条 破坏火车、汽车、电车、船只、航空器，足以使火车、汽车、电车、船只、航空器发生倾覆、毁坏危险，尚未造成严重后果的，处三年以上十年以下有期徒刑。

第一百一十七条 破坏轨道、桥梁、隧道、公路、机场、航道、灯塔、标志或者进行其他破坏活动，足以使火车、汽车、电车、船只、航空器发生倾覆、毁坏危险，尚未造成严重后果的，处三年以上十年以下有期徒刑。

第一百一十八条 破坏电力、燃气或者其他易燃易爆设备，危害公共安全，尚未造成严重后果的，处三年以上十年以下有期徒刑。

第一百一十九条 破坏交通工具、交通设施、电力设备、燃气设备、易燃易爆设备，造成严重后果的，处十年以上有期徒刑、无期徒刑或者死刑。

过失犯前款罪的，处三年以上七年以下有期徒刑；情节较轻的，处三年以下有期徒刑或者拘役。

第一百二十条 组织、领导和积极参加恐怖活动组织的，处三年以上十年以下有期徒刑；其他参加的，处三年以下有期徒刑、拘役或者管制。

犯前款罪并实施杀人、爆炸、绑架等犯罪的，依照数罪并罚的规定处罚。

第一百二十一条 以暴力、胁迫或者其他方法劫持航空器的，处十年以上有期徒刑或者无期徒刑；致人重伤、死亡或者使航空器遭受严重破坏的，处死刑。

第一百二十二条 以暴力、胁迫或者其他方法劫持船只、汽车的，处五年以上十年以下有期徒刑；造成严重后果的，处十年以上有期徒刑或者无期徒刑。

第一百二十三条 对飞行中的航空器上的人员使用暴力，危及飞行安全，尚未造成严重后果的，处五年以下有期徒刑或者拘役；造成严重后果的，处五年以上有期徒刑。

第一百二十四条 破坏广播电视设施、公用电信设施，危害公共安全的，处三年以上七年以下有期徒刑；造成严重后果的，处七年以上有期徒刑。

过失犯前款罪的，处三年以上七年以下有期徒刑；情节较轻的，处三年以下有期徒刑或者拘役。

第一百二十五条 非法制造、买卖、运输、邮寄、储存枪支、弹药、爆炸物的，处三年以上十年以下有期徒刑；情节严重的，处十年以上有期徒刑、无期徒刑或者死刑。

非法买卖、运输核材料的，依照前款的规定处罚。

单位犯前两款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直

接责任人员，依照第一款的规定处罚。

第一百二十六条 依法被指定、确定的枪支制造企业、销售企业，违反枪支管理规定，有下列行为之一的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，处五年以下有期徒刑；情节严重的，处五年以上十年以下有期徒刑；情节特别严重的，处十年以上有期徒刑或者无期徒刑：

（一）以非法销售为目的，超过限额或者不按照规定的品种制造、配售枪支的；

（二）以非法销售为目的，制造无号、重号、假号的枪支的；

（三）非法销售枪支或者在境内销售为出口制造的枪支的。

第一百二十七条 盗窃、抢夺枪支、弹药、爆炸物的，处三年以上十年以下有期徒刑；情节严重的，处十年以上有期徒刑、无期徒刑或者死刑。

抢劫枪支、弹药、爆炸物或者盗窃、抢夺国家机关、军警人员、民兵的枪支、弹药、爆炸物的，处十年以上有期徒刑、无期徒刑或者死刑。

第一百二十八条 违反枪支管理规定，非法持有、私藏枪支、弹药的，处三年以下有期徒刑、拘役或者管制；情节严重的，处三年以上七年以下有期徒刑。

依法配备公务用枪的人员，非法出租、出借枪支的，依照前款的规定处罚。

依法配置枪支的人员，非法出租、出借枪支，造成严重后果的，依照第一款的规定处罚。

单位犯第二款、第三款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照第一款的规定处罚。

第一百二十九条 依法配备公务用枪的人员，丢失枪支不及时报告，造成严重后果的，处三年以下有期徒刑或者拘役。

第一百三十条 非法携带枪支、弹药、管制刀具或者爆炸性、易燃性、放射性、毒害性、腐蚀性物品，进入公共场所或者公共交通工具，危及公共安全，情节严重的，处三年以下有期徒刑、拘役或者管制。

第一百三十一条 航空人员违反规章制度，致使发生重大飞行事故，造成严重后果的，处三年以下有期徒刑或者拘役；造成飞机坠毁或者人员死亡的，处三年以上七年以下有期徒刑。

第一百三十二条 铁路职工违反规章制度，致使发生铁路运营安全事故，造成严重后果的，处三年以下有期徒刑或者拘役；造成特别严重后果的，处三年以上七年以下有期徒刑。

第一百三十三条 违反交通运输管理法规，因而发生重大事故，致人重伤、死亡或者使公私财产遭受重大损失的，处三年以下有期徒刑或者拘役；交通运输肇事后逃逸或者有其他特别恶劣情节的，处三年以上七年以下有期徒刑；因逃逸致人死亡的，处七年以上有期徒刑。

第一百三十四条 工厂、矿山、林场、建筑企业或者其他企业、事业单位的职工，由于不服管理、违反规章制度，或者强令工人违章冒险作业，因而发生重大伤亡事故或者造成其他严重后果的，处三年以下有期徒刑或者拘役；情节特别恶劣的，处三年以上七年以下有期徒刑。

第一百三十五条 工厂、矿山、林场、建筑企业或者其他企业、事业单位的劳动安全设施不符合国家规定，经有关部门或者单位职工提出后，对事故隐患仍不采取措施，因而发生重大伤亡事故或者造成其他严重后果的，对直接责任人员，处三年以下有期徒刑或者拘役；情节特别恶劣的，处三年以上七年以下有期徒刑。

第一百三十六条 违反爆炸性、易燃性、放射性、毒害性、腐蚀性物品的管

理规定，在生产、储存、运输、使用中发生重大事故，造成严重后果的，处三年以下有期徒刑或者拘役；后果特别严重的，处三年以上七年以下有期徒刑。

第一百三十七条 建设单位、设计单位、施工单位、工程监理单位违反国家规定，降低工程质量标准，造成重大安全事故的，对直接责任人员，处五年以下有期徒刑或者拘役，并处罚金；后果特别严重的，处五年以上十年以下有期徒刑，并处罚金。

第一百三十八条 明知校舍或者教育教学设施有危险，而不采取措施或者不及时报告，致使发生重大伤亡事故的，对直接责任人员，处三年以下有期徒刑或者拘役；后果特别严重的，处三年以上七年以下有期徒刑。

第一百三十九条 违反消防管理法规，经消防监督机构通知采取改正措施而拒绝执行，造成严重后果的，对直接责任人员，处三年以下有期徒刑或者拘役；后果特别严重的，处三年以上七年以下有期徒刑。

第三章 破坏社会主义市场经济秩序罪

第一节 生产、销售伪劣商品罪

第一百四十条 生产者、销售者在产品中掺杂、掺假，以假充真，以次充好或者以不合格产品冒充合格产品，销售金额五万元以上不满二十万元的，处二年以下有期徒刑或者拘役，并处或者单处销售金额百分之五十以上二倍以下罚金；销售金额二十万元以上不满五十万元的，处二年以上七年以下有期徒刑，并处销售金额百分之五十以上二倍以下罚金；销售金额五十万元以上不满二百万元的，处七年以上有期徒刑，并处销售金额百分之五十以上二倍以下罚金；销售金额二百万元以上的，处十五年有期徒刑或者无期徒刑，并处销售金额百分之五十以上二倍以下罚金或者没收财产。

第一百四十一条 生产、销售假药，足以严重危害人体健康的，处三年以下有期徒刑或者拘役，并处或者单处销售金额百分之五十以上二倍以下罚金；对人体健康造成严重危害的，处三年以上十年以下有期徒刑，并处销售金额百分之五十以上二倍以下罚金；致人死亡或者对人体健康造成特别严重危害的，处十年以上有期徒刑、无期徒刑或者死刑，并处销售金额百分之五十以上二倍以下罚金或者没收财产。

本条所称假药，是指依照《中华人民共和国药品管理法》的规定属于假药和按假药处理的药品、非药品。

第一百四十二条 生产、销售劣药，对人体健康造成严重危害的，处三年以上十年以下有期徒刑，并处销售金额百分之五十以上二倍以下罚金；后果特别严重的，处十年以上有期徒刑或者无期徒刑，并处销售金额百分之五十以上二倍以下罚金或者没收财产。

本条所称劣药，是指依照《中华人民共和国药品管理法》的规定属于劣药的药品。

第一百四十三条 生产、销售不符合卫生标准的食品，足以造成严重食物中毒事故或者其他严重食源性疾患的，处三年以下有期徒刑或者拘役，并处或者单处销售金额百分之五十以上二倍以下罚金；对人体健康造成严重危害的，处三年以上七年以下有期徒刑，并处销售金额百分之五十以上二倍以下罚金；后果特别严重的，处七年以上有期徒刑或者无期徒刑，并处销售金额百分之五十以上二倍

以下罚金或者没收财产。

第一百四十四条 在生产、销售的食品中掺入有毒、有害的非食品原料的，或者销售明知掺有有毒、有害的非食品原料的食品的，处五年以下有期徒刑或者拘役，并处或者单处销售金额百分之五十以上二倍以下罚金；造成严重食物中毒事故或者其他严重食源性疾患，对人体健康造成严重危害的，处五年以上十年以下有期徒刑，并处销售金额百分之五十以上二倍以下罚金；致人死亡或者对人体健康造成特别严重危害的，依照本法第一百四十一条的规定处罚。

第一百四十五条 生产不符合保障人体健康的国家标准、行业标准的医疗器械、医用卫生材料，或者销售明知是不符合保障人体健康的国家标准、行业标准的医疗器械、医用卫生材料，对人体健康造成严重危害的，处五年以下有期徒刑，并处销售金额百分之五十以上二倍以下罚金；后果特别严重的，处五年以上十年以下有期徒刑，并处销售金额百分之五十以上二倍以下罚金，其中情节特别恶劣的，处十年以上有期徒刑或者无期徒刑，并处销售金额百分之五十以上二倍以下罚金或者没收财产。

第一百四十六条 生产不符合保障人身、财产安全的国家标准、行业标准的电器、压力容器、易燃易爆产品或者其他不符合保障人身、财产安全的国家标准、行业标准的产品的，或者销售明知是以上不符合保障人身、财产安全的国家标准、行业标准的产品的，造成严重后果的，处五年以下有期徒刑，并处销售金额百分之五十以上二倍以下罚金；后果特别严重的，处五年以上有期徒刑，并处销售金额百分之五十以上二倍以下罚金。

第一百四十七条 生产假农药、假兽药、假化肥，销售明知是假的或者失去使用效能的农药、兽药、化肥、种子，或者生产者、销售者以不合格的农药、兽药、化肥、种子冒充合格的农药、兽药、化肥、种子，使生产遭受较大损失的，处三年以下有期徒刑或者拘役，并处或者单处销售金额百分之五十以上二倍以下罚金；使生产遭受重大损失的，处三年以上七年以下有期徒刑，并处销售金额百分之五十以上二倍以下罚金；使生产遭受特别重大损失的，处七年以上有期徒刑或者无期徒刑，并处销售金额百分之五十以上二倍以下罚金或者没收财产。

第一百四十八条 生产不符合卫生标准的化妆品，或者销售明知是不符合卫生标准的化妆品，造成严重后果的，处三年以下有期徒刑或者拘役，并处或者单处销售金额百分之五十以上二倍以下罚金。

第一百四十九条 生产、销售本节第一百四十一条至第一百四十八条所列产品，不构成各该条规定的犯罪，但是销售金额在五万元以上的，依照本节第一百四十条的规定定罪处罚。

生产、销售本节第一百四十一条至第一百四十八条所列产品，构成各该条规定的犯罪，同时又构成本节第一百四十条规定之罪的，依照处罚较重的规定定罪处罚。

第一百五十条 单位犯本节第一百四十条至第一百四十八条规定之罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照各该条的规定处罚。

第二节 走私罪

第一百五十一条 走私武器、弹药、核材料或者伪造的货币的，处七年以上有期徒刑，并处罚金或者没收财产；情节较轻的，处三年以上七年以下有期徒刑，

并处罚金。

走私国家禁止出口的文物、黄金、白银和其他贵重金属或者国家禁止进出口的珍贵动物及其制品的，处五年以上有期徒刑，并处罚金；情节较轻的，处五年以下有期徒刑，并处罚金。

走私国家禁止进出口的珍稀植物及其制品的，处五年以下有期徒刑，并处或者单处罚金；情节严重的，处五年以上有期徒刑，并处罚金。

犯第一款、第二款罪，情节特别严重的，处无期徒刑或者死刑，并处没收财产。

单位犯本条规定之罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照本条各款的规定处罚。

第一百五十二条 以牟利或者传播为目的，走私淫秽的影片、录像带、录音带、图片、书刊或者其他淫秽物品的，处三年以上十年以下有期徒刑，并处罚金；情节严重的，处十年以上有期徒刑或者无期徒刑，并处罚金或者没收财产；情节较轻的，处三年以下有期徒刑、拘役或者管制，并处罚金。

单位犯前款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照前款的规定处罚。

第一百五十三条 走私本法第一百五十一条、第一百五十二条、第三百四十七条规定以外的货物、物品的，根据情节轻重，分别依照下列规定处罚：

（一）走私货物、物品偷逃应缴税额在五十万元以上的，处十年以上有期徒刑或者无期徒刑，并处偷逃应缴税额一倍以上五倍以下罚金或者没收财产；情节特别严重的，依照本法第一百五十一条第四款的规定处罚。

（二）走私货物、物品偷逃应缴税额在十五万元以上不满五十万元的，处三年以上十年以下有期徒刑，并处偷逃应缴税额一倍以上五倍以下罚金；情节特别严重的，处十年以上有期徒刑或者无期徒刑，并处偷逃应缴税额一倍以上五倍以下罚金或者没收财产。

（三）走私货物、物品偷逃应缴税额在五万元以上不满十五万元的，处三年以下有期徒刑或者拘役，并处偷逃应缴税额一倍以上五倍以下罚金。

单位犯前款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，处三年以下有期徒刑或者拘役；情节严重的，处三年以上十年以下有期徒刑；情节特别严重的，处十年以上有期徒刑。

对多次走私未经处理的，按照累计走私货物、物品的偷逃应缴税额处罚。

第一百五十四条 下列走私行为，根据本节规定构成犯罪的，依照本法第一百五十三条的规定定罪处罚：

（一）未经海关许可并且未补缴应缴税额，擅自将批准进口的来料加工、来件装配、补偿贸易的原材料、零件、制成品、设备等保税货物，在境内销售牟利的；

（二）未经海关许可并且未补缴应缴税额，擅自将特定减税、免税进口的货物、物品，在境内销售牟利的。

第一百五十五条 下列行为，以走私罪论处，依照本节的有关规定处罚：

（一）直接向走私人非法收购国家禁止进口物品的，或者直接向走私人非法收购走私进口的其他货物、物品，数额较大的；

（二）在内海、领海运输、收购、贩卖国家禁止进出口物品的，或者运输、收购、贩卖国家限制进出口货物、物品，数额较大，没有合法证明的；

（三）逃避海关监管将境外固体废物运输进境的。

第一百五十六条 与走私罪犯通谋，为其提供贷款、资金、帐号、发票、证明，或者为其提供运输、保管、邮寄或者其他方便的，以走私罪的共犯论处。

第一百五十七条 武装掩护走私的，依照本法第一百五十一条第一款、第四款的规定从重处罚。

以暴力、威胁方法抗拒缉私的，以走私罪和本法第二百七十七条规定的阻碍国家机关工作人员依法执行职务罪，依照数罪并罚的规定处罚。

第三节 妨害对公司、企业的管理秩序罪

第一百五十八条 申请公司登记使用虚假证明文件或者采取其他欺诈手段虚报注册资本，欺骗公司登记主管部门，取得公司登记，虚报注册资本数额巨大、后果严重或者有其他严重情节的，处三年以下有期徒刑或者拘役，并处或者单处虚报注册资本金额百分之一以上百分之五以下罚金。

单位犯前款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，处三年以下有期徒刑或者拘役。

第一百五十九条 公司发起人、股东违反公司法的规定未交付货币、实物或者未转移财产权，虚假出资，或者在公司成立后又抽逃其出资，数额巨大、后果严重或者有其他严重情节的，处五年以下有期徒刑或者拘役，并处或者单处虚假出资金额或者抽逃出资金额百分之二以上百分之十以下罚金。

单位犯前款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，处五年以下有期徒刑或者拘役。

第一百六十条 在招股说明书、认股书、公司、企业债券募集办法中隐瞒重要事实或者编造重大虚假内容，发行股票或者公司、企业债券，数额巨大、后果严重或者有其他严重情节的，处五年以下有期徒刑或者拘役，并处或者单处非法募集资金金额百分之一以上百分之五以下罚金。

单位犯前款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，处五年以下有期徒刑或者拘役。

第一百六十一条 公司向股东和社会公众提供虚假的或者隐瞒重要事实的财务会计报告，严重损害股东或者其他入利益的，对其直接负责的主管人员和其他直接责任人员，处三年以下有期徒刑或者拘役，并处或者单处二万元以上二十万元以下罚金。

第一百六十二条 公司、企业进行清算时，隐匿财产，对资产负债表或者财产清单作虚伪记载或者在未清偿债务前分配公司、企业财产，严重损害债权人或者其他入利益的，对其直接负责的主管人员和其他直接责任人员，处五年以下有期徒刑或者拘役，并处或者单处二万元以上二十万元以下罚金。

第一百六十三条 公司、企业的工作人员利用职务上的便利，索取他人财物或者非法收受他人财物，为他人谋取利益，数额较大的，处五年以下有期徒刑或者拘役；数额巨大的，处五年以上有期徒刑，可以并处没收财产。

公司、企业的工作人员在经济往来中，违反国家规定，收受各种名义的回扣、手续费，归个人所有的，依照前款的规定处罚。

国有公司、企业中从事公务的人员和国有公司、企业委派到非国有公司、企业从事公务的人员有前两款行为的，依照本法第三百八十五条、第三百八十六条的规定定罪处罚。

第一百六十四条 为谋取不正当利益，给予公司、企业的工作人员以财物，

数额较大的，处三年以下有期徒刑或者拘役；数额巨大的，处三年以上十年以下有期徒刑，并处罚金。

单位犯前款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照前款的规定处罚。

行贿人在被追诉前主动交待行贿行为的，可以减轻处罚或者免除处罚。

第一百六十五条 国有公司、企业的董事、经理利用职务便利，自己经营或者为他人经营与其所任职公司、企业同类的营业，获取非法利益，数额巨大的，处三年以下有期徒刑或者拘役，并处或者单处罚金；数额特别巨大的，处三年以上七年以下有期徒刑，并处罚金。

第一百六十六条 国有公司、企业、事业单位的工作人员，利用职务便利，有下列情形之一，使国家利益遭受重大损失的，处三年以下有期徒刑或者拘役，并处或者单处罚金；致使国家利益遭受特别重大损失的，处三年以上七年以下有期徒刑，并处罚金：

（一）将本单位的盈利业务交由自己的亲友进行经营的；

（二）以明显高于市场的价格向自己的亲友经营管理的单位采购商品或者以明显低于市场的价格向自己的亲友经营管理的单位销售商品的；

（三）向自己的亲友经营管理的单位采购不合格商品的。

第一百六十七条 国有公司、企业、事业单位直接负责的主管人员，在签订、履行合同过程中，因严重不负责任被诈骗，致使国家利益遭受重大损失的，处三年以下有期徒刑或者拘役；致使国家利益遭受特别重大损失的，处三年以上七年以下有期徒刑。

第一百六十八条 国有公司、企业直接负责的主管人员，徇私舞弊，造成国有公司、企业破产或者严重亏损，致使国家利益遭受重大损失的，处三年以下有期徒刑或者拘役。

第一百六十九条 国有公司、企业或者其上级主管部门直接负责的主管人员，徇私舞弊，将国有资产低价折股或者低价出售，致使国家利益遭受重大损失的，处三年以下有期徒刑或者拘役；致使国家利益遭受特别重大损失的，处三年以上七年以下有期徒刑。

第四节 破坏金融管理秩序罪

第一百七十条 伪造货币的，处三年以上十年以下有期徒刑，并处五万元以上五十万元以下罚金；有下列情形之一的，处十年以上有期徒刑、无期徒刑或者死刑，并处五万元以上五十万元以下罚金或者没收财产：

（一）伪造货币集团的首要分子；

（二）伪造货币数额特别巨大的；

（三）有其他特别严重情节的。

第一百七十一条 出售、购买伪造的货币或者明知是伪造的货币而运输，数额较大的，处三年以下有期徒刑或者拘役，并处二万元以上二十万元以下罚金；数额巨大的，处三年以上十年以下有期徒刑，并处五万元以上五十万元以下罚金；数额特别巨大的，处十年以上有期徒刑或者无期徒刑，并处五万元以上五十万元以下罚金或者没收财产。

银行或者其他金融机构的工作人员购买伪造的货币或者利用职务上的便利，以伪造的货币换取货币的，处三年以上十年以下有期徒刑，并处二万元以上二十

万元以下罚金；数额巨大或者有其他严重情节的，处十年以上有期徒刑或者无期徒刑，并处二万元以上二十万元以下罚金或者没收财产；情节较轻的，处三年以下有期徒刑或者拘役，并处或者单处一万元以上十万元以下罚金。

伪造货币并出售或者运输伪造的货币的，依照本法第一百七十条的规定定罪从重处罚。

第一百七十二条 明知是伪造的货币而持有、使用，数额较大的，处三年以下有期徒刑或者拘役，并处或者单处一万元以上十万元以下罚金；数额巨大的，处三年以上十年以下有期徒刑，并处二万元以上二十万元以下罚金；数额特别巨大的，处十年以上有期徒刑，并处五万元以上五十万元以下罚金或者没收财产。

第一百七十三条 变造货币，数额较大的，处三年以下有期徒刑或者拘役，并处或者单处一万元以上十万元以下罚金；数额巨大的，处三年以上十年以下有期徒刑，并处二万元以上二十万元以下罚金。

第一百七十四条 未经中国人民银行批准，擅自设立商业银行或者其他金融机构的，处三年以下有期徒刑或者拘役，并处或者单处二万元以上二十万元以下罚金；情节严重的，处三年以上十年以下有期徒刑，并处五万元以上五十万元以下罚金。

伪造、变造、转让商业银行或者其他金融机构经营许可证的，依照前款的规定处罚。

单位犯前两款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照第一款的规定处罚。

第一百七十五条 以转贷牟利为目的，套取金融机构信贷资金高利转贷他人，违法所得数额较大的，处三年以下有期徒刑或者拘役，并处违法所得一倍以上五倍以下罚金；数额巨大的，处三年以上七年以下有期徒刑，并处违法所得一倍以上五倍以下罚金。

单位犯前款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，处三年以下有期徒刑或者拘役。

第一百七十六条 非法吸收公众存款或者变相吸收公众存款，扰乱金融秩序的，处三年以下有期徒刑或者拘役，并处或者单处二万元以上二十万元以下罚金；数额巨大或者有其他严重情节的，处三年以上十年以下有期徒刑，并处五万元以上五十万元以下罚金。

单位犯前款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照前款的规定处罚。

第一百七十七条 有下列情形之一，伪造、变造金融票证的，处五年以下有期徒刑或者拘役，并处或者单处二万元以上二十万元以下罚金；情节严重的，处五年以上十年以下有期徒刑，并处五万元以上五十万元以下罚金；情节特别严重的，处十年以上有期徒刑或者无期徒刑，并处五万元以上五十万元以下罚金或者没收财产：

- (一) 伪造、变造汇票、本票、支票的；
- (二) 伪造、变造委托收款凭证、汇款凭证、银行存单等其他银行结算凭证的；
- (三) 伪造、变造信用证或者附随的单据、文件的；
- (四) 伪造信用卡的。

单位犯前款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照前款的规定处罚。

第一百七十八条 伪造、变造国库券或者国家发行的其他有价证券，数额较大的，处三年以下有期徒刑或者拘役，并处或者单处二万元以上二十万元以下罚金；数额巨大的，处三年以上十年以下有期徒刑，并处五万元以上五十万元以下罚金；数额特别巨大的，处十年以上有期徒刑或者无期徒刑，并处五万元以上五十万元以下罚金或者没收财产。

伪造、变造股票或者公司、企业债券，数额较大的，处三年以下有期徒刑或者拘役，并处或者单处一万元以上十万元以下罚金；数额巨大的，处三年以上十年以下有期徒刑，并处二万元以上二十万元以下罚金。

单位犯前两款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照前两款的规定处罚。

第一百七十九条 未经国家有关主管部门批准，擅自发行股票或者公司、企业债券，数额巨大、后果严重或者有其他严重情节的，处五年以下有期徒刑或者拘役，并处或者单处非法募集资金金额百分之一以上百分之五以下罚金。

单位犯前款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，处五年以下有期徒刑或者拘役。

第一百八十条 证券交易内幕信息的知情人员或者非法获取证券交易内幕信息的人员，在涉及证券的发行、交易或者其他对证券的价格有重大影响的信息尚未公开前，买入或者卖出该证券，或者泄露该信息，情节严重的，处五年以下有期徒刑或者拘役，并处或者单处违法所得一倍以上五倍以下罚金；情节特别严重的，处五年以上十年以下有期徒刑，并处违法所得一倍以上五倍以下罚金。

单位犯前款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，处五年以下有期徒刑或者拘役。

内幕信息的范围，依照法律、行政法规的规定确定。

知情人员的范围，依照法律、行政法规的规定确定。

第一百八十一条 编造并且传播影响证券交易的虚假信息，扰乱证券交易市场，造成严重后果的，处五年以下有期徒刑或者拘役，并处或者单处一万元以上十万元以下罚金。

证券交易所、证券公司的从业人员，证券业协会或者证券管理部门的工作人员，故意提供虚假信息或者伪造、变造、销毁交易记录，诱骗投资者买卖证券，造成严重后果的，处五年以下有期徒刑或者拘役，并处或者单处一万元以上十万元以下罚金；情节特别恶劣的，处五年以上十年以下有期徒刑，并处二万元以上二十万元以下罚金。

单位犯前两款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，处五年以下有期徒刑或者拘役。

第一百八十二条 有下列情形之一，操纵证券交易价格，获取不正当利益或者转嫁风险，情节严重的，处五年以下有期徒刑或者拘役，并处或者单处违法所得一倍以上五倍以下罚金：

（一）单独或者合谋，集中资金优势、持股优势或者利用信息优势联合或者连续买卖，操纵证券交易价格的；

（二）与他人串通，以事先约定的时间、价格和方式相互进行证券交易或者相互买卖并不持有的证券，影响证券交易价格或者证券交易量的；

（三）以自己为交易对象，进行不转移证券所有权的自买自卖，影响证券交易价格或者证券交易量的；

（四）以其他方法操纵证券交易价格的。

单位犯前款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，处五年以下有期徒刑或者拘役。

第一百八十三条 保险公司的工作人员利用职务上的便利，故意编造未曾发生的保险事故进行虚假理赔，骗取保险金归自己所有的，依照本法第二百七十一条的规定定罪处罚。

国有保险公司工作人员和国有保险公司委派到非国有保险公司从事公务的人员有前款行为的，依照本法第三百八十二条、第三百八十三条的规定定罪处罚。

第一百八十四条 银行或者其他金融机构的工作人员在金融业务活动中索取他人财物或者非法收受他人财物，为他人谋取利益的，或者违反国家规定，收受各种名义的回扣、手续费，归个人所有的，依照本法第一百六十三条的规定定罪处罚。

国有金融机构工作人员和国有金融机构委派到非国有金融机构从事公务的人员有前款行为的，依照本法第三百八十五条、第三百八十六条的规定定罪处罚。

第一百八十五条 银行或者其他金融机构的工作人员利用职务上的便利，挪用本单位或者客户资金的，依照本法第二百七十二的规定定罪处罚。

国有金融机构工作人员和国有金融机构委派到非国有金融机构从事公务的人员有前款行为的，依照本法第三百八十四条的规定定罪处罚。

第一百八十六条 银行或者其他金融机构的工作人员违反法律、行政法规规定，向关系人发放信用贷款或者发放担保贷款的条件优于其他借款人同类贷款的条件，造成较大损失的，处五年以下有期徒刑或者拘役，并处一万元以上十万元以下罚金；造成重大损失的，处五年以上有期徒刑，并处二万元以上二十万元以下罚金。

银行或者其他金融机构的工作人员违反法律、行政法规规定，向关系人以外的其他人发放贷款，造成重大损失的，处五年以下有期徒刑或者拘役，并处一万元以上十万元以下罚金；造成特别重大损失的，处五年以上有期徒刑，并处二万元以上二十万元以下罚金。

单位犯前两款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照前两款的规定处罚。

关系人的范围，依照《中华人民共和国商业银行法》和有关金融法规确定。

第一百八十七条 银行或者其他金融机构的工作人员以牟利为目的，采取吸收客户资金不入账的方式，将资金用于非法拆借、发放贷款，造成重大损失的，处五年以下有期徒刑或者拘役，并处二万元以上二十万元以下罚金；造成特别重大损失的，处五年以上有期徒刑，并处五万元以上五十万元以下罚金。

单位犯前款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照前款的规定处罚。

第一百八十八条 银行或者其他金融机构的工作人员违反规定，为他人出具信用证或者其他保函、票据、存单、资信证明，造成较大损失的，处五年以下有期徒刑或者拘役；造成重大损失的，处五年以上有期徒刑。

单位犯前款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照前款的规定处罚。

第一百八十九条 银行或者其他金融机构的工作人员在票据业务中，对违反票据法规定的票据予以承兑、付款或者保证，造成重大损失的，处五年以下有期徒刑或者拘役；造成特别重大损失的，处五年以上有期徒刑。

单位犯前款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接

责任人员，依照前款的规定处罚。

第一百九十条 国有公司、企业或者其他国有单位，违反国家规定，擅自将外汇存放境外，或者将境内的外汇非法转移到境外，情节严重的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，处五年以下有期徒刑或者拘役。

第一百九十一条 明知是毒品犯罪、黑社会性质的组织犯罪、走私犯罪的违法所得及其产生的收益，为掩饰、隐瞒其来源和性质，有下列行为之一的，没收实施以上犯罪的违法所得及其产生的收益，处五年以下有期徒刑或者拘役，并处或者单处洗钱数额百分之五以上百分之二十以下罚金；情节严重的，处五年以上十年以下有期徒刑，并处洗钱数额百分之五以上百分之二十以下罚金：

- (一) 提供资金账户的；
- (二) 协助将财产转换为现金或者金融票据的；
- (三) 通过转账或者其他结算方式协助资金转移的；
- (四) 协助将资金汇往境外的；
- (五) 以其他方法掩饰、隐瞒犯罪的违法所得及其收益的性质和来源的。

单位犯前款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，处五年以下有期徒刑或者拘役。

第五节 金融诈骗罪

第一百九十二条 以非法占有为目的，使用诈骗方法非法集资，数额较大的，处五年以下有期徒刑或者拘役，并处二万元以上二十万元以下罚金；数额巨大或者有其他严重情节的，处五年以上十年以下有期徒刑，并处五万元以上五十万元以下罚金；数额特别巨大或者有其他特别严重情节的，处十年以上有期徒刑或者无期徒刑，并处五万元以上五十万元以下罚金或者没收财产。

第一百九十三条 有下列情形之一，以非法占有为目的，诈骗银行或者其他金融机构的贷款，数额较大的，处五年以下有期徒刑或者拘役，并处二万元以上二十万元以下罚金；数额巨大或者有其他严重情节的，处五年以上十年以下有期徒刑，并处五万元以上五十万元以下罚金；数额特别巨大或者有其他特别严重情节的，处十年以上有期徒刑或者无期徒刑，并处五万元以上五十万元以下罚金或者没收财产：

- (一) 编造引进资金、项目等虚假理由的；
- (二) 使用虚假的经济合同的；
- (三) 使用虚假的证明文件的；
- (四) 使用虚假的产权证明作担保或者超出抵押物价值重复担保的；
- (五) 以其他方法诈骗贷款的。

第一百九十四条 有下列情形之一，进行金融票据诈骗活动，数额较大的，处五年以下有期徒刑或者拘役，并处二万元以上二十万元以下罚金；数额巨大或者有其他严重情节的，处五年以上十年以下有期徒刑，并处五万元以上五十万元以下罚金；数额特别巨大或者有其他特别严重情节的，处十年以上有期徒刑或者无期徒刑，并处五万元以上五十万元以下罚金或者没收财产：

- (一) 明知是伪造、变造的汇票、本票、支票而使用的；
- (二) 明知是作废的汇票、本票、支票而使用的；
- (三) 冒用他人的汇票、本票、支票的；

(四) 签发空头支票或者与其预留印鉴不符的支票，骗取财物的；

(五) 汇票、本票的出票人签发无资金保证的汇票、本票或者在出票时作虚假记载，骗取财物的。

使用伪造、变造的委托收款凭证、汇款凭证、银行存单等其他银行结算凭证的，依照前款的规定处罚。

第一百九十五条 有下列情形之一，进行信用证诈骗活动的，处五年以下有期徒刑或者拘役，并处二万元以上二十万元以下罚金；数额巨大或者有其他严重情节的，处五年以上十年以下有期徒刑，并处五万元以上五十万元以下罚金；数额特别巨大或者有其他特别严重情节的，处十年以上有期徒刑或者无期徒刑，并处五万元以上五十万元以下罚金或者没收财产：

(一) 使用伪造、变造的信用证或者附随的单据、文件的；

(二) 使用作废的信用证的；

(三) 骗取信用证的；

(四) 以其他方法进行信用证诈骗活动的。

第一百九十六条 有下列情形之一，进行信用卡诈骗活动，数额较大的，处五年以下有期徒刑或者拘役，并处二万元以上二十万元以下罚金；数额巨大或者有其他严重情节的，处五年以上十年以下有期徒刑，并处五万元以上五十万元以下罚金；数额特别巨大或者有其他特别严重情节的，处十年以上有期徒刑或者无期徒刑，并处五万元以上五十万元以下罚金或者没收财产：

(一) 使用伪造的信用卡的；

(二) 使用作废的信用卡的；

(三) 冒用他人信用卡的；

(四) 恶意透支的。

前款所称恶意透支，是指持卡人以非法占有为目的，超过规定限额或者规定期限透支，并且经发卡银行催收后仍不归还的行为。

盗窃信用卡并使用的，依照本法第二百六十四条的规定定罪处罚。

第一百九十七条 使用伪造、变造的国库券或者国家发行的其他有价证券，进行诈骗活动，数额较大的，处五年以下有期徒刑或者拘役，并处二万元以上二十万元以下罚金；数额巨大或者有其他严重情节的，处五年以上十年以下有期徒刑，并处五万元以上五十万元以下罚金；数额特别巨大或者有其他特别严重情节的，处十年以上有期徒刑或者无期徒刑，并处五万元以上五十万元以下罚金或者没收财产。

第一百九十八条 有下列情形之一，进行保险诈骗活动，数额较大的，处五年以下有期徒刑或者拘役，并处一万元以上十万元以下罚金；数额巨大或者有其他严重情节的，处五年以上十年以下有期徒刑，并处二万元以上二十万元以下罚金；数额特别巨大或者有其他特别严重情节的，处十年以上有期徒刑，并处二万元以上二十万元以下罚金或者没收财产：

(一) 投保人故意虚构保险标的，骗取保险金的；

(二) 投保人、被保险人或者受益人对发生的保险事故编造虚假的原因或者夸大损失的程度，骗取保险金的；

(三) 投保人、被保险人或者受益人编造未曾发生的保险事故，骗取保险金的；

(四) 投保人、被保险人故意造成财产损失的保险事故，骗取保险金的；

(五) 投保人、受益人故意造成被保险人死亡、伤残或者疾病，骗取保险金

的。

有前款第四项、第五项所列行为，同时构成其他犯罪的，依照数罪并罚的规定处罚。

单位犯第一款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，处五年以下有期徒刑或者拘役；数额巨大或者有其他严重情节的，处五年以上十年以下有期徒刑；数额特别巨大或者有其他特别严重情节的，处十年以上有期徒刑。

保险事故的鉴定人、证明人、财产评估人故意提供虚假的证明文件，为他人诈骗提供条件的，以保险诈骗的共犯论处。

第一百九十九条 犯本节第一百九十二条、第一百九十四条、第一百九十五条规定之罪，数额特别巨大并且给国家和人民利益造成特别重大损失的，处无期徒刑或者死刑，并处没收财产。

第二百条 单位犯本节第一百九十二条、第一百九十四条、第一百九十五条规定之罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，处五年以下有期徒刑或者拘役；数额巨大或者有其他严重情节的，处五年以上十年以下有期徒刑；数额特别巨大或者有其他特别严重情节的，处十年以上有期徒刑或者无期徒刑。

第六节 危害税收征管罪

第二百零一条 纳税人采取伪造、变造、隐匿、擅自销毁帐簿、记帐凭证，在帐簿上多列支出或者不列、少列收入，经税务机关通知申报而拒不申报或者进行虚假的纳税申报的手段，不缴或者少缴应纳税款，偷税数额占应纳税额的百分之十以上不满百分之三十并且偷税数额在一万元以上不满十万元的，或者因偷税被税务机关给予二次行政处罚又偷税的，处三年以下有期徒刑或者拘役，并处偷税数额一倍以上五倍以下罚金；偷税数额占应纳税额的百分之三十以上并且偷税数额在十万元以上的，处三年以上七年以下有期徒刑，并处偷税数额一倍以上五倍以下罚金。

扣缴义务人采取前款所列手段，不缴或者少缴已扣、已收税款，数额占应缴税额的百分之十以上并且数额在一万元以上的，依照前款的规定处罚。

对多次犯有前两款行为，未经处理的，按照累计数额计算。

第二百零二条 以暴力、威胁方法拒不缴纳税款的，处三年以下有期徒刑或者拘役，并处拒缴税款一倍以上五倍以下罚金；情节严重的，处三年以上七年以下有期徒刑，并处拒缴税款一倍以上五倍以下罚金。

第二百零三条 纳税人欠缴应纳税款，采取转移或者隐匿财产的手段，致使税务机关无法追缴欠缴的税款，数额在一万元以上不满十万元的，处三年以下有期徒刑或者拘役，并处或者单处欠缴税款一倍以上五倍以下罚金；数额在十万元以上的，处三年以上七年以下有期徒刑，并处欠缴税款一倍以上五倍以下罚金。

第二百零四条 以假报出口或者其他欺骗手段，骗取国家出口退税款，数额较大的，处五年以下有期徒刑或者拘役，并处骗取税款一倍以上五倍以下罚金；数额巨大或者有其他严重情节的，处五年以上十年以下有期徒刑，并处骗取税款一倍以上五倍以下罚金；数额特别巨大或者有其他特别严重情节的，处十年以上有期徒刑或者无期徒刑，并处骗取税款一倍以上五倍以下罚金或者没收财产。

纳税人缴纳税款后，采取前款规定的欺骗方法，骗取所缴纳的税款的，依照

本法第二百零一条的规定定罪处罚；骗取税款超过所缴纳的税款部分，依照前款的规定处罚。

第二百零五条 虚开增值税专用发票或者虚开用于骗取出口退税、抵扣税款的其他发票的，处三年以下有期徒刑或者拘役，并处二万元以上二十万元以下罚金；虚开的税款数额较大或者有其他严重情节的，处三年以上十年以下有期徒刑，并处五万元以上五十万元以下罚金；虚开的税款数额巨大或者有其他特别严重情节的，处十年以上有期徒刑或者无期徒刑，并处五万元以上五十万元以下罚金或者没收财产。

有前款行为骗取国家税款，数额特别巨大，情节特别严重，给国家利益造成特别重大损失的，处无期徒刑或者死刑，并处没收财产。

单位犯本条规定之罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，处三年以下有期徒刑或者拘役；虚开的税款数额较大或者有其他严重情节的，处三年以上十年以下有期徒刑；虚开的税款数额巨大或者有其他特别严重情节的，处十年以上有期徒刑或者无期徒刑。

虚开增值税专用发票或者虚开用于骗取出口退税、抵扣税款的其他发票，是指为他人虚开、为自己虚开、让他人虚开、介绍他人虚开行为之一的。

第二百零六条 伪造或者出售伪造的增值税专用发票的，处三年以下有期徒刑、拘役或者管制，并处二万元以上二十万元以下罚金；数量较大或者有其他严重情节的，处三年以上十年以下有期徒刑，并处五万元以上五十万元以下罚金；数量巨大或者有其他特别严重情节的，处十年以上有期徒刑或者无期徒刑，并处五万元以上五十万元以下罚金或者没收财产。

伪造并出售伪造的增值税专用发票，数量特别巨大，情节特别严重，严重破坏经济秩序的，处无期徒刑或者死刑，并处没收财产。

单位犯本条规定之罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，处三年以下有期徒刑、拘役或者管制；数量较大或者有其他严重情节的，处三年以上十年以下有期徒刑；数量巨大或者有其他特别严重情节的，处十年以上有期徒刑或者无期徒刑。

第二百零七条 非法出售增值税专用发票的，处三年以下有期徒刑、拘役或者管制，并处二万元以上二十万元以下罚金；数量较大的，处三年以上十年以下有期徒刑，并处五万元以上五十万元以下罚金；数量巨大的，处十年以上有期徒刑或者无期徒刑，并处五万元以上五十万元以下罚金或者没收财产。

第二百零八条 非法购买增值税专用发票或者购买伪造的增值税专用发票的，处五年以下有期徒刑或者拘役，并处或者单处二万元以上二十万元以下罚金。

非法购买增值税专用发票或者购买伪造的增值税专用发票又虚开或者出售的，分别依照本法第二百零五条、第二百零六条、第二百零七条的规定定罪处罚。

第二百零九条 伪造、擅自制造或者出售伪造、擅自制造的可以用于骗取出口退税、抵扣税款的其他发票的，处三年以下有期徒刑、拘役或者管制，并处二万元以上二十万元以下罚金；数量巨大的，处三年以上七年以下有期徒刑，并处五万元以上五十万元以下罚金；数量特别巨大的，处七年以上有期徒刑，并处五万元以上五十万元以下罚金或者没收财产。

伪造、擅自制造或者出售伪造、擅自制造的前款规定以外的其他发票的，处二以下有期徒刑、拘役或者管制，并处或者单处一万元以上五万元以下罚金；情节严重的，处二年以上七年以下有期徒刑，并处五万元以上五十万元以下罚金。

非法出售可以用于骗取出口退税、抵扣税款的其他发票的，依照第一款的规

定处罚。

非法出售第三款规定以外的其他发票的，依照第二款的规定处罚。

第二百一十条 盗窃增值税专用发票或者可以用于骗取出口退税、抵扣税款的其他发票的，依照本法第二百六十四条的规定定罪处罚。

使用欺骗手段骗取增值税专用发票或者可以用于骗取出口退税、抵扣税款的其他发票的，依照本法第二百六十六条的规定定罪处罚。

第二百一十一条 单位犯本节第二百零一条、第二百零三条、第二百零四条、第二百零七条、第二百零八条、第二百零九条规定之罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照各该条的规定处罚。

第二百一十二条 犯本节第二百零一条至第二百零五条规定之罪，被判处罚金、没收财产的，在执行前，应当先由税务机关追缴税款和所骗取的出口退税款。

第七节 侵犯知识产权罪

第二百一十三条 未经注册商标所有人许可，在同一种商品上使用与其注册商标相同的商标，情节严重的，处三年以下有期徒刑或者拘役，并处或者单处罚金；情节特别严重的，处三年以上七年以下有期徒刑，并处罚金。

第二百一十四条 销售明知是假冒注册商标的商品，销售金额数额较大的，处三年以下有期徒刑或者拘役，并处或者单处罚金；销售金额数额巨大的，处三年以上七年以下有期徒刑，并处罚金。

第二百一十五条 伪造、擅自制造他人注册商标标识或者销售伪造、擅自制造的注册商标标识，情节严重的，处三年以下有期徒刑、拘役或者管制，并处或者单处罚金；情节特别严重的，处三年以上七年以下有期徒刑，并处罚金。

第二百一十六条 假冒他人专利，情节严重的，处三年以下有期徒刑或者拘役，并处或者单处罚金。

第二百一十七条 以营利为目的，有下列侵犯著作权情形之一，违法所得数额较大或者有其他严重情节的，处三年以下有期徒刑或者拘役，并处或者单处罚金；违法所得数额巨大或者有其他特别严重情节的，处三年以上七年以下有期徒刑，并处罚金：

（一）未经著作权人许可，复制发行其文字作品、音乐、电影、电视、录像作品、计算机软件及其他作品的；

（二）出版他人享有专有出版权的图书的；

（三）未经录音录像制作者许可，复制发行其制作的录音录像的；

（四）制作、出售假冒他人署名的美术作品的。

第二百一十八条 以营利为目的，销售明知是本法第二百一十七条规定的侵权复制品，违法所得数额巨大的，处三年以下有期徒刑或者拘役，并处或者单处罚金。

第二百一十九条 有下列侵犯商业秘密行为之一，给商业秘密的权利人造成重大损失的，处三年以下有期徒刑或者拘役，并处或者单处罚金；造成特别严重后果的，处三年以上七年以下有期徒刑，并处罚金：

（一）以盗窃、利诱、胁迫或者其他不正当手段获取权利人的商业秘密的；

（二）披露、使用或者允许他人使用以前项手段获取的权利人的商业秘密的；

（三）违反约定或者违反权利人有关保守商业秘密的要求，披露、使用或者允许他人使用其所掌握的商业秘密的。

明知或者应知前款所列行为，获取、使用或者披露他人的商业秘密的，以侵犯商业秘密论。

本条所称商业秘密，是指不为公众所知悉，能为权利人带来经济利益，具有实用性并经权利人采取保密措施的技术信息和经营信息。

本条所称权利人，是指商业秘密的所有人和经商业秘密所有人许可的商业秘密使用人。

第二百二十条 单位犯本节第二百一十三条至第二百一十九条规定之罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照本节各该条的规定处罚。

第八节 扰乱市场秩序罪

第二百二十一条 捏造并散布虚伪事实，损害他人的商业信誉、商品声誉，给他人造成重大损失或者有其他严重情节的，处二年以下有期徒刑或者拘役，并处或者单处罚金。

第二百二十二条 广告主、广告经营者、广告发布者违反国家规定，利用广告对商品或者服务作虚假宣传，情节严重的，处二年以下有期徒刑或者拘役，并处或者单处罚金。

第二百二十三条 投标人相互串通投标报价，损害招标人或者其他投标人利益，情节严重的，处三年以下有期徒刑或者拘役，并处或者单处罚金。

投标人与招标人串通投标，损害国家、集体、公民的合法利益的，依照前款的规定处罚。

第二百二十四条 有下列情形之一，以非法占有为目的，在签订、履行合同过程中，骗取对方当事人财物，数额较大的，处三年以下有期徒刑或者拘役，并处或者单处罚金；数额巨大或者有其他严重情节的，处三年以上十年以下有期徒刑，并处罚金；数额特别巨大或者有其他特别严重情节的，处十年以上有期徒刑或者无期徒刑，并处罚金或者没收财产：

- (一) 以虚构的单位或者冒用他人名义签订合同的；
- (二) 以伪造、变造、作废的票据或者其他虚假的产权证明作担保的；
- (三) 没有实际履行能力，以先履行小额合同或者部分履行合同的方法，诱骗对方当事人继续签订和履行合同的；
- (四) 收受对方当事人给付的货物、货款、预付款或者担保财产后逃匿的；
- (五) 以其他方法骗取对方当事人财物的。

第二百二十五条 违反国家规定，有下列非法经营行为之一，扰乱市场秩序，情节严重的，处五年以下有期徒刑或者拘役，并处或者单处违法所得一倍以上五倍以下罚金；情节特别严重的，处五年以上有期徒刑，并处违法所得一倍以上五倍以下罚金或者没收财产：

- (一) 未经许可经营法律、行政法规规定的专营、专卖物品或者其他限制买卖的物品的；
- (二) 买卖进出口许可证、进出口原产地证明以及其他法律、行政法规规定的经营许可证或者批准文件的；
- (三) 其他严重扰乱市场秩序的非法经营行为。

第二百二十六条 以暴力、威胁手段强买强卖商品、强迫他人提供服务或者强迫他人接受服务，情节严重的，处三年以下有期徒刑或者拘役，并处或者单处

罚金。

第二百二十七条 伪造或者倒卖伪造的车票、船票、邮票或者其他有价票证，数额较大的，处二年以下有期徒刑、拘役或者管制，并处或者单处票证价额一倍以上五倍以下罚金；数额巨大的，处二年以上七年以下有期徒刑，并处票证价额一倍以上五倍以下罚金。

倒卖车票、船票，情节严重的，处三年以下有期徒刑、拘役或者管制，并处或者单处票证价额一倍以上五倍以下罚金。

第二百二十八条 以牟利为目的，违反土地管理法规，非法转让、倒卖土地使用权，情节严重的，处三年以下有期徒刑或者拘役，并处或者单处非法转让、倒卖土地使用权价额百分之五以上百分之二十以下罚金；情节特别严重的，处三年以上七年以下有期徒刑，并处非法转让、倒卖土地使用权价额百分之五以上百分之二十以下罚金。

第二百二十九条 承担资产评估、验资、验证、会计、审计、法律服务等职责的中介组织的人员故意提供虚假证明文件，情节严重的，处五年以下有期徒刑或者拘役，并处罚金。

前款规定的人员，索取他人财物或者非法收受他人财物，犯前款罪的，处五年以上十年以下有期徒刑，并处罚金。

第一款规定的人员，严重不负责任，出具的证明文件有重大失实，造成严重后果的，处三年以下有期徒刑或者拘役，并处或者单处罚金。

第二百三十条 违反进出口商品检验法的规定，逃避商品检验，将必须经商检机构检验的进口商品未报经检验而擅自销售、使用，或者将必须经商检机构检验的出口商品未报经检验合格而擅自出口，情节严重的，处三年以下有期徒刑或者拘役，并处或者单处罚金。

第二百三十一条 单位犯本节第二百二十一条至第二百三十条规定之罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照本节各该条的规定处罚。

第四章 侵犯公民人身权利、民主权利罪

第二百三十二条 故意杀人的，处死刑、无期徒刑或者十年以上有期徒刑；情节较轻的，处三年以上十年以下有期徒刑。

第二百三十三条 过失致人死亡的，处三年以上七年以下有期徒刑；情节较轻的，处三年以下有期徒刑。本法另有规定的，依照规定。

第二百三十四条 故意伤害他人身体的，处三年以下有期徒刑、拘役或者管制。

犯前款罪，致人重伤的，处三年以上十年以下有期徒刑；致人死亡或者以特别残忍手段致人重伤造成严重残疾的，处十年以上有期徒刑、无期徒刑或者死刑。本法另有规定的，依照规定。

第二百三十五条 过失伤害他人致人重伤的，处三年以下有期徒刑或者拘役。本法另有规定的，依照规定。

第二百三十六条 以暴力、胁迫或者其他手段强奸妇女的，处三年以上十年以下有期徒刑。

奸淫不满十四周岁的幼女的，以强奸论，从重处罚。

强奸妇女、奸淫幼女，有下列情形之一的，处十年以上有期徒刑、无期徒刑

或者死刑：

- (一) 强奸妇女、奸淫幼女情节恶劣的；
- (二) 强奸妇女、奸淫幼女多人的；
- (三) 在公共场所当众强奸妇女的；
- (四) 二人以上轮奸的；
- (五) 致使被害人重伤、死亡或者造成其他严重后果的。

第二百三十七条 以暴力、胁迫或者其他方法强制猥亵妇女或者侮辱妇女的，处五年以下有期徒刑或者拘役。

聚众或者在公共场所当众犯前款罪的，处五年以上有期徒刑。

猥亵儿童的，依照前两款的规定从重处罚。

第二百三十八条 非法拘禁他人或者以其他方法非法剥夺他人人身自由的，处三年以下有期徒刑、拘役、管制或者剥夺政治权利。具有殴打、侮辱情节的，从重处罚。

犯前款罪，致人重伤的，处三年以上十年以下有期徒刑；致人死亡的，处十年以上有期徒刑。使用暴力致人伤残、死亡的，依照本法第二百三十四条、第二百三十二条的规定定罪处罚。

为索取债务非法扣押、拘禁他人的，依照前两款的规定处罚。

国家机关工作人员利用职权犯前三款罪的，依照前三款的规定从重处罚。

第二百三十九条 以勒索财物为目的绑架他人的，或者绑架他人作为人质的，处十年以上有期徒刑或者无期徒刑，并处罚金或者没收财产；致使被绑架人死亡或者杀害被绑架人的，处死刑，并处没收财产。

以勒索财物为目的偷盗婴幼儿的，依照前款的规定处罚。

第二百四十条 拐卖妇女、儿童的，处五年以上十年以下有期徒刑，并处罚金；有下列情形之一的，处十年以上有期徒刑或者无期徒刑，并处罚金或者没收财产；情节特别严重的，处死刑，并处没收财产：

- (一) 拐卖妇女、儿童集团的首要分子；
- (二) 拐卖妇女、儿童三人以上的；
- (三) 奸淫被拐卖的妇女的；
- (四) 诱骗、强迫被拐卖的妇女卖淫或者将被拐卖的妇女卖给他人迫使其卖淫的；

(五) 以出卖为目的，使用暴力、胁迫或者麻醉方法绑架妇女、儿童的；

(六) 以出卖为目的，偷盗婴幼儿的；

(七) 造成被拐卖的妇女、儿童或者其亲属重伤、死亡或者其他严重后果的；

(八) 将妇女、儿童卖往境外的。

拐卖妇女、儿童是指以出卖为目的，有拐骗、绑架、收买、贩卖、接送、中转妇女、儿童的行为之一的。

第二百四十一条 收买被拐卖的妇女、儿童的，处三年以下有期徒刑、拘役或者管制。

收买被拐卖的妇女，强行与其发生性关系的，依照本法第二百三十六条的规定定罪处罚。

收买被拐卖的妇女、儿童，非法剥夺、限制其人身自由或者有伤害、侮辱等犯罪行为的，依照本法的有关规定定罪处罚。

收买被拐卖的妇女、儿童，并有第二款、第三款规定的犯罪行为的，依照数罪并罚的规定处罚。

收买被拐卖的妇女、儿童又出卖的，依照本法第二百四十条的规定定罪处罚。

收买被拐卖的妇女、儿童，按照被买妇女的意愿，不阻碍其返回原居住地的，对被买儿童没有虐待行为，不阻碍对其进行解救的，可以不追究刑事责任。

第二百四十二条 以暴力、威胁方法阻碍国家机关工作人员解救被收买的妇女、儿童的，依照本法第二百七十七条的规定定罪处罚。

聚众阻碍国家机关工作人员解救被收买的妇女、儿童的首要分子，处五年以下有期徒刑或者拘役；其他参与者使用暴力、威胁方法的，依照前款的规定处罚。

第二百四十三条 捏造事实诬告陷害他人，意图使他人受刑事追究，情节严重的，处三年以下有期徒刑、拘役或者管制；造成严重后果的，处三年以上十年以下有期徒刑。

国家机关工作人员犯前款罪的，从重处罚。

不是有意诬陷，而是错告，或者检举失实的，不适用前两款的规定。

第二百四十四条 用人单位违反劳动管理法规，以限制人身自由方法强迫职工劳动，情节严重的，对直接责任人员，处三年以下有期徒刑或者拘役，并处或者单处罚金。

第二百四十五条 非法搜查他人身体、住宅，或者非法侵入他人住宅的，处三年以下有期徒刑或者拘役。

司法工作人员滥用职权，犯前款罪的，从重处罚。

第二百四十六条 以暴力或者其他方法公然侮辱他人或者捏造事实诽谤他人，情节严重的，处三年以下有期徒刑、拘役、管制或者剥夺政治权利。

前款罪，告诉的才处理，但是严重危害社会秩序和国家利益的除外。

第二百四十七条 司法工作人员对犯罪嫌疑人、被告人实行刑讯逼供或者使用暴力逼取证人证言的，处三年以下有期徒刑或者拘役。致人伤残、死亡的，依照本法第二百三十四条、第二百三十二条的规定定罪从重处罚。

第二百四十八条 监狱、拘留所、看守所等监管机构的监管人员对被监管人进行殴打或者体罚虐待，情节严重的，处三年以下有期徒刑或者拘役；情节特别严重的，处三年以上十年以下有期徒刑。致人伤残、死亡的，依照本法第二百三十四条、第二百三十二条的规定定罪从重处罚。

监管人员指使被监管人殴打或者体罚虐待其他被监管人的，依照前款的规定处罚。

第二百四十九条 煽动民族仇恨、民族歧视，情节严重的，处三年以下有期徒刑、拘役、管制或者剥夺政治权利；情节特别严重的，处三年以上十年以下有期徒刑。

第二百五十条 在出版物中刊载歧视、侮辱少数民族的内容，情节恶劣，造成严重后果的，对直接责任人员，处三年以下有期徒刑、拘役或者管制。

第二百五十一条 国家机关工作人员非法剥夺公民的宗教信仰自由和侵犯少数民族风俗习惯，情节严重的，处二年以下有期徒刑或者拘役。

第二百五十二条 隐匿、毁弃或者非法开拆他人信件，侵犯公民通信自由权利，情节严重的，处一年以下有期徒刑或者拘役。

第二百五十三条 邮政工作人员私自开拆或者隐匿、毁弃邮件、电报的，处二年以下有期徒刑或者拘役。

犯前款罪而窃取财物的，依照本法第二百六十四条的规定定罪从重处罚。

第二百五十四条 国家机关工作人员滥用职权、假公济私，对控告人、申诉人、批评人、举报人实行报复陷害的，处二年以下有期徒刑或者拘役；情节严重

的，处二年以上七年以下有期徒刑。

第二百五十五条 公司、企业、事业单位、机关、团体的领导人，对依法履行职责、抵制违反会计法、统计法行为的会计、统计人员实行打击报复，情节恶劣的，处三年以下有期徒刑或者拘役。

第二百五十六条 在选举各级人民代表大会代表和国家机关领导人员时，以暴力、威胁、欺骗、贿赂、伪造选举文件、虚报选举票数等手段破坏选举或者妨害选民和代表自由行使选举权和被选举权，情节严重的，处三年以下有期徒刑、拘役或者剥夺政治权利。

第二百五十七条 以暴力干涉他人婚姻自由的，处二年以下有期徒刑或者拘役。

犯前款罪，致使被害人死亡的，处二年以上七年以下有期徒刑。

第一款罪，告诉的才处理。

第二百五十八条 有配偶而重婚的，或者明知他人有配偶而与之结婚的，处二年以下有期徒刑或者拘役。

第二百五十九条 明知是现役军人的配偶而与之同居或者结婚的，处三年以下有期徒刑或者拘役。

利用职权、从属关系，以胁迫手段奸淫现役军人的妻子的，依照本法第二百三十六条的规定定罪处罚。

第二百六十条 虐待家庭成员，情节恶劣的，处二年以下有期徒刑、拘役或者管制。

犯前款罪，致使被害人重伤、死亡的，处二年以上七年以下有期徒刑。

第一款罪，告诉的才处理。

第二百六十一条 对于年老、年幼、患病或者其他没有独立生活能力的人，负有扶养义务而拒绝扶养，情节恶劣的，处五年以下有期徒刑、拘役或者管制。

第二百六十二条 拐骗不满十四周岁的未成年人，脱离家庭或者监护人的，处五年以下有期徒刑或者拘役。

第五章 侵犯财产罪

第二百六十三条 以暴力、胁迫或者其他方法抢劫公私财物的，处三年以上十年以下有期徒刑，并处罚金；有下列情形之一的，处十年以上有期徒刑、无期徒刑或者死刑，并处罚金或者没收财产：

- (一) 入户抢劫的；
- (二) 在公共交通工具上抢劫的；
- (三) 抢劫银行或者其他金融机构的；
- (四) 多次抢劫或者抢劫数额巨大的；
- (五) 抢劫致人重伤、死亡的；
- (六) 冒充军警人员抢劫的；
- (七) 持枪抢劫的；
- (八) 抢劫军用物资或者抢险、救灾、救济物资的。

第二百六十四条 盗窃公私财物，数额较大或者多次盗窃的，处三年以下有期徒刑、拘役或者管制，并处或者单处罚金；数额巨大或者有其他严重情节的，处三年以上十年以下有期徒刑，并处罚金；数额特别巨大或者有其他特别严重情节的，处十年以上有期徒刑或者无期徒刑，并处罚金或者没收财产；有下列情形之一的，处十年以上有期徒刑或者无期徒刑，并处罚金或者没收财产：

之一的，处无期徒刑或者死刑，并处没收财产：

（一）盗窃金融机构，数额特别巨大的；

（二）盗窃珍贵文物，情节严重的。

第二百六十五条 以牟利为目的，盗接他人通信线路、复制他人电信码号或者明知是盗接、复制的电信设备、设施而使用的，依照本法第二百六十四条的规定定罪处罚。

第二百六十六条 诈骗公私财物，数额较大的，处三年以下有期徒刑、拘役或者管制，并处或者单处罚金；数额巨大或者有其他严重情节的，处三年以上十年以下有期徒刑，并处罚金；数额特别巨大或者有其他特别严重情节的，处十年以上有期徒刑或者无期徒刑，并处罚金或者没收财产。本法另有规定的，依照规定。

第二百六十七条 抢夺公私财物，数额较大的，处三年以下有期徒刑、拘役或者管制，并处或者单处罚金；数额巨大或者有其他严重情节的，处三年以上十年以下有期徒刑，并处罚金；数额特别巨大或者有其他特别严重情节的，处十年以上有期徒刑或者无期徒刑，并处罚金或者没收财产。

携带凶器抢夺的，依照本法第二百六十三条的规定定罪处罚。

第二百六十八条 聚众哄抢公私财物，数额较大或者有其他严重情节的，对首要分子和积极参加的，处三年以下有期徒刑、拘役或者管制，并处罚金；数额巨大或者有其他特别严重情节的，处三年以上十年以下有期徒刑，并处罚金。

第二百六十九条 犯盗窃、诈骗、抢夺罪，为窝藏赃物、抗拒抓捕或者毁灭罪证而当场使用暴力或者以暴力相威胁的，依照本法第二百六十三条的规定定罪处罚。

第二百七十条 将代为保管的他人财物非法占为己有，数额较大，拒不退还的，处二年以下有期徒刑、拘役或者罚金；数额巨大或者有其他严重情节的，处二年以上五年以下有期徒刑，并处罚金。

将他人的遗忘物或者埋藏物非法占为己有，数额较大，拒不交出的，依照前款的规定处罚。

本条罪，告诉的才处理。

第二百七十一条 公司、企业或者其他单位的人员，利用职务上的便利，将本单位财物非法占为己有，数额较大的，处五年以下有期徒刑或者拘役；数额巨大的，处五年以上有期徒刑，可以并处没收财产。

国有公司、企业或者其他国有单位中从事公务的人员和国有公司、企业或者其他国有单位委派到非国有公司、企业以及其他单位从事公务的人员有前款行为的，依照本法第三百八十二条、第三百八十三条的规定定罪处罚。

第二百七十二条 公司、企业或者其他单位的工作人员，利用职务上的便利，挪用本单位资金归个人使用或者借贷给他人，数额较大、超过三个月未还的，或者虽未超过三个月，但数额较大、进行营利活动的，或者进行非法活动的，处三年以下有期徒刑或者拘役；挪用本单位资金数额巨大的，或者数额较大不退还的，处三年以上十年以下有期徒刑。

国有公司、企业或者其他国有单位中从事公务的人员和国有公司、企业或者其他国有单位委派到非国有公司、企业以及其他单位从事公务的人员有前款行为的，依照本法第三百八十四条的规定定罪处罚。

第二百七十三条 挪用用于救灾、抢险、防汛、优抚、扶贫、移民、救济款物，情节严重，致使国家和人民群众利益遭受重大损害的，对直接责任人员，处

三年以下有期徒刑或者拘役；情节特别严重的，处三年以上七年以下有期徒刑。

第二百七十四条 敲诈勒索公私财物，数额较大的，处三年以下有期徒刑、拘役或者管制；数额巨大或者有其他严重情节的，处三年以上十年以下有期徒刑。

第二百七十五条 故意毁坏公私财物，数额较大或者有其他严重情节的，处三年以下有期徒刑、拘役或者罚金；数额巨大或者有其他特别严重情节的，处三年以上七年以下有期徒刑。

第二百七十六条 由于泄愤报复或者其他个人目的，毁坏机器设备、残害耕畜或者以其他方法破坏生产经营的，处三年以下有期徒刑、拘役或者管制；情节严重的，处三年以上七年以下有期徒刑。

第六章 妨害社会管理秩序罪

第一节 扰乱公共秩序罪

第二百七十七条 以暴力、威胁方法阻碍国家机关工作人员依法执行职务的，处三年以下有期徒刑、拘役、管制或者罚金。

以暴力、威胁方法阻碍全国人民代表大会和地方各级人民代表大会代表依法执行代表职务的，依照前款的规定处罚。

在自然灾害和突发事件中，以暴力、威胁方法阻碍红十字会工作人员依法履行职责的，依照第一款的规定处罚。

故意阻碍国家安全机关、公安机关依法执行国家安全工作任务，未使用暴力、威胁方法，造成严重后果的，依照第一款的规定处罚。

第二百七十八条 煽动群众暴力抗拒国家法律、行政法规实施的，处三年以下有期徒刑、拘役、管制或者剥夺政治权利；造成严重后果的，处三年以上七年以下有期徒刑。

第二百七十九条 冒充国家机关工作人员招摇撞骗的，处三年以下有期徒刑、拘役、管制或者剥夺政治权利；情节严重的，处三年以上十年以下有期徒刑。

冒充人民警察招摇撞骗的，依照前款的规定从重处罚。

第二百八十条 伪造、变造、买卖或者盗窃、抢夺、毁灭国家机关的公文、证件、印章的，处三年以下有期徒刑、拘役、管制或者剥夺政治权利；情节严重的，处三年以上十年以下有期徒刑。

伪造公司、企业、事业单位、人民团体的印章的，处三年以下有期徒刑、拘役、管制或者剥夺政治权利。

伪造、变造居民身份证的，处三年以下有期徒刑、拘役、管制或者剥夺政治权利；情节严重的，处三年以上七年以下有期徒刑。

第二百八十一条 非法生产、买卖人民警察制式服装、车辆号牌等专用标志、警械，情节严重的，处三年以下有期徒刑、拘役或者管制，并处或者单处罚金。

单位犯前款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照前款的规定处罚。

第二百八十二条 以窃取、刺探、收买方法，非法获取国家秘密的，处三年以下有期徒刑、拘役、管制或者剥夺政治权利；情节严重的，处三年以上七年以下有期徒刑。

非法持有属于国家绝密、机密的文件、资料或者其他物品，拒不说明来源与用途的，处三年以下有期徒刑、拘役或者管制。

第二百八十三条 非法生产、销售窃听、窃照等专用间谍器材的，处三年以下有期徒刑、拘役或者管制。

第二百八十四条 非法使用窃听、窃照专用器材，造成严重后果的，处二年以下有期徒刑、拘役或者管制。

第二百八十五条 违反国家规定，侵入国家事务、国防建设、尖端科学技术领域的计算机信息系统的，处三年以下有期徒刑或者拘役。

第二百八十六条 违反国家规定，对计算机信息系统功能进行删除、修改、增加、干扰，造成计算机信息系统不能正常运行，后果严重的，处五年以下有期徒刑或者拘役；后果特别严重的，处五年以上有期徒刑。

违反国家规定，对计算机信息系统中存储、处理或者传输的数据和应用程序进行删除、修改、增加的操作，后果严重的，依照前款的规定处罚。

故意制作、传播计算机病毒等破坏性程序，影响计算机系统正常运行，后果严重的，依照第一款的规定处罚。

第二百八十七条 利用计算机实施金融诈骗、盗窃、贪污、挪用公款、窃取国家秘密或者其他犯罪的，依照本法有关规定定罪处罚。

第二百八十八条 违反国家规定，擅自设置、使用无线电台（站），或者擅自占用频率，经责令停止使用后拒不停止使用，干扰无线电通讯正常进行，造成严重后果的，处三年以下有期徒刑、拘役或者管制，并处或者单处罚金。

单位犯前款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照前款的规定处罚。

第二百八十九条 聚众“打砸抢”，致人伤残、死亡的，依照本法第二百三十四条、第二百三十二条的规定定罪处罚。毁坏或者抢走公私财物的，除判令退赔外，对首要分子，依照本法第二百六十三条的规定定罪处罚。

第二百九十条 聚众扰乱社会秩序，情节严重，致使工作、生产、营业和教学、科研无法进行，造成严重损失的，对首要分子，处三年以上七年以下有期徒刑；对其他积极参加的，处三年以下有期徒刑、拘役、管制或者剥夺政治权利。

聚众冲击国家机关，致使国家机关工作无法进行，造成严重损失的，对首要分子，处五年以上十年以下有期徒刑；对其他积极参加的，处五年以下有期徒刑、拘役、管制或者剥夺政治权利。

第二百九十一条 聚众扰乱车站、码头、民用航空站、商场、公园、影剧院、展览会、运动场或者其他公共场所秩序，聚众堵塞交通或者破坏交通秩序，抗拒、阻碍国家治安管理工作人员依法执行职务，情节严重的，对首要分子，处五年以下有期徒刑、拘役或者管制。

第二百九十二条 聚众斗殴的，对首要分子和其他积极参加的，处三年以下有期徒刑、拘役或者管制；有下列情形之一的，对首要分子和其他积极参加的，处三年以上十年以下有期徒刑：

- （一）多次聚众斗殴的；
- （二）聚众斗殴人数多，规模大，社会影响恶劣的；
- （三）在公共场所或者交通要道聚众斗殴，造成社会秩序严重混乱的；
- （四）持械聚众斗殴的。

聚众斗殴，致人重伤、死亡的，依照本法第二百三十四条、第二百三十二条的规定定罪处罚。

第二百九十三条 有下列寻衅滋事行为之一，破坏社会秩序的，处五年以下有期徒刑、拘役或者管制：

- (一) 随意殴打他人，情节恶劣的；
- (二) 追逐、拦截、辱骂他人，情节恶劣的；
- (三) 强拿硬要或者任意损毁、占用公私财物，情节严重的；
- (四) 在公共场所起哄闹事，造成公共场所秩序严重混乱的。

第二百九十四条 组织、领导和积极参加以暴力、威胁或者其他手段，有组织地进行违法犯罪活动，称霸一方，为非作恶，欺压、残害群众，严重破坏经济、社会生活秩序的黑社会性质的组织的，处三年以上十年以下有期徒刑；其他参加的，处三年以下有期徒刑、拘役、管制或者剥夺政治权利。

境外的黑社会组织的人员到中华人民共和国境内发展组织成员的，处三年以上十年以下有期徒刑。

犯前款罪又有其他犯罪行为的，依照数罪并罚的规定处罚。

国家机关工作人员包庇黑社会性质的组织，或者纵容黑社会性质的组织进行违法犯罪活动的，处三年以下有期徒刑、拘役或者剥夺政治权利；情节严重的，处三年以上十年以下有期徒刑。

第二百九十五条 传授犯罪方法的，处五年以下有期徒刑、拘役或者管制；情节严重的，处五年以上有期徒刑；情节特别严重的，处无期徒刑或者死刑。

第二百九十六条 举行集会、游行、示威，未依照法律规定申请或者申请未获许可，或者未按照主管机关许可的起止时间、地点、路线进行，又拒不服从解散命令，严重破坏社会秩序的，对集会、游行、示威的负责人和直接责任人员，处五年以下有期徒刑、拘役、管制或者剥夺政治权利。

第二百九十七条 违反法律规定，携带武器、管制刀具或者爆炸物参加集会、游行、示威的，处三年以下有期徒刑、拘役、管制或者剥夺政治权利。

第二百九十八条 扰乱、冲击或者以其他方法破坏依法举行的集会、游行、示威，造成公共秩序混乱的，处五年以下有期徒刑、拘役、管制或者剥夺政治权利。

第二百九十九条 在公众场合故意以焚烧、毁损、涂划、玷污、践踏等方式侮辱中华人民共和国国旗、国徽的，处三年以下有期徒刑、拘役、管制或者剥夺政治权利。

第三百条 组织和利用会道门、邪教组织或者利用迷信破坏国家法律、行政法规实施的，处三年以上七年以下有期徒刑；情节特别严重的，处七年以上有期徒刑。

组织和利用会道门、邪教组织或者利用迷信蒙骗他人，致人死亡的，依照前款的规定处罚。

组织和利用会道门、邪教组织或者利用迷信奸淫妇女、诈骗财物的，分别依照本法第二百三十六条、第二百六十六条的规定定罪处罚。

第三百零一条 聚众进行淫乱活动的，对首要分子或者多次参加的，处五年以下有期徒刑、拘役或者管制。

引诱未成年人参加聚众淫乱活动的，依照前款的规定从重处罚。

第三百零二条 盗窃、侮辱尸体的，处三年以下有期徒刑、拘役或者管制。

第三百零三条 以营利为目的，聚众赌博、开设赌场或者以赌博为业的，处三年以下有期徒刑、拘役或者管制，并处罚金。

第三百零四条 邮政工作人员严重不负责任，故意延误投递邮件，致使公共财产、国家和人民利益遭受重大损失的，处二年以下有期徒刑或者拘役。

第二节 妨害司法罪

第三百零五条 在刑事诉讼中，证人、鉴定人、记录人、翻译人对与案件有重要关系的情节，故意作虚假证明、鉴定、记录、翻译，意图陷害他人或者隐匿罪证的，处三年以下有期徒刑或者拘役；情节严重的，处三年以上七年以下有期徒刑。

第三百零六条 在刑事诉讼中，辩护人、诉讼代理人毁灭、伪造证据，帮助当事人毁灭、伪造证据，威胁、引诱证人违背事实改变证言或者作伪证的，处三年以下有期徒刑或者拘役；情节严重的，处三年以上七年以下有期徒刑。

辩护人、诉讼代理人提供、出示、引用的证人证言或者其他证据失实，不是有意伪造的，不属于伪造证据。

第三百零七条 以暴力、威胁、贿买等方法阻止证人作证或者指使他人作伪证的，处三年以下有期徒刑或者拘役；情节严重的，处三年以上七年以下有期徒刑。

帮助当事人毁灭、伪造证据，情节严重的，处三年以下有期徒刑或者拘役。

司法工作人员犯前两款罪的，从重处罚。

第三百零八条 对证人进行打击报复的，处三年以下有期徒刑或者拘役；情节严重的，处三年以上七年以下有期徒刑。

第三百零九条 聚众哄闹、冲击法庭，或者殴打司法工作人员，严重扰乱法庭秩序的，处三年以下有期徒刑、拘役、管制或者罚金。

第三百一十条 明知是犯罪的人而为其提供隐藏处所、财物，帮助其逃匿或者作假证明包庇的，处三年以下有期徒刑、拘役或者管制；情节严重的，处三年以上十年以下有期徒刑。

犯前款罪，事前通谋的，以共同犯罪论处。

第三百一十一条 明知他人有间谍犯罪行为，在国家安全机关向其调查有关情况、收集有关证据时，拒绝提供，情节严重的，处三年以下有期徒刑、拘役或者管制。

第三百一十二条 明知是犯罪所得的赃物而予以窝藏、转移、收购或者代为销售的，处三年以下有期徒刑、拘役或者管制，并处或者单处罚金。

第三百一十三条 对人民法院的判决、裁定有能力执行而拒不执行，情节严重的，处三年以下有期徒刑、拘役或者罚金。

第三百一十四条 隐藏、转移、变卖、故意毁损已被司法机关查封、扣押、冻结的财产，情节严重的，处三年以下有期徒刑、拘役或者罚金。

第三百一十五条 依法被关押的罪犯，有下列破坏监管秩序行为之一，情节严重的，处三年以下有期徒刑：

- (一) 殴打监管人员的；
- (二) 组织其他被监管人破坏监管秩序的；
- (三) 聚众闹事，扰乱正常监管秩序的；
- (四) 殴打、体罚或者指使他人殴打、体罚其他被监管人的。

第三百一十六条 依法被关押的罪犯、被告人、犯罪嫌疑人脱逃的，处五年以下有期徒刑或者拘役。

劫夺押解途中的罪犯、被告人、犯罪嫌疑人的，处三年以上七年以下有期徒刑；情节严重的，处七年以上有期徒刑。

第三百一十七条 组织越狱的首要分子和积极参加的，处五年以上有期徒

刑；其他参加的，处五年以下有期徒刑或者拘役。

暴动越狱或者聚众持械劫狱的首要分子和积极参加的，处十年以上有期徒刑或者无期徒刑；情节特别严重的，处死刑；其他参加的，处三年以上十年以下有期徒刑。

第三节 妨害国（边）境管理罪

第三百一十八条 组织他人偷越国（边）境的，处二年以上七年以下有期徒刑，并处罚金；有下列情形之一的，处七年以上有期徒刑或者无期徒刑，并处罚金或者没收财产：

- （一）组织他人偷越国（边）境集团的首要分子；
- （二）多次组织他人偷越国（边）境或者组织他人偷越国（边）境人数众多的；
- （三）造成被组织人重伤、死亡的；
- （四）剥夺或者限制被组织人人身自由的；
- （五）以暴力、威胁方法抗拒检查的；
- （六）违法所得数额巨大的；
- （七）有其他特别严重情节的。

犯前款罪，对被组织人有杀害、伤害、强奸、拐卖等犯罪行为，或者对检查人员有杀害、伤害等犯罪行为的，依照数罪并罚的规定处罚。

第三百一十九条 以劳务输出、经贸往来或者其他名义，弄虚作假，骗取护照、签证等出境证件，为组织他人偷越国（边）境使用的，处三年以下有期徒刑，并处罚金；情节严重的，处三年以上十年以下有期徒刑，并处罚金。

单位犯前款罪的，对单位处罚金，并对其直接负责的主管人员和其他直接责任人员，依照前款的规定处罚。

第三百二十条 为他人提供伪造、变造的护照、签证等出入境证件，或者出售护照、签证等出入境证件的，处五年以下有期徒刑，并处罚金；情节严重的，处五年以上有期徒刑，并处罚金。

第三百二十一条 运送他人偷越国（边）境的，处五年以下有期徒刑、拘役或者管制，并处罚金；有下列情形之一的，处五年以上十年以下有期徒刑，并处罚金：

- （一）多次实施运送行为或者运送人数众多的；
- （二）所使用的船只、车辆等交通工具不具备必要的安全条件，足以造成严重后果的；
- （三）违法所得数额巨大的；
- （四）有其他特别严重情节的。

在运送他人偷越国（边）境中造成被运送人重伤、死亡，或者以暴力、威胁方法抗拒检查的，处七年以上有期徒刑，并处罚金。

犯前两款罪，对被运送人有杀害、伤害、强奸、拐卖等犯罪行为，或者对检查人员有杀害、伤害等犯罪行为的，依照数罪并罚的规定处罚。

第三百二十二条 违反国（边）境管理法规，偷越国（边）境，情节严重的，处一年以下有期徒刑、拘役或者管制，并处罚金。

第三百二十三条 故意破坏国家边境的界碑、界桩或者永久性测量标志的，处三年以下有期徒刑或者拘役。

第四节 妨害文物管理罪

第三百二十四条 故意损毁国家保护的珍贵文物或者被确定为全国重点文物保护单位、省级文物保护单位的文物的，处三年以下有期徒刑或者拘役，并处或者单处罚金；情节严重的，处三年以上十年以下有期徒刑，并处罚金。

故意损毁国家保护的名胜古迹，情节严重的，处五年以下有期徒刑或者拘役，并处或者单处罚金。

过失损毁国家保护的珍贵文物或者被确定为全国重点文物保护单位、省级文物保护单位的文物，造成严重后果的，处三年以下有期徒刑或者拘役。

第三百二十五条 违反文物保护法规，将收藏的国家禁止出口的珍贵文物私自出售或者私自赠予给外国人的，处五年以下有期徒刑或者拘役，可以并处罚金。

单位犯前款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照前款的规定处罚。

第三百二十六条 以牟利为目的，倒卖国家禁止经营的文物，情节严重的，处五年以下有期徒刑或者拘役，并处罚金；情节特别严重的，处五年以上十年以下有期徒刑，并处罚金。

单位犯前款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照前款的规定处罚。

第三百二十七条 违反文物保护法规，国有博物馆、图书馆等单位将国家保护的文物藏品出售或者私自送给非国有单位或者个人的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，处三年以下有期徒刑或者拘役。

第三百二十八条 盗掘具有历史、艺术、科学价值的古文化遗址、古墓葬的，处三年以上十年以下有期徒刑，并处罚金；情节较轻的，处三年以下有期徒刑、拘役或者管制，并处罚金；有下列情形之一的，处十年以上有期徒刑、无期徒刑或者死刑，并处罚金或者没收财产：

（一）盗掘确定为全国重点文物保护单位和省级文物保护单位的古文化遗址、古墓葬的；

（二）盗掘古文化遗址、古墓葬集团的首要分子；

（三）多次盗掘古文化遗址、古墓葬的；

（四）盗掘古文化遗址、古墓葬，并盗窃珍贵文物或者造成珍贵文物严重破坏的。

盗掘国家保护的具有科学价值的古人类化石和古脊椎动物化石的，依照前款的规定处罚。

第三百二十九条 抢夺、窃取国家所有的档案的，处五年以下有期徒刑或者拘役。

违反档案法的规定，擅自出卖、转让国家所有的档案，情节严重的，处三年以下有期徒刑或者拘役。

有前两款行为，同时又构成本法规定的其他犯罪的，依照处罚较重的规定定罪处罚。

第五节 危害公共卫生罪

第三百三十条 违反传染病防治法的规定，有下列情形之一的，引起甲类传染

病传播或者有传播严重危险的，处三年以下有期徒刑或者拘役；后果特别严重的，处三年以上七年以下有期徒刑：

（一）供水单位供应的饮用水不符合国家规定的卫生标准的；

（二）拒绝按照卫生防疫机构提出的卫生要求，对传染病病原体污染的污水、污物、粪便进行消毒处理的；

（三）准许或者纵容传染病病人、病原携带者和疑似传染病病人从事国务院卫生行政部门规定禁止从事的易使该传染病扩散的工作的；

（四）拒绝执行卫生防疫机构依照传染病防治法提出的预防、控制措施的。

单位犯前款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照前款的规定处罚。

甲类传染病的范围，依照《中华人民共和国传染病防治法》和国务院有关规定确定。

第三百三十一条 从事实验、保藏、携带、运输传染病菌种、毒种的人员，违反国务院卫生行政部门的有关规定，造成传染病菌种、毒种扩散，后果严重的，处三年以下有期徒刑或者拘役；后果特别严重的，处三年以上七年以下有期徒刑。

第三百三十二条 违反国境卫生检疫规定，引起检疫传染病传播或者有传播严重危险的，处三年以下有期徒刑或者拘役，并处或者单处罚金。

单位犯前款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照前款的规定处罚。

第三百三十三条 非法组织他人出卖血液的，处五年以下有期徒刑，并处罚金；以暴力、威胁方法强迫他人出卖血液的，处五年以上十年以下有期徒刑，并处罚金。

有前款行为，对他人造成伤害的，依照本法第二百三十四条的规定定罪处罚。

第三百三十四条 非法采集、供应血液或者制作、供应血液制品，不符合国家规定的标准，足以危害人体健康的，处五年以下有期徒刑或者拘役，并处罚金；对人体健康造成严重危害的，处五年以上十年以下有期徒刑，并处罚金；造成特别严重后果的，处十年以上有期徒刑或者无期徒刑，并处罚金或者没收财产。

经国家主管部门批准采集、供应血液或者制作、供应血液制品的部门，不依照规定进行检测或者违背其他操作规定，造成危害他人身体健康后果的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，处五年以下有期徒刑或者拘役。

第三百三十五条 医务人员由于严重不负责任，造成就诊人死亡或者严重损害就诊人身体健康的，处三年以下有期徒刑或者拘役。

第三百三十六条 未取得医生执业资格的人非法行医，情节严重的，处三年以下有期徒刑、拘役或者管制，并处或者单处罚金；严重损害就诊人身体健康的，处三年以上十年以下有期徒刑，并处罚金；造成就诊人死亡的，处十年以上有期徒刑，并处罚金。

未取得医生执业资格的人擅自为他人进行节育复通手术、假节育手术、终止妊娠手术或者摘取宫内节育器，情节严重的，处三年以下有期徒刑、拘役或者管制，并处或者单处罚金；严重损害就诊人身体健康的，处三年以上十年以下有期徒刑，并处罚金；造成就诊人死亡的，处十年以上有期徒刑，并处罚金。

第三百三十七条 违反进出境动植物检疫法的规定，逃避动植物检疫，引起重大动植物疫情的，处三年以下有期徒刑或者拘役，并处或者单处罚金。

单位犯前款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接

责任人员，依照前款的规定处罚。

第六节 破坏环境资源保护罪

第三百三十八条 违反国家规定，向土地、水体、大气排放、倾倒或者处置有放射性的废物、含传染病病原体的废物、有毒物质或者其他危险废物，造成重大环境污染事故，致使公私财产遭受重大损失或者人身伤亡的严重后果的，处三年以下有期徒刑或者拘役，并处或者单处罚金；后果特别严重的，处三年以上七年以下有期徒刑，并处罚金。

第三百三十九条 违反国家规定，将境外的固体废物进境倾倒、堆放、处置的，处五年以下有期徒刑或者拘役，并处罚金；造成重大环境污染事故，致使公私财产遭受重大损失或者严重危害人体健康的，处五年以上十年以下有期徒刑，并处罚金；后果特别严重的，处十年以上有期徒刑，并处罚金。

未经国务院有关主管部门许可，擅自进口固体废物用作原料，造成重大环境污染事故，致使公私财产遭受重大损失或者严重危害人体健康的，处五年以下有期徒刑或者拘役，并处罚金；后果特别严重的，处五年以上十年以下有期徒刑，并处罚金。

以原料利用为名，进口不能用作原料的固体废物的，依照本法第一百五十五条的规定定罪处罚。

第三百四十条 违反保护水产资源法规，在禁渔区、禁渔期或者使用禁用的工具、方法捕捞水产品，情节严重的，处三年以下有期徒刑、拘役、管制或者罚金。

第三百四十一条 非法猎捕、杀害国家重点保护的珍贵、濒危野生动物的，或者非法收购、运输、出售国家重点保护的珍贵、濒危野生动物及其制品的，处五年以下有期徒刑或者拘役，并处罚金；情节严重的，处五年以上十年以下有期徒刑，并处罚金；情节特别严重的，处十年以上有期徒刑，并处罚金或者没收财产。

违反狩猎法规，在禁猎区、禁猎期或者使用禁用的工具、方法进行狩猎，破坏野生动物资源，情节严重的，处三年以下有期徒刑、拘役、管制或者罚金。

第三百四十二条 违反土地管理法规，非法占用耕地改作他用，数量较大，造成耕地大量毁坏的，处五年以下有期徒刑或者拘役，并处或者单处罚金。

第三百四十三条 违反矿产资源法的规定，未取得采矿许可证擅自采矿的，擅自进入国家规划矿区、对国民经济具有重要价值的矿区和他人矿区范围采矿的，擅自开采国家规定实行保护性开采的特定矿种，经责令停止开采后拒不停止开采，造成矿产资源破坏的，处三年以下有期徒刑、拘役或者管制，并处或者单处罚金；造成矿产资源严重破坏的，处三年以上七年以下有期徒刑，并处罚金。

违反矿产资源法的规定，采取破坏性的开采方法开采矿产资源，造成矿产资源严重破坏的，处五年以下有期徒刑或者拘役，并处罚金。

第三百四十四条 违反森林法的规定，非法采伐、毁坏珍贵树木的，处三年以下有期徒刑、拘役或者管制，并处罚金；情节严重的，处三年以上七年以下有期徒刑，并处罚金。

第三百四十五条 盗伐森林或者其他林木，数量较大的，处三年以下有期徒刑、拘役或者管制，并处或者单处罚金；数量巨大的，处三年以上七年以下有期徒刑，并处罚金；数量特别巨大的，处七年以上有期徒刑，并处罚金。

违反森林法的规定，滥伐森林或者其他林木，数量较大的，处三年以下有期徒刑、拘役或者管制，并处或者单处罚金；数量巨大的，处三年以上七年以下有期徒刑，并处罚金。

以牟利为目的，在林区非法收购明知是盗伐、滥伐的林木，情节严重的，处三年以下有期徒刑、拘役或者管制，并处或者单处罚金；情节特别严重的，处三年以上七年以下有期徒刑，并处罚金。

盗伐、滥伐国家级自然保护区内的森林或者其他林木的，从重处罚。

第三百四十六条 单位犯本节第三百三十八条至第三百四十五条规定之罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照本节各该条的规定处罚。

第七节 走私、贩卖、运输、制造毒品罪

第三百四十七条 走私、贩卖、运输、制造毒品，无论数量多少，都应当追究刑事责任，予以刑事处罚。

走私、贩卖、运输、制造毒品，有下列情形之一的，处十五年有期徒刑、无期徒刑或者死刑，并处没收财产：

（一）走私、贩卖、运输、制造鸦片一千克以上、海洛因或者甲基苯丙胺五十克以上或者其他毒品数量大的；

（二）走私、贩卖、运输、制造毒品集团的首要分子；

（三）武装掩护走私、贩卖、运输、制造毒品的；

（四）以暴力抗拒检查、拘留、逮捕，情节严重的；

（五）参与有组织的国际贩毒活动的。

走私、贩卖、运输、制造鸦片二百克以上不满一千克、海洛因或者甲基苯丙胺十克以上不满五十克或者其他毒品数量较大的，处七年以上有期徒刑，并处罚金。

走私、贩卖、运输、制造鸦片不满二百克、海洛因或者甲基苯丙胺不满十克或者其他少量毒品的，处三年以下有期徒刑、拘役或者管制，并处罚金；情节严重的，处三年以上七年以下有期徒刑，并处罚金。

单位犯第二款、第三款、第四款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照各该款的规定处罚。

利用、教唆未成年人走私、贩卖、运输、制造毒品，或者向未成年人出售毒品的，从重处罚。

对多次走私、贩卖、运输、制造毒品，未经处理的，毒品数量累计计算。

第三百四十八条 非法持有鸦片一千克以上、海洛因或者甲基苯丙胺五十克以上或者其他毒品数量大的，处七年以上有期徒刑或者无期徒刑，并处罚金；非法持有鸦片二百克以上不满一千克、海洛因或者甲基苯丙胺十克以上不满五十克或者其他毒品数量较大的，处三年以下有期徒刑、拘役或者管制，并处罚金；情节严重的，处三年以上七年以下有期徒刑，并处罚金。

第三百四十九条 包庇走私、贩卖、运输、制造毒品的犯罪分子的，为犯罪分子窝藏、转移、隐瞒毒品或者犯罪所得的财物的，处三年以下有期徒刑、拘役或者管制；情节严重的，处三年以上十年以下有期徒刑。

缉毒人员或者其他国家机关工作人员掩护、包庇走私、贩卖、运输、制造毒品的犯罪分子的，依照前款的规定从重处罚。

犯前两款罪，事先通谋的，以走私、贩卖、运输、制造毒品罪的共犯论处。

第三百五十条 违反国家规定，非法运输、携带醋酸酐、乙醚、三氯甲烷或者其他用于制造毒品的原料或者配剂进出境的，或者违反国家规定，在境内非法买卖上述物品的，处三年以下有期徒刑、拘役或者管制，并处罚金；数量大的，处三年以上十年以下有期徒刑，并处罚金。

明知他人制造毒品而为其提供前款规定的物品的，以制造毒品罪的共犯论处。

单位犯前两款罪的，对单位处罚金，并对其直接负责的主管人员和其他直接责任人员，依照前两款的规定处罚。

第三百五十一条 非法种植罂粟、大麻等毒品原植物的，一律强制铲除。有下列情形之一的，处五年以下有期徒刑、拘役或者管制，并处罚金：

- (一) 种植罂粟五百株以上不满三千株或者其他毒品原植物数量较大的；
- (二) 经公安机关处理后又种植的；
- (三) 抗拒铲除的。

非法种植罂粟三千株以上或者其他毒品原植物数量大的，处五年以上有期徒刑，并处罚金或者没收财产。

非法种植罂粟或者其他毒品原植物，在收获前自动铲除的，可以免除处罚。

第三百五十二条 非法买卖、运输、携带、持有未经灭活的罂粟等毒品原植物种子或者幼苗，数量较大的，处三年以下有期徒刑、拘役或者管制，并处或者单处罚金。

第三百五十三条 引诱、教唆、欺骗他人吸食、注射毒品的，处三年以下有期徒刑、拘役或者管制，并处罚金；情节严重的，处三年以上七年以下有期徒刑，并处罚金。

强迫他人吸食、注射毒品的，处三年以上十年以下有期徒刑，并处罚金。

引诱、教唆、欺骗或者强迫未成年人吸食、注射毒品的，从重处罚。

第三百五十四条 容留他人吸食、注射毒品的，处三年以下有期徒刑、拘役或者管制，并处罚金。

第三百五十五条 依法从事生产、运输、管理、使用国家管制的麻醉药品、精神药品的人员，违反国家规定，向吸食、注射毒品的人提供国家规定管制的能够使人形成瘾癖的麻醉药品、精神药品的，处三年以下有期徒刑或者拘役，并处罚金；情节严重的，处三年以上七年以下有期徒刑，并处罚金。向走私、贩卖毒品的犯罪分子或者以牟利为目的，向吸食、注射毒品的人提供国家规定管制的能够使人形成瘾癖的麻醉药品、精神药品的，依照本法第三百四十七条的规定定罪处罚。

单位犯前款罪的，对单位处罚金，并对其直接负责的主管人员和其他直接责任人员，依照前款的规定处罚。

第三百五十六条 因走私、贩卖、运输、制造、非法持有毒品罪被判过刑，又犯本节规定之罪的，从重处罚。

第三百五十七条 本法所称的毒品，是指鸦片、海洛因、甲基苯丙胺（冰毒）、吗啡、大麻、可卡因以及国家规定管制的其他能够使人形成瘾癖的麻醉药品和精神药品。

毒品的数量以查证属实的走私、贩卖、运输、制造、非法持有毒品的数量计算，不以纯度折算。

第八节 组织、强迫、引诱、容留、介绍卖淫罪

第三百五十八条 组织他人卖淫或者强迫他人卖淫的，处五年以上十年以下有期徒刑，并处罚金；有下列情形之一的，处十年以上有期徒刑或者无期徒刑，并处罚金或者没收财产：

- (一) 组织他人卖淫，情节严重的；
- (二) 强迫不满十四周岁的幼女卖淫的；
- (三) 强迫多人卖淫或者多次强迫他人卖淫的；
- (四) 强奸后迫使卖淫的；
- (五) 造成被强迫卖淫的人重伤、死亡或者其他严重后果的。

有前款所列情形之一，情节特别严重的，处无期徒刑或者死刑，并处没收财产。

协助组织他人卖淫的，处五年以下有期徒刑，并处罚金；情节严重的，处五年以上十年以下有期徒刑，并处罚金。

第三百五十九条 引诱、容留、介绍他人卖淫的，处五年以下有期徒刑、拘役或者管制，并处罚金；情节严重的，处五年以上有期徒刑，并处罚金。

引诱不满十四周岁的幼女卖淫的，处五年以上有期徒刑，并处罚金。

第三百六十条 明知自己患有梅毒、淋病等严重性病卖淫、嫖娼的，处五年以下有期徒刑、拘役或者管制，并处罚金。

嫖宿不满十四周岁的幼女的，处五年以上有期徒刑，并处罚金。

第三百六十一条 旅馆业、饮食服务业、文化娱乐业、出租汽车业等单位的人员，利用本单位的条件，组织、强迫、引诱、容留、介绍他人卖淫的，依照本法第三百五十八条、第三百五十九条的规定定罪处罚。

前款所列单位的主要负责人，犯前款罪的，从重处罚。

第三百六十二条 旅馆业、饮食服务业、文化娱乐业、出租汽车业等单位的人员，在公安机关查处卖淫、嫖娼活动时，为违法犯罪分子通风报信，情节严重的，依照本法第三百一十条的规定定罪处罚。

第九节 制作、贩卖、传播淫秽物品罪

第三百六十三条 以牟利为目的，制作、复制、出版、贩卖、传播淫秽物品的，处三年以下有期徒刑、拘役或者管制，并处罚金；情节严重的，处三年以上十年以下有期徒刑，并处罚金；情节特别严重的，处十年以上有期徒刑或者无期徒刑，并处罚金或者没收财产。

为他人提供书号，出版淫秽书刊的，处三年以下有期徒刑、拘役或者管制，并处或者单处罚金；明知他人用于出版淫秽书刊而提供书号的，依照前款的规定处罚。

第三百六十四条 传播淫秽的书刊、影片、音像、图片或者其他淫秽物品，情节严重的，处二年以下有期徒刑、拘役或者管制。

组织播放淫秽的电影、录像等音像制品的，处三年以下有期徒刑、拘役或者管制，并处罚金；情节严重的，处三年以上十年以下有期徒刑，并处罚金。

制作、复制淫秽的电影、录像等音像制品组织播放的，依照第二款的规定从重处罚。

向不满十八周岁的未成年人传播淫秽物品的，从重处罚。

第三百六十五条 组织进行淫秽表演的，处三年以下有期徒刑、拘役或者管

制，并处罚金；情节严重的，处三年以上十年以下有期徒刑，并处罚金。

第三百六十六条 单位犯本节第三百六十三条、第三百六十四条、第三百六十五条规定之罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照各该条的规定处罚。

第三百六十七条 本法所称淫秽物品，是指具体描绘性行为或者露骨宣扬色情的诲淫性的书刊、影片、录像带、录音带、图片及其他淫秽物品。

有关人体生理、医学知识的科学著作不是淫秽物品。

包含有色情内容的有艺术价值的文学、艺术作品不视为淫秽物品。

第七章 危害国防利益罪

第三百六十八条 以暴力、威胁方法阻碍军人依法执行职务的，处三年以下有期徒刑、拘役、管制或者罚金。

故意阻碍武装部队军事行动，造成严重后果的，处五年以下有期徒刑或者拘役。

第三百六十九条 破坏武器装备、军事设施、军事通信的，处三年以下有期徒刑、拘役或者管制；破坏重要武器装备、军事设施、军事通信的，处三年以上十年以下有期徒刑；情节特别严重的，处十年以上有期徒刑、无期徒刑或者死刑。战时从重处罚。

第三百七十条 明知是不合格的武器装备、军事设施而提供给武装部队的，处五年以下有期徒刑或者拘役；情节严重的，处五年以上十年以下有期徒刑；情节特别严重的，处十年以上有期徒刑、无期徒刑或者死刑。

过失犯前款罪，造成严重后果的，处三年以下有期徒刑或者拘役；造成特别严重后果的，处三年以上七年以下有期徒刑。

单位犯第一款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照第一款的规定处罚。

第三百七十一条 聚众冲击军事禁区，严重扰乱军事禁区秩序的，对首要分子，处五年以上十年以下有期徒刑；对其他积极参加的，处五年以下有期徒刑、拘役、管制或者剥夺政治权利。

聚众扰乱军事管理区秩序，情节严重，致使军事管理区工作无法进行，造成严重损失的，对首要分子，处三年以上七年以下有期徒刑；对其他积极参加的，处三年以下有期徒刑、拘役、管制或者剥夺政治权利。

第三百七十二条 冒充军人招摇撞骗的，处三年以下有期徒刑、拘役、管制或者剥夺政治权利；情节严重的，处三年以上十年以下有期徒刑。

第三百七十三条 煽动军人逃离部队或者明知是逃离部队的军人而雇用，情节严重的，处三年以下有期徒刑、拘役或者管制。

第三百七十四条 在征兵工作中徇私舞弊，接送不合格兵员，情节严重的，处三年以下有期徒刑或者拘役；造成特别严重后果的，处三年以上七年以下有期徒刑。

第三百七十五条 伪造、变造、买卖或者盗窃、抢夺武装部队公文、证件、印章的，处三年以下有期徒刑、拘役、管制或者剥夺政治权利；情节严重的，处三年以上十年以下有期徒刑。

非法生产、买卖武装部队制式服装、车辆号牌等专用标志，情节严重的，处三年以下有期徒刑、拘役或者管制，并处或者单处罚金。

单位犯第二款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照该款的规定处罚。

第三百七十六条 预备役人员战时拒绝、逃避征召或者军事训练，情节严重的，处三年以下有期徒刑或者拘役。

公民战时拒绝、逃避服役，情节严重的，处二年以下有期徒刑或者拘役。

第三百七十七条 战时故意向武装部队提供虚假敌情，造成严重后果的，处三年以上十年以下有期徒刑；造成特别严重后果的，处十年以上有期徒刑或者无期徒刑。

第三百七十八条 战时造谣惑众，扰乱军心的，处三年以下有期徒刑、拘役或者管制；情节严重的，处三年以上十年以下有期徒刑。

第三百七十九条 战时明知是逃离部队的军人而为其提供隐蔽处所、财物，情节严重的，处三年以下有期徒刑或者拘役。

第三百八十条 战时拒绝或者故意延误军事订货，情节严重的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，处五年以下有期徒刑或者拘役；造成严重后果的，处五年以上有期徒刑。

第三百八十一条 战时拒绝军事征用，情节严重的，处三年以下有期徒刑或者拘役。

第八章 贪污贿赂罪

第三百八十二条 国家工作人员利用职务上的便利，侵吞、窃取、骗取或者以其他手段非法占有公共财物的，是贪污罪。

受国家机关、国有公司、企业、事业单位、人民团体委托管理、经营国有财产的人员，利用职务上的便利，侵吞、窃取、骗取或者以其他手段非法占有国有财物的，以贪污论。

与前两款所列人员勾结，伙同贪污的，以共犯论处。

第三百八十三条 对犯贪污罪的，根据情节轻重，分别依照下列规定处罚：

（一）个人贪污数额在十万元以上的，处十年以上有期徒刑或者无期徒刑，可以并处没收财产；情节特别严重的，处死刑，并处没收财产。

（二）个人贪污数额在五万元以上不满十万元的，处五年以上有期徒刑，可以并处没收财产；情节特别严重的，处无期徒刑，并处没收财产。

（三）个人贪污数额在五千元以上不满五万元的，处一年以上七年以下有期徒刑；情节严重的，处七年以上十年以下有期徒刑。个人贪污数额在五千元以上不满一万元，犯罪后有悔改表现、积极退赃的，可以减轻处罚或者免于刑事处罚，由其所在单位或者上级主管机关给予行政处分。

（四）个人贪污数额不满五千元，情节较重的，处二年以下有期徒刑或者拘役；情节较轻的，由其所在单位或者上级主管机关酌情给予行政处分。

对多次贪污未经处理的，按照累计贪污数额处罚。

第三百八十四条 国家工作人员利用职务上的便利，挪用公款归个人使用，进行非法活动的，或者挪用公款数额较大、进行营利活动的，或者挪用公款数额较大、超过三个月未还的，是挪用公款罪，处五年以下有期徒刑或者拘役；情节严重的，处五年以上有期徒刑。挪用公款数额巨大不退还的，处十年以上有期徒刑或者无期徒刑。

挪用用于救灾、抢险、防汛、优抚、扶贫、移民、救济款物归个人使用的，

从重处罚。

第三百八十五条 国家工作人员利用职务上的便利，索取他人财物的，或者非法收受他人财物，为他人谋取利益的，是受贿罪。

国家工作人员在经济往来中，违反国家规定，收受各种名义的回扣、手续费，归个人所有的，以受贿论处。

第三百八十六条 对犯受贿罪的，根据受贿所得数额及情节，依照本法第三百八十三条的规定处罚。索贿的从重处罚。

第三百八十七条 国家机关、国有公司、企业、事业单位、人民团体，索取、非法收受他人财物，为他人谋取利益，情节严重的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，处五年以下有期徒刑或者拘役。

前款所列单位，在经济往来中，在帐外暗中收受各种名义的回扣、手续费的，以受贿论，依照前款的规定处罚。

第三百八十八条 国家工作人员利用本人职权或者地位形成的便利条件，通过其他国家工作人员职务上的行为，为请托人谋取不正当利益，索取请托人财物或者收受请托人财物的，以受贿论处。

第三百八十九条 为谋取不正当利益，给予国家工作人员以财物的，是行贿罪。

在经济往来中，违反国家规定，给予国家工作人员以财物，数额较大的，或者违反国家规定，给予国家工作人员以各种名义的回扣、手续费的，以行贿论处。

因被勒索给予国家工作人员以财物，没有获得不正当利益的，不是行贿。

第三百九十条 对犯行贿罪的，处五年以下有期徒刑或者拘役；因行贿谋取不正当利益，情节严重的，或者使国家利益遭受重大损失的，处五年以上十年以下有期徒刑；情节特别严重的，处十年以上有期徒刑或者无期徒刑，可以并处没收财产。

行贿人在被追诉前主动交待行贿行为的，可以减轻处罚或者免除处罚。

第三百九十一条 为谋取不正当利益，给予国家机关、国有公司、企业、事业单位、人民团体以财物的，或者在经济往来中，违反国家规定，给予各种名义的回扣、手续费的，处三年以下有期徒刑或者拘役。

单位犯前款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照前款的规定处罚。

第三百九十二条 向国家工作人员介绍贿赂，情节严重的，处三年以下有期徒刑或者拘役。

介绍贿赂人在被追诉前主动交待介绍贿赂行为的，可以减轻处罚或者免除处罚。

第三百九十三条 单位为谋取不正当利益而行贿，或者违反国家规定，给予国家工作人员以回扣、手续费，情节严重的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，处五年以下有期徒刑或者拘役。因行贿取得的违法所得归个人所有的，依照本法第三百八十九条、第三百九十条的规定定罪处罚。

第三百九十四条 国家工作人员在国内公务活动或者对外交往中接受礼物，依照国家规定应当交公而不交公，数额较大的，依照本法第三百八十二条、第三百八十三条的规定定罪处罚。

第三百九十五条 国家工作人员的财产或者支出明显超过合法收入，差额巨大的，可以责令说明来源。本人不能说明其来源是合法的，差额部分以非法所得

论，处五年以下有期徒刑或者拘役，财产的差额部分予以追缴。

国家工作人员在境外的存款，应当依照国家规定申报。数额较大、隐瞒不报的，处二以下有期徒刑或者拘役；情节较轻的，由其所在单位或者上级主管机关酌情给予行政处分。

第三百九十六条 国家机关、国有公司、企业、事业单位、人民团体，违反国家规定，以单位名义将国有资产集体私分给个人，数额较大的，对其直接负责的主管人员和其他直接责任人员，处三年以下有期徒刑或者拘役，并处或者单处罚金；数额巨大的，处三年以上七年以下有期徒刑，并处罚金。

司法机关、行政执法机关违反国家规定，将应当上缴国家的罚没财物，以单位名义集体私分给个人的，依照前款的规定处罚。

第九章 渎职罪

第三百九十七条 国家机关工作人员滥用职权或者玩忽职守，致使公共财产、国家和人民利益遭受重大损失的，处三年以下有期徒刑或者拘役；情节特别严重的，处三年以上七年以下有期徒刑。本法另有规定的，依照规定。

国家机关工作人员徇私舞弊，犯前款罪的，处五年以下有期徒刑或者拘役；情节特别严重的，处五年以上十年以下有期徒刑。本法另有规定的，依照规定。

第三百九十八条 国家机关工作人员违反保守国家秘密法的规定，故意或者过失泄露国家秘密，情节严重的，处三年以下有期徒刑或者拘役；情节特别严重的，处三年以上七年以下有期徒刑。

非国家机关工作人员犯前款罪的，依照前款的规定酌情处罚。

第三百九十九条 司法工作人员徇私枉法、徇情枉法，对明知是无罪的人而使他受追诉、对明知是有罪的人而故意包庇不使他受追诉，或者在刑事审判活动中故意违背事实和法律作枉法裁判的，处五年以下有期徒刑或者拘役；情节严重的，处五年以上十年以下有期徒刑；情节特别严重的，处十年以上有期徒刑。

在民事、行政审判活动中故意违背事实和法律作枉法裁判，情节严重的，处五年以下有期徒刑或者拘役；情节特别严重的，处五年以上十年以下有期徒刑。

司法工作人员贪赃枉法，有前两款行为的，同时又构成本法第三百八十五条规定之罪的，依照处罚较重的规定定罪处罚。

第四百条 司法工作人员私放在押的犯罪嫌疑人、被告人或者罪犯的，处五年以下有期徒刑或者拘役；情节严重的，处五年以上十年以下有期徒刑；情节特别严重的，处十年以上有期徒刑。

司法工作人员由于严重不负责任，致使在押的犯罪嫌疑人、被告人或者罪犯脱逃，造成严重后果的，处三年以下有期徒刑或者拘役；造成特别严重后果的，处三年以上十年以下有期徒刑。

第四百零一条 司法工作人员徇私舞弊，对不符合减刑、假释、暂予监外执行条件的罪犯，予以减刑、假释或者暂予监外执行的，处三年以下有期徒刑或者拘役；情节严重的，处三年以上七年以下有期徒刑。

第四百零二条 行政执法人员徇私舞弊，对依法应当移交司法机关追究刑事责任的不移交，情节严重的，处三年以下有期徒刑或者拘役；造成严重后果的，处三年以上七年以下有期徒刑。

第四百零三条 国家有关主管部门的国家机关工作人员，徇私舞弊，滥用职权，对不符合法律规定条件的公司设立、登记申请或者股票、债券发行、上市申

请，予以批准或者登记，致使公共财产、国家和人民利益遭受重大损失的，处五年以下有期徒刑或者拘役。

上级部门强令登记机关及其工作人员实施前款行为的，对其直接负责的主管人员，依照前款的规定处罚。

第四百零四条 税务机关的工作人员徇私舞弊，不征或者少征应征税款，致使国家税收遭受重大损失的，处五年以下有期徒刑或者拘役；造成特别重大损失的，处五年以上有期徒刑。

第四百零五条 税务机关的工作人员违反法律、行政法规的规定，在办理发售发票、抵扣税款、出口退税工作中，徇私舞弊，致使国家利益遭受重大损失的，处五年以下有期徒刑或者拘役；致使国家利益遭受特别重大损失的，处五年以上有期徒刑。

其他国家机关工作人员违反国家规定，在提供出口货物报关单、出口收汇核销单等出口退税凭证的工作中，徇私舞弊，致使国家利益遭受重大损失的，依照前款的规定处罚。

第四百零六条 国家机关工作人员在签订、履行合同过程中，因严重不负责任被诈骗，致使国家利益遭受重大损失的，处三年以下有期徒刑或者拘役；致使国家利益遭受特别重大损失的，处三年以上七年以下有期徒刑。

第四百零七条 林业主管部门的工作人员违反森林法的规定，超过批准的年采伐限额发放林木采伐许可证或者违反规定滥发林木采伐许可证，情节严重，致使森林遭受严重破坏的，处三年以下有期徒刑或者拘役。

第四百零八条 负有环境保护监督管理职责的国家机关工作人员严重不负责任，导致发生重大环境污染事故，致使公私财产遭受重大损失或者造成人身伤亡的严重后果的，处三年以下有期徒刑或者拘役。

第四百零九条 从事传染病防治的政府卫生行政部门的工作人员严重不负责任，导致传染病传播或者流行，情节严重的，处三年以下有期徒刑或者拘役。

第四百一十条 国家机关工作人员徇私舞弊，违反土地管理法规，滥用职权，非法批准征用、占用土地，或者非法低价出让国有土地使用权，情节严重的，处三年以下有期徒刑或者拘役；致使国家或者集体利益遭受特别重大损失的，处三年以上七年以下有期徒刑。

第四百一十一条 海关工作人员徇私舞弊，放纵走私，情节严重的，处五年以下有期徒刑或者拘役；情节特别严重的，处五年以上有期徒刑。

第四百一十二条 国家商检部门、商检机构的工作人员徇私舞弊，伪造检验结果的，处五年以下有期徒刑或者拘役；造成严重后果的，处五年以上十年以下有期徒刑。

前款所列人员严重不负责任，对应当检验的物品不检验，或者延误检验出证、错误出证，致使国家利益遭受重大损失的，处三年以下有期徒刑或者拘役。

第四百一十三条 动植物检疫机关的检疫人员徇私舞弊，伪造检疫结果的，处五年以下有期徒刑或者拘役；造成严重后果的，处五年以上十年以下有期徒刑。

前款所列人员严重不负责任，对应当检疫的检疫物不检疫，或者延误检疫出证、错误出证，致使国家利益遭受重大损失的，处三年以下有期徒刑或者拘役。

第四百一十四条 对生产、销售伪劣商品犯罪行为负有追究责任的国家机关工作人员，徇私舞弊，不履行法律规定的追究职责，情节严重的，处五年以下有期徒刑或者拘役。

第四百一十五条 负责办理护照、签证以及其他出入境证件的国家机关工作

人员，对明知是企图偷越国（边）境的人员，予以办理出入境证件的，或者边防、海关等国家机关工作人员，对明知是偷越国（边）境的人员，予以放行的，处三年以下有期徒刑或者拘役；情节严重的，处三年以上七年以下有期徒刑。

第四百一十六条 对被拐卖、绑架的妇女、儿童负有解救职责的国家机关工作人员，接到被拐卖、绑架的妇女、儿童及其家属的解救要求或者接到其他人的举报，而对被拐卖、绑架的妇女、儿童不进行解救，造成严重后果的，处五年以下有期徒刑或者拘役。

负有解救职责的国家机关工作人员利用职务阻碍解救的，处二年以上七年以下有期徒刑；情节较轻的，处二年以下有期徒刑或者拘役。

第四百一十七条 有查禁犯罪活动职责的国家机关工作人员，向犯罪分子通风报信、提供便利，帮助犯罪分子逃避处罚的，处三年以下有期徒刑或者拘役；情节严重的，处三年以上十年以下有期徒刑。

第四百一十八条 国家机关工作人员在招收公务员、学生工作中徇私舞弊，情节严重的，处三年以下有期徒刑或者拘役。

第四百一十九条 国家机关工作人员严重不负责任，造成珍贵文物损毁或者流失，后果严重的，处三年以下有期徒刑或者拘役。

第十章 军人违反职责罪

第四百二十条 军人违反职责，危害国家军事利益，依照法律应当受刑罚处罚的行为，是军人违反职责罪。

第四百二十一条 战时违抗命令，对作战造成危害的，处三年以上十年以下有期徒刑；致使战斗、战役遭受重大损失的，处十年以上有期徒刑、无期徒刑或者死刑。

第四百二十二条 故意隐瞒、谎报军情或者拒传、假传军令，对作战造成危害的，处三年以上十年以下有期徒刑；致使战斗、战役遭受重大损失的，处十年以上有期徒刑、无期徒刑或者死刑。

第四百二十三条 在战场上贪生怕死，自动放下武器投降敌人的，处三年以上十年以下有期徒刑；情节严重的，处十年以上有期徒刑或者无期徒刑。

投降后为敌人效劳的，处十年以上有期徒刑、无期徒刑或者死刑。

第四百二十四条 战时临阵脱逃的，处三年以下有期徒刑；情节严重的，处三年以上十年以下有期徒刑；致使战斗、战役遭受重大损失的，处十年以上有期徒刑、无期徒刑或者死刑。

第四百二十五条 指挥人员和值班、值勤人员擅离职守或者玩忽职守，造成严重后果的，处三年以下有期徒刑或者拘役；造成特别严重后果的，处三年以上七年以下有期徒刑。

战时犯前款罪的，处五年以上有期徒刑。

第四百二十六条 以暴力、威胁方法，阻碍指挥人员或者值班、值勤人员执行职务的，处五年以下有期徒刑或者拘役；情节严重的，处五年以上有期徒刑；致人重伤、死亡的，或者有其他特别严重情节的，处无期徒刑或者死刑。战时从重处罚。

第四百二十七条 滥用职权，指使部属进行违反职责的活动，造成严重后果的，处五年以下有期徒刑或者拘役；情节特别严重的，处五年以上十年以下有期徒刑。

第四百二十八条 指挥人员违抗命令，临阵畏缩，作战消极，造成严重后果的，处五年以下有期徒刑；致使战斗、战役遭受重大损失或者有其他特别严重情节的，处五年以上有期徒刑。

第四百二十九条 在战场上明知友邻部队处境危急请求救援，能救援而不救援，致使友邻部队遭受重大损失的，对指挥人员，处五年以下有期徒刑。

第四百三十条 在履行公务期间，擅离岗位，叛逃境外或者在境外叛逃，危害国家军事利益的，处五年以下有期徒刑或者拘役；情节严重的，处五年以上有期徒刑。

驾驶航空器、舰船叛逃的，或者有其他特别严重情节的，处十年以上有期徒刑、无期徒刑或者死刑。

第四百三十一条 以窃取、刺探、收买方法，非法获取军事秘密的，处五年以下有期徒刑；情节严重的，处五年以上十年以下有期徒刑；情节特别严重的，处十年以上有期徒刑。

为境外的机构、组织、人员窃取、刺探、收买、非法提供军事秘密的，处十年以上有期徒刑、无期徒刑或者死刑。

第四百三十二条 违反保守国家秘密法规，故意或者过失泄露军事秘密，情节严重的，处五年以下有期徒刑或者拘役；情节特别严重的，处五年以上十年以下有期徒刑。

战时犯前款罪的，处五年以上十年以下有期徒刑；情节特别严重的，处十年以上有期徒刑或者无期徒刑。

第四百三十三条 战时造谣惑众，动摇军心的，处三年以下有期徒刑；情节严重的，处三年以上十年以下有期徒刑。

勾结敌人造谣惑众，动摇军心的，处十年以上有期徒刑或者无期徒刑；情节特别严重的，可以判处死刑。

第四百三十四条 战时自伤身体，逃避军事义务的，处三年以下有期徒刑；情节严重的，处三年以上七年以下有期徒刑。

第四百三十五条 违反兵役法规，逃离部队，情节严重的，处三年以下有期徒刑或者拘役。

战时犯前款罪的，处三年以上七年以下有期徒刑。

第四百三十六条 违反武器装备使用规定，情节严重，因而发生责任事故，致人重伤、死亡或者造成其他严重后果的，处三年以下有期徒刑或者拘役；后果特别严重的，处三年以上七年以下有期徒刑。

第四百三十七条 违反武器装备管理规定，擅自改变武器装备的编配用途，造成严重后果的，处三年以下有期徒刑或者拘役；造成特别严重后果的，处三年以上七年以下有期徒刑。

第四百三十八条 盗窃、抢夺武器装备或者军用物资的，处五年以下有期徒刑或者拘役；情节严重的，处五年以上十年以下有期徒刑；情节特别严重的，处十年以上有期徒刑、无期徒刑或者死刑。

盗窃、抢夺枪支、弹药、爆炸物的，依照本法第一百二十七条的规定处罚。

第四百三十九条 非法出卖、转让军队武器装备的，处三年以上十年以下有期徒刑；出卖、转让大量武器装备或者有其他特别严重情节的，处十年以上有期徒刑、无期徒刑或者死刑。

第四百四十条 违抗命令，遗弃武器装备的，处五年以下有期徒刑或者拘役；遗弃重要或者大量武器装备的，或者其他有其他严重情节的，处五年以上有期徒刑。

第四百四十一条 遗失武器装备，不及时报告或者其他严重情节的，处三年以下有期徒刑或者拘役。

第四百四十二条 违反规定，擅自出卖、转让军队房地产，情节严重的，对直接责任人员，处三年以下有期徒刑或者拘役；情节特别严重的，处三年以上十年以下有期徒刑。

第四百四十三条 滥用职权，虐待部属，情节恶劣，致人重伤或者造成其他严重后果的，处五年以下有期徒刑或者拘役；致人死亡的，处五年以上有期徒刑。

第四百四十四条 在战场上故意遗弃伤病军人，情节恶劣的，对直接责任人员，处五年以下有期徒刑。

第四百四十五条 战时在救护治疗职位上，有条件救治而拒不救治危重伤病军人的，处五年以下有期徒刑或者拘役；造成伤病军人重残、死亡或者其他严重情节的，处五年以上十年以下有期徒刑。

第四百四十六条 战时在军事行动地区，残害无辜居民或者掠夺无辜居民财物的，处五年以下有期徒刑；情节严重的，处五年以上十年以下有期徒刑；情节特别严重的，处十年以上有期徒刑、无期徒刑或者死刑。

第四百四十七条 私放俘虏的，处五年以下有期徒刑；私放重要俘虏、私放俘虏多人或者其他严重情节的，处五年以上有期徒刑。

第四百四十八条 虐待俘虏，情节恶劣的，处三年以下有期徒刑。

第四百四十九条 在战时，对被判处三年以下有期徒刑没有现实危险宣告缓刑的犯罪军人，允许其戴罪立功，确有立功表现时，可以撤销原判刑罚，不以犯罪论处。

第四百五十条 本章适用于中国人民解放军的现役军官、文职干部、士兵及具有军籍的学员和中国人民武装警察部队的现役警官、文职干部、士兵及具有军籍的学员以及执行军事任务的预备役人员和其他人员。

第四百五十一条 本章所称战时，是指国家宣布进入战争状态、部队受领作战任务或者遭敌突然袭击时。

部队执行戒严任务或者处置突发性暴力事件时，以战时论。

附则

第四百五十二条 本法自 1997 年 10 月 1 日起施行。

列于本法附件一的全国人民代表大会常务委员会制定的条例、补充规定和决定，已纳入本法或者已不适用，自本法施行之日起，予以废止。

列于本法附件二的全国人民代表大会常务委员会制定的补充规定和决定予以保留，其中，有关行政处罚和行政措施的规定继续有效；有关刑事责任的规定已纳入本法，自本法施行之日起，适用本法规定。

附件一

全国人民代表大会常务委员会制定的下列条例、补充规定和决定，已纳入本法或者已不适用，自本法施行之日起，予以废止：

1. 中华人民共和国惩治军人违反职责罪暂行条例
2. 关于严惩严重破坏经济的罪犯的决定
3. 关于严惩严重危害社会治安的犯罪分子的决定

4. 关于惩治走私罪的补充规定
5. 关于惩治贪污罪贿赂罪的补充规定
6. 关于惩治泄露国家秘密犯罪的补充规定
7. 关于惩治捕杀国家重点保护的珍贵、濒危野生动物犯罪的补充规定
8. 关于惩治侮辱中华人民共和国国旗国徽罪的决定
9. 关于惩治盗掘古文化遗址古墓葬犯罪的补充规定
10. 关于惩治劫持航空器犯罪分子的决定
11. 关于惩治假冒注册商标犯罪的补充规定
12. 关于惩治生产、销售伪劣商品犯罪的决定
13. 关于惩治侵犯著作权的犯罪的决定
14. 关于惩治违反公司法的犯罪的决定
15. 关于处理逃跑或者重新犯罪的劳改犯和劳教人员的决定

附件二

全国人民代表大会常务委员会制定的下列补充规定和决定予以保留，其中，有关行政处罚和行政措施的规定继续有效；有关刑事责任的规定已纳入本法，自本法施行之日起，适用本法规定：

1. 关于禁毒的决定
2. 关于惩治走私、制作、贩卖、传播淫秽物品的犯罪分子的决定
3. 关于严惩拐卖、绑架妇女、儿童的犯罪分子的决定
4. 关于严禁卖淫嫖娼的决定
5. 关于惩治偷税、抗税犯罪的补充规定
6. 关于严惩组织、运送他人偷越国（边）境犯罪的补充规定
7. 关于惩治破坏金融秩序犯罪的决定
8. 关于惩治虚开、伪造和非法出售增值税专用发票犯罪的决定