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# POPULATION AND FAMILY PLANNING REGULATION

## OF FUJIAN PROVINCE

(Adopted by the 33rd Meeting of the Standing Committee of the Ninth Provincial People's Congress on July 26, 2002)

### CHAPTER ONE GENERAL PRINCIPLES

**Articles 1** This Regulation is enacted in accordance with such laws and regulations as the Population and Family Planning Law of the People's Republic of China and in light of the actual situation of the province in order to control population size, improve population quality, realize the coordinated development of population on the one hand, and the economy, society, resources and environment on the other and protect citizens' legitimate rights and interests.

**Article 2** Both husband and wife are under the obligation to practice family planning and citizens' legitimate rights and interests to reproduction are protected by law.

**Article 3** Population and family planning work shall attach great importance to publicity and education, contraception, and day-to-day work. It shall be combined with economic development, support and assistance to the masses in their effort to become rich through labor and with the construction of spiritual civilization and happy family. An incentive and social security system shall be established to promote the family planning work.

**Article 4** The people's governments of this province at all levels shall lead the work of population and family planning.

The family planning administrative departments of local people's governments at and above the county level shall be responsible for the work of family planning, and for population work related to family planning within their administrative area.

Other relevant departments under the local people's governments at and above the county level shall be responsible for related population and family planning work within the scope of their responsibilities.

**Article 5** People's governments of townships, or towns and urban neighborhood administrative offices shall be responsible for the work of population and family planning in their administrative jurisdictions and shall thoroughly carry out the implementation plan for population and family planning. Villagers' committees and

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urban neighborhood residents' committees shall do a good job of family planning work within their scope of responsibility.

**Article 6** People's governments at all levels shall, incorporate population and family planning work into their social and economic development plan and the family planning fund into their financial budgets and, based on the situation of national economic and social development, gradually raise the overall level of funding for population and family planning to guarantee the funds necessary for population and family planning.

**Article 7** The whole society should actively support population and family planning work. Such social organizations as Trade Unions, Communist Youth Leagues, Women's Federations, and Family Planning Associations, as well as business and public-service organizations and citizens, should assist the people's governments in carrying out population and family planning work.

## CHAPTER TWO REGULATING REPRODUCTION

**Article 8** The criteria for late marriage is that the husband should reach twenty-five full years of age while the wife should reach twenty-three full years of age. The criteria for late birth of child is:

- (1) The late married couple gives birth to their first child.
- (2) The wife gives birth to the first child when she reaches twenty-four full years of age.
- (3) The couple gives birth to the first child when the husband is over thirty years old.

**Article 9** A couple may give birth to a second child under any one of the following circumstances if they apply for it and are approved by the administrative department of the county in charge of family planning:

- (1) Husband and wife are both the only child in the family;
- (2) Either husband or wife is the only child of a martyr;
- (3) The couple were once diagnosed as sterile, adopted a child and becomes pregnant;
- (4) The first child cannot develop into a normal laborer due to his non-inherited disability technically appraised by the municipal district family planning administrative department. The couple are medically proved to be able to give birth to a normal infant;
- (5) Either husband or wife becomes disabled because of work accident with the disability grade at 2A and above;

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- (6) Husband and wife are both residents from Hong Kong, Macao and Taiwan who have returned and reside in this province for less than six years
  - (7) Remarried couple with one party never having any child and the other party having one child before remarriage; or one party of the remarried couple has lost the spouse and the remarried couple each have a child before remarriage that meets the requirement of the family planning regulation, in such cases, they shall be approved to have another child.

**Article 10** A rural couple may apply for permission to give birth to a second child under any one of the following circumstances:

- (1) Either husband or wife is the only child in the family;
- (2) Husband's brothers have no children at all and are all sterile;
- (3) The wife has not brother and has one only sister and the husband goes to reside with the wife's family and support the wife's parents;
- (4) Both husband and wife live in a township whose population density is less than fifty people per square kilometer and the average arable land for each person is more than two mu or the average forest land for each person is over thirty mu;
- (5) The couple has got only one daughter;

Both husband and wife are fisherman and fisherwoman or either husband or wife is a mine worker working underground for over five years and is still working underground and has only one daughter; they may follow the stipulations of the preceding paragraph (5).

**Article 11** Returned overseas Chinese may give birth to a second child in any of the following circumstances if approved:

- (1) Those who have already become pregnant at the time when they return to settle down;
- (2) Both husband and wife are returned overseas Chinese for less than six years and have only one child;
- (3) All of their children reside overseas and the returned couple have no children inside interior China;

Preceding paragraph (3) applies to the spouse of an overseas Chinese who has returned and resides in this province.

This Regulation applies to the following circumstances: Either of the couple is this province's resident and the other party is a resident of Special Administrative Districts Hong Kong and Macao. However, if the children are born by them after the marriage and the children are born the Hong Kong and Macao residents before the

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marriage and have not resided inside interior China, such children shall not be counted as the number of children that they give birth to.

If either of the couple is a Taiwan resident, the preceding paragraph shall apply with reference.

**Article 12** If both husband and wife are of national minority with the exception of Zhuang nationality, they may give birth to a second child under any of the following circumstances:

- (1) Both husband and wife are rural peasants;
- (2) Both husband and wife have resided or worked in a national minority township or village for over five years.

They may give birth to another child under any of the following circumstances:

- (1) Both husband and wife are the only child in their own family;
- (2) One of the two children is disabled and cannot become a normal laborer and the couple is medically diagnosed as being able to give birth to another child.
- (3) Remarried couple meet the requirement of giving birth to a total of two children in accordance with this Regulation before their remarriage.

If either of the couple is of Han nationality and the other party is of national minority with the exception of Zhuang nationality, if the party of the Han nationality goes to live and reside in the national minority township or village, and if the child they give birth to is of national minority in accordance with the relevant provisions, then the preceding two paragraphs shall apply.

**Article 13** If approved to give birth to a second child, the time span between the two children must be four years and the wife must be over twenty-five years old. However, this time span limit does not apply under any of the following circumstances:

- (1) They meet the requirement of Article 9 (1) © and (2);
- (2) They meet the requirement of Article 11 (1) and (3);
- (3) They meet the requirement of Article 12 (2) ©;
- (4) The wife is over thirty years old.

The disability of a child must be examined and confirmed by the disabled children appraising medical organs of a municipality of above county level. Sterility must be examined and confirmed by medical organs or health care organs at above county level.

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**Article 14** It is forbidden to give birth to a child out of an extramarital affair or before the time stipulated by this Regulation.

Under any of the following circumstances, the child born is regarded as born before the stipulated time by the Regulation:

- (1) Those who give birth to a child before they get married (including those who become pregnant before they reach legally marrying age);
- (2) Those who give birth to a second child without reaching the time span between the two children;
- (3) Those who meet the requirement to give birth to another child and fail to obtain the permission.

Those who illegally adopt, give and abandon a child shall be viewed as childbirth in violation of family planning. Those who abandon children shall not be approved to give birth to any children.

**Article 15** Those who give birth to a child should receive a birth certificate. The specific measures for receiving birth certificate shall be formulated by the family planning administrative department of the province.

### **CHAPTER THREE      FAMILY PLANNING TECHNICAL SERVICES**

**Article 16** Family planning technical service organs and medical and public health organs that provide such services should—within their respective area of responsibility and among targeting people of childbearing age—conduct publicity and education on basic knowledge about family planning, provide pregnancy checkups and follow-up service work for married women of child-bearing age, offer advice and guidance and provide technical services in respect of family planning and reproductive health, advocate premarital health care during pregnancy and childbirth in order to prevent or reduce birth defects.

**Article 17** Family planning technical service organs and medical and public health organs that provide such services and their functionaries should guide citizens to learn and choose safe long-term and suitable contraceptive measures in order to prevent and reduce unwanted pregnancies. Those couples who have given birth to a child are instructed to take long-term contraceptive measures.

Those couples who have inherited genetic diseases affecting the next generation shall not be permitted to give birth to any children. The party of the couple that is capable of reproduction should have sterilization operation or take long-term effective contraceptive measures. Those who have become pregnant should terminate pregnancy.

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**Article 18** The couple that are capable of giving birth to a child should take one of the long-term effective contraceptive measures and accept the examination and inspection of pregnancy and childbirth. Specific measures shall be formulated by the family planning administrative department of the province and submitted to the provincial people's government for approval and then put into practice.

Those who have become pregnant in violation of this Regulation should take remedial measure in time. Villagers' committees or the resident's committees or their units should urge them to take remedial measures in time.

**Article 19** Couples who practice family planning shall enjoy the following technical services free of charge:

- (1) Monitoring and inspecting the situation of pregnancy and contraceptive rings placed in the wombs;
- (2) Medical inspection on the placing and removing of contraceptive devices in and from the wombs and other inspections stipulated in technical regulations;
- (3) Medical inspection on artificial or induced abortion technique and other inspections stipulated in technical regulations;
- (4) Medical inspection on vasoligation and tubal ligation and other inspections stipulated in technical regulations;
- (5) Diagnosis and treatment of complication resulting from family planning surgical operations.
- (6) Approved operation to enable seminal duct and oviduct to function once again.

The medical expenditure spent on the family planning medical services in the preceding paragraphs shall be paid from the family planning program fees of the family planning administrative department of the county if the couples are peasants. It shall be paid from childbirth insurance or basic medical insurance if the urban couples have participated in the childbirth insurance or basic medical insurance. If the couples have not participated in such insurances and yet are employed by a unit or an employer, it shall be paid by the unit or the employer. Those who are not employed shall be paid from local finance. Specific measures shall be formulated by the provincial people's government.

**Article 20** Those who are employees and have received sterilization operations shall be given leave in accordance with the relevant provisions of the State and the Province. If those who receive sterilization operation and need nursing care the unit of the other party shall give five to seven days leave to nurse him or her.

Wages and salaries shall be paid all the same when those employees of the

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government departments institutions and enterprises are have family planning surgical operations, artificial induced abortion or operations to enable those to function again after sterilization. They shall not be affected in promotion.

**Article 21** Those who still can not normally perform labor after treatment of the complication of sterilization operation shall be given appropriate allowance and relief by their units and the local people's government

Those who meet the requirement to have sterilization operation after giving birth to a child under the Regulation shall be given adequate compensation by their units Villagers or residents who have such operation shall be adequate compensation by the villagers' or residents' committees or township people's government or urban neighborhood office.

**Article 22** Local people's governments at all levels should rationally allocate and comprehensively utilize health resources, establish and improve a family planning technical service network comprising family planning technical service organs and medical and public health organs that provide such services and improve technical service facilities and conditions and raise the standard of technical services.

Family planning technical service organs and medical and public health organs that provide such services should—within their respective area of responsibility and among targeting people of childbearing age—conduct publicity and education on basic knowledge about population and family planning, provide pregnancy checkups and follow-up service work for married women of child-bearing age, offer advice and guidance and provide technical services in respect of family planning and reproductive health.

**Article 23** Family planning technical service staff must obtain qualifications before they can be appointed to perform the operation.

No unit or individual shall be permitted to perform family planning operation without obtaining the permission from the family planning administrative department or public health administrative department

**Article 24** The family planning administrative departments and relevant department should do a good job of planning, managing and provide contraceptive medicine and devices or tools .

Family planning research institutes should strengthen scientific research and development of techniques on contraceptive medicines and devices and on the birth of fewer and healthier children and organize the education popularization and application of new techniques on contraception and birth of healthier children.

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## CHAPTER FOUR ADMINISTRATION OF POPULATION AND FAMILY PLANNING

**Article 25** The governor and other chief leaders of the people's governments at all levels shall take overall responsibility over the population and family planning program under their administrative jurisdiction. Population and family planning work shall be listed as important criteria to evaluate the political and tangible achievement in the work of government leaders and department leaders under them.

**Article 26** Government departments in charge of family planning, propaganda, education, science and technology, culture, public health, civil affairs, press and publication and radio and television, as well as such social organizations as Trade Unions, Communist Youth Leagues, Women's Federations, and Family Planning Associations, should organize publicity-and-education for developing population and family planning, set up new reproduction culture, guide citizens to establish scientific, civilized and progressive concept on marriage and childbirth.

**Article 27** Population and family planning work in the rural area is an important work of villagers' self-government. The management shall be open and democratic. Villagers' committees and urban neighborhood residents' committees and grass-root units may, under the principle of citizens' being voluntary, enter into a family planning contract according to the law with citizens of child-bearing age setting out rights and obligations of both parties and breach liability.

Urban population and family planning work shall be managed in the resident neighborhood community. A management system of area jurisdiction, unit leader being held responsible resident self-government and community services.

Government departments, social organizations, and business and public-service organizations should all do a good job of their units' family planning work. Legal representative or person in charge of an administrative department, social organization, business and public-service organization shall be responsible for family planning work in their unit. Government departments, social organizations, and business and public-service organizations shall establish an family planning office and appoint a full-time or part-time worker in charge of the day-to-day work in family planning in their own unit.

**Article 28** The province shall reward organizations and individuals having outstanding achievements in population and family planning work. Those who have been elected as advanced or model worker in family planning shall be treated as

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model worker of the county and shall receive equivalent treatment of a model worker. Special allowance shall be issued to the full-time family planning workers of the townships or urban neighborhood office. Family planning workers at township, neighborhood office and county level shall be given more pay when they retire. Specific measures shall be formulated by the provincial people's government.

**Article 29** The relevant units and individuals should timely report accurate figures of statistics on population and family planning. Neither units nor individuals may distort, under-report, fabricate, alter or refuse to report population and family planning statistics.

Governments in charge of development plan, family planning, public security, labor security, civil affairs, education, personnel, public health and statistics shall share information resource in respect of population and family planning.

**Article 30** Family planning work for the migrant population shall be managed in accordance with Administrative Measures of Family Planning Program on Migratory Population issued by the State Council and Administrative Measures of Family Planning Program on Migratory Population of Fujian Province.

It is strictly forbidden to use ultrasound technology or other technological means to identify fetal gender and to terminate a sex-selective pregnancy for non medical purposes.

**Article 31** In order to facilitate family planning, the people's governments at above county level shall establish incentive funds for family planning to reward citizens that practice family planning. Specific measures shall be formulated by the provincial people's government.

**Article 32** The people's government of the township or town or the urban neighborhood office shall issue a Certificate of Honor for One-Child Parents to couples if they voluntarily decide to have only one child during their lifetime and apply for such certificate and are approved after examination. On the strength of such certificate, they shall be issued medical care fee according to relevant stipulations regularly until the child reaches fourteen years of age.

**Article 33** If the couple who have got the One-child Certificate already, apart from the above preferential treatments, the couple will be given a lump sum bonus of 500 yuan or other equivalent treatment.

The rewarding expenses for parents who have received Certificate of Honors for One Child Parents shall be paid in the following ways: If both husband and wife are employees of units, shall be paid by their units on the basis of 50% each. If one party

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of the couple is employed by a unit and the other party is not employed or the other party has died, the unit that employs shall pay the full amount. Other urban couples shall be paid from the county's family planning funds

**Article 34** If the couple who meets the conditions for a second child voluntarily choose to have only one child and have got the One-child Certificate already, apart from the above preferential treatments, the couple will be given a lump sum bonus of 1000 yuan or other equivalent treatment. The rewarding expenses shall be paid from the population and family planning incentive funds.

**Article 35** The rural couples that have received Certificate of Honor of One-Child Parents or those who have two daughters and have sterilization operation shall enjoy the following rewards and favorable treatment:

- (1) An additional share of collective economic income, collective welfare, and allocation of site for house building;
- (2) Exemption of school tuition and other charges during the nine-year compulsory education;
- (3) Preferential treatment in training, employment, practicing medicine, housing allocation, child's entrance into nursery and schools;
- (4) Favorable treatment in poverty relief items, funds and technology;
- (5) In increase of retirement pension and financial allowance in life upon retirement;
- (6) Other favorable treatment provided by the local people's governments.

**Article 36** Rural couples who have two daughters and have sterilization operation shall enjoy the following reward and preferential treatment in addition to the reward and preferential treatment stipulated in Article 35 hereof:

- (1) They shall be given a lump sum of no less than 500 yuan. The expense shall be paid from the population and family planning exclusive funds.
- (2) They shall be given minimum life security if they are qualified for the minimum life security in the rural area.

**Article 37** If the couple who have received the Certificate of Honor for One-Child Parents give birth to another child, such certificate shall be revoked by and returned to the issuing authority. All the preferential treatment on the strength of this certificate shall be cancelled and all the rewards shall be taken back.

**Article 38** If both husband and wife are employees of government departments, institutions and enterprises of various kinds and have late marriage, they may enjoy fifteen (15) more days' leave in addition to the wedding leave stipulated in the State Law. If they have a late birth and receive Certificate of Honor for One Child Parents,

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she will enjoy 135 to 180 days' maternity leave and the husband shall be given 7 to 10 days' leave to nurse his wife. Those additional wedding, maternity and nursing leaves are paid leaves with bonus and benefits and they shall not be affected in promotion.

## CHAPTER SIX      LEGAL LIABILITY

**Article 39** Anyone who violates this Regulation by one of the acts listed below shall be ordered to pay the corresponding number of times of the average annual disposable income of the urban residents or the net average annual income of the rural peasants of the county in the previous year when the child is born in violation of this regulation as social compensation fee by family planning administrative department of the county or by township people's government or urban neighborhood office appointed by such administrative department:

- (1) A social compensation of zero point six to one time shall be imposed on those who give birth to a child ahead of the schedule;
- (2) A social compensation of two to three times shall be imposed on those who give birth to the first additional child. A social compensation of four to six times shall be imposed on those who give birth to the second additional child. A much more heavy social compensation fee shall be imposed on those who give birth to the third or more additional child.
- (3) A social compensation of four to six times shall be imposed on those who give birth to a child born out of an extramarital affair. A much more heavy social compensation fee shall be imposed on those who give birth to the second child born out of an extramarital affair.

If the actual annual income of the parties concerned exceeds the average annual disposable income of the urban residents or the net average annual income of the rural peasants of the county in the previous year, the actual income shall be used as the base to calculate the number of the social compensation fees.

The decision in writing to impose social compensation fee shall be made by the family planning administrative department of the county. Such department may appoint the people's government of township or town or the urban neighborhood office to make such decisions.

**Article 40** Anyone who violates this Regulation by one of the acts listed below shall be ordered to rectify the situation and given disciplinary warning and his illegal income shall be confiscated by the family planning or public health agency based on their authority. If the illegal income is 10,000 yuan or more, he shall be fined no less

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than two times and no more than six times the illegal income. If there is no illegal income or the illegal income is less than 10,000 yuan, he shall be fined no less than 10,000 yuan and no more than 30,000 yuan. If the case is serious, his license to practice shall be revoked by the issuing authority. If a crime is constituted, he shall be investigated for criminal liability according to the law.

- (1) Illegally placing and removing contraceptive devices in or from the womb, illegally performing a family planning surgical operation for another person to enable his seminal duct or her oviduct to function again or to terminate pregnancy;
- (2) Performing family planning surgical operation by a unit that has not obtained a legal business license or by an individual that is not legally qualified;
- (3) Using ultrasound technology or other technology to identify fetal gender or terminate sex-selective pregnancy for another person for non-medical purposes;
- (4) Conducting a fake family planning surgical operation, providing a fake medical appraisal report ;
- (5) Issuing a fake family planning certificate, a fake migrant population marriage and birth-giving permission certificate and a fake Certificate of Honor for Only-Child Parents.

**Article 41** Anyone obtaining a family planning certificate by improper means under any of the following circumstances shall have the family planning certificate revoked by an administrative department in charge of family planning. If the unit that issues the certificate is at fault, an administrative punishment shall be imposed on the supervisory officials directly responsible and on other directly responsible personnel according to the law:

- (1) Cover up or fabricate fake marriage, childbirth and contraception;
- (2) Obtain a certificate in connection with family planning by bribe and other improper means;
- (3) Practice fraud in any act in connection with family planning certificate

**Article 42** Anyone who interfere with and shelters and covers up those who give birth to children in violation of family planning shall be imposed a fine of no less than 3000yuan and no more than 10,000 yuan by the family planning administrative department of the county and they shall be given administrative punishment by their units.

**Article 43** Any unit or person that violates this Regulation in any of the following circumstances shall be ordered by the relevant local people's government to correct the situation and shall be criticized in a circular issued by that government. If it or he

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still refuse to correct the situation, it or he shall be imposed a fine of 500 yuan by the family planning administrative department of the county:

- (1) Fail to take as required the effective contraceptive measures, remedial measures or inspect contraception and reproduction;
- (2) Violate family planning administrative regulations;
- (3) Obtain by deception or provide fake and invalid family planning certificate, or cover up or lie about one's own family planning information.

**Article 44** Administrative punishment shall be imposed by the unit or the higher authority on those State functionaries who give birth to a child in violation of this Regulation or violate family planning program. Such act shall be reported to the family planning administrative department for the record. If they are employees of institutions or enterprises or social organizations, their unit or organization shall give them punishment.

**Article 45** Those who give birth to a child out of the family planning or out of an extramarital affair in violation of the Regulation shall not be employed or recruited as government functionaries. If they are villagers' committee members, they shall be removed by the villagers' meeting to be confirmed by the relevant department of the county or the township people's government.

**Article 46** Anyone who shelters and covers up those who give birth to children in violation of family planning, who humiliates and hurts family planning law enforcement people or who resists or hinders a family planning administrative department or its personnel while they are lawfully performing their official duties, shall receive criticism and be stopped from further misconduct by the family planning administrative department at county level and above. If his act constitutes a violation of a management regulation for public security, he shall be given a penalty for the violation of public-security-management. If the act constitutes a crime, he shall be investigated for criminal liability according to the law.

**Article 47** The people's governments of the municipality, county, district, township, and urban neighborhood office that fails to perform the duty and reach the target in family planning shall not be eligible for advanced title in spiritual civilization. If the act is serious, legal liability shall be pursued against their leaders and they shall be give administrative punishment.

Under any one of the following acts, the relevant people's government shall order them to correct the situation and shall be criticized in a circular. The supervisory official directly responsible and other directly responsible personnel shall be given administrative punishment:

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- (1) Failure to carry out the family planning rewarding and preferential treatment according to the law;
  - (2) Failure to carry out the legal representative's job responsibility system in connection family planning work;
  - (3) Failure to conduct the publicity and education on population and family planning in the society;
  - (4) Other acts in failure to assist in the management of family planning.

**Article 48** Anyone who violates this Regulation by one of the acts listed below shall be dealt with in accordance with Population and Family Planning Law of the People's Republic of China:

- (1) Infringing upon a citizen's personal rights, property rights or other legitimate rights and interests
- (2) Abuse of power, dereliction of duty or graft
- (3) Demanding or accepting a bribe
- (4) Withholding, deducting, misappropriating or embezzling family planning funds or social compensation fees
- (5) Distorting, under-reporting, fabricating, altering or refusing to report population and family planning statistics.
- (6) Refusing to issue family planning certificate without justifiable reasons;
- (7) Other acts in violation of laws and regulations in connection with family planning.

**Article 49** If the parties concerned object to the imposition of social compensation fees or the administrative punishment, they may apply for reconsideration or initiate a litigation in accordance with the law. If the party concerned doesn't sue or apply for reconsideration in due time, and refuses to fulfill the resolution, the institution responsible for fine or punishment shall petition the people's court for enforcement.

#### **CHAPTER SEVEN SUPPLEMENTARY PROVISIONS**

**Article 50** The number of children referred in this Regulation includes the number of children adopted, given and abandoned. If the law stipulates otherwise, the law shall govern.

The applicable scope of regulating reproduction of agricultural population shall be determined by the family planning administrative department of the province and submitted to the provincial people's government for approval.

**Article 51** This Regulation comes into force on September 1, 2002.