

**Enforcement Rules for the Act Governing Relations Between  
Peoples of the Taiwan Area and the Mainland Area  
( 2003.12.29 Amended )**

**Article 1**

These Enforcement Rules are enacted in accordance with Article 95-4 of the Act Governing Relations between Peoples of the Taiwan Area and the Mainland Area (hereinafter, the “Act”).

**Article 2**

The term “people” as referred to in Articles 1, 4, 6, 41, 62 and 63 of the Act shall refer to natural persons, juristic persons, organizations and other institutions.

**Article 3**

The enforcement areas of Subparagraph 2 of Article 2 of the Act shall refer to areas under control of the Chinese Communists.

**Article 4**

The term “People of the Taiwan Area” as defined in Subparagraph 3 of Article 2 of the Act shall include the following persons:

1. Those who had household registrations in the Taiwan Area but changed their status to People of the Mainland Area before February 19, 2001, and later recovered their status pursuant to Article 6 of the Act as People of the Taiwan Area.
2. Those who were born in the Taiwan Area of parents both of whom are People of the Taiwan Area or one of whom is a person of the Taiwan Area while the other is a person of the Mainland Area.
3. Those who were born in the Mainland Area of parents both of whom are People of the Taiwan Area and who have no household registrations in the Mainland Area or do not hold passports issued by the Mainland Area.
4. Those who, pursuant to Paragraph 1 of Article 9-2 of the Act, are permitted by the Ministry of the Interior to recover their status as People of the Taiwan Area and who return to reside permanently in the Taiwan Area.

People of the Mainland Area who have been permitted to enter into and reside permanently in the Taiwan Area and who have household registrations therein are People of the Taiwan Area.

**Article 5**

The term “People of the Mainland Area” as defined in Subparagraph 4 of Article 2 of the Act shall include the following persons:

1. Those who were born in the Mainland Area and continue to reside there of parents one or both of whom are People of the Mainland Area.

2. Those who were born in the Taiwan Area of parents both of whom are People of the Mainland Area.

3. Those who had household registrations in the Taiwan Area but changed their status to People of the Mainland Area before February 19, 2001, and have not recovered their status pursuant to Article 6 of the Act as People of the Taiwan Area.

4. Those who have household registrations in the Mainland Area or hold passports issued by the Mainland Area, and have consequently been deprived of their status as People of the Taiwan Area, in accordance with Paragraph 2 of Article 9-1 of the Act.

#### **Article 6**

Those who, between November 2, 1987 and February 19, 2001, went to the Mainland Area and continuously resided there for over four years and consequently became People of the Mainland Area, but who previously had household registrations in the Taiwan Area and do not have household registrations in the Mainland Area or do not hold passports issued by the Mainland Area, may apply to recover their status as People of the Taiwan Area and return to reside permanently in Taiwan.

The competent authorities may reject an application for reinstatement of the status as People of the Taiwan Area as set forth in the preceding Paragraph, where one of the following situations applies:

1. The applicant is or was in any position in, or a member of, agencies, organizations or institutions of the Mainland Area which relate to matters of political parties, the military, the administration or of any political nature.

2. There exist facts sufficient to raise concerns of threats to national security or social stability.

The procedures and review criteria regarding the application for reinstatement of the status as People of the Taiwan Area and for returning to reside permanently in Taiwan shall be prescribed separately by the competent authorities.

#### **Article 7**

The phrase "People of the Mainland Area who reside outside the Mainland Area" as used in Article 3 of the Act shall include people who were born in foreign countries and hold passports issued by the Mainland Area, but exclude the following persons who have resided abroad for over four years and who:

1. have obtained citizenship of the country where they reside; or

2. have obtained permanent residency status of the country where they reside and hold valid passports issued by the R.O.C.

The four-year period of overseas residency referred to in the preceding Paragraph means a period of four years calculated from the day following the date of arrival in the foreign

country concerned, provided that during such four-year period, any single stay in the Mainland Area by such persons does not exceed 30 days. Where any single stay in the Mainland Area exceeds 30 days, the year during which such stay occurred shall not be included in the calculation of the four-year period, unless one of the following situations applies:

1. The returning person is more than seven months pregnant or gives birth or has a miscarriage, and the period following the occurrence of the event does not exceed two months.
2. The returning person falls ill and leaving the Mainland Area may be life-threatening, and the period following the occurrence of the event does not exceed two months.
3. The death in the Mainland Area of a blood relation within the second degree, stepparent, parent-in-law, spouse, son-in-law or daughter-in-law and the period following the occurrence of the event does not exceed two months.
4. The occurrence of natural disasters or other unavoidable events, and the period following the occurrence of the event does not exceed one month.

#### **Article 8**

When verifying documents prepared in the Mainland Area, the institution as prescribed in Paragraph 1 of Article 4 of the Act or the entrusted private organization as prescribed in Paragraph 2 of said Article shall compare the original and the copy of the documents, or examine, against the original copy, the authenticity of the signature and signatory chop affixed upon the document by the person preparing the documents, or conduct an investigation for verification.

#### **Article 9**

The substantive probative force of a document presumed to be genuine under Article 7 of the Act shall be determined by the court or the relevant competent authorities.

A document shall have substantive probative force when the contents thereof are relevant to the facts to be proved and are credible.

Where a document presumed to be genuine is proved false by opposing factual evidence, the presumption does not apply.

#### **Article 10**

The other rights derived from household registrations in the Taiwan Area referred to in Paragraph 2 of Article 9-1 of the Act shall mean those rights that may be exercised or claimed only by persons with the status of People of the Taiwan Area, as determined by the competent authorities in accordance with the relevant laws.

#### **Article 11**

The duties and obligations arising from the status as People of the Taiwan Area as referred to in the proviso of Paragraph 2 of Article 9-1 of the Act shall refer to the legal responsibilities, obligations or judicial sanctions, arising from the status as People of the Taiwan Area, regarding serving military service, paying taxes, being a

defendant in a criminal case, becoming subject to fines, detention, imprisonment for a definite period or other more severe criminal penalties which have been declared but not yet carried out, being a defendant in a civil case, being the target of compulsory execution processes that have yet to be completed, being a debtor who has not emerged from bankruptcy after a declaration of bankruptcy, or being subject to other fines.

#### **Article 12**

Employers employing People of the Mainland Area as referred to in Paragraph 1 of Article 13 of the Act shall refer to those employers permitted under Article 11 of the Act by the Executive Yuan's Council of Labor Affairs to employ People of the Mainland Area for the work prescribed in Subparagraphs 8 through 10 of Paragraph 1 of Article 46 of the Employment Service Law.

#### **Article 13**

The servicemen of the Taiwan Area who were sent over to the Mainland Area for military service and have stayed there since 1945 as referred to in Subparagraph 3 of Paragraph 2 of Article 16 of the Act shall mean those persons verified and recognized by the Ministry of National Defense pursuant to the name lists submitted by the Municipalities under direct jurisdiction of the Executive Yuan and by the County (City) governments in the Taiwan Area.

The former officers or enlisted men of the armed forces captured in battles or during the execution of special missions after the Government moved to Taiwan in 1949 as referred to in Subparagraph 4 of Paragraph 2 of Article 16 of the Act shall mean those persons on record who, after following the Government to Taiwan, were resented to the Mainland Area.

Where an application to reside permanently in Taiwan, filed by a relative in Taiwan or by the original dispatching unit on behalf of a person as described in the preceding Paragraph, is approved by the Ministry of National Defense, the referred person and his/her spouse may enter into the Taiwan Area.

#### **Article 14**

Before deporting any person of the Mainland Area in accordance with the provisions of the Act, in case of any of the following conditions, a person of the Mainland Area shall be deported only after the cause of such conditions ceased to exist:

1. Being over five months pregnant or less than two months have elapsed since giving birth or having a miscarriage.
2. Being ill and deportation may be life-threatening.

In the event that a person of the Mainland Area dies before deportation, documents such as a death certificate issued by the designated institution pursuant to regulations, together with the remains or ashes of the deceased, shall be handed over upon deportation to people boarding the same vessel or to other persons on the vessel, to be returned to the Mainland Area.

**Article 15**

Persons entering into the Taiwan Area without permission as referred to in Subparagraph 1 of Paragraph 1 of Article 18 of the Act shall include those who enter into the Taiwan Area on fake or forged passports, travel papers or other similar certifying documents, or by fraudulent marriage for which the registration or permission has been revoked or annulled as there exists sufficient evidence to establish that said marriage is false due to collusion, or by other illegal means.

**Article 16**

The case where there exists sufficient evidence to establish that a crime has been committed as prescribed in Subparagraph 4 of Paragraph 1 of Article 18 of the Act shall refer to those whose involvement in criminal cases is verified by law-enforcement authorities by any of the following criteria:

1. Written complaint, self-confession or written expert testimony.
2. Photograph, or audio or video recording.
3. Transcript or investigation report made by the police or law-enforcement agents as part of their job responsibilities.
4. Indictment or order of disposition issued by prosecutors, or written judgment issued by judicial institutions.
5. Other concrete facts and evidence.

**Article 17**

The case where there exists sufficient evidence to establish that there is a threat to national security or social stability and the person concerned may be deported as prescribed in Subparagraph 5 of Paragraph 1 of Article 18 of the Act refers to the following situations:

1. Failure to disclose previous participation in or funding of groups rebellious against internal or external security, or activities of such groups.
2. Failure to disclose previous participation in or funding of terrorist or violent illegal groups or activities thereof.
3. Involvement in crime outside the Taiwan Area or being a habitual criminal.

**Article 18**

Information on the identity, date of deportation and legal basis for the deportation of a person of the Mainland Area shall be submitted by the law-enforcement authorities to the Immigration Office under the Ministry of the Interior's National Police Agency for filing and recording.

**Article 19**

The necessary expenses for deportation as prescribed in Paragraph 1 of Article 20 of the Act shall include the necessary expenses during the detention period before deportation.

**Article 20**

The persons serving in the government, educational institutions or state enterprises as prescribed in Article 21 of the Act shall not include the following:

1. Those persons who are approved by the competent central authorities to be researchers, associate researchers, assistant researchers, post-graduate research fellows, seminar lecturers, visiting professors, visiting associate professors, visiting assistant professors, visiting specialists, and visiting teachers, at academic research institutions, schools at levels above junior colleges, and schools of the theatre and the arts.
2. Those persons whose engagements with state-owned business agencies (institutions) under the Ministry of Economic Affairs and the Ministry of Transportation and Communications do not involve national security or confidential hi-tech research.

The intelligence agencies (institutions) as referred to in Paragraph 1 of Article 21 of the Act shall mean the agencies (institutions) as prescribed in Paragraph 1 of Article 2 of the Organic Law of the National Security Bureau; and the national defense agencies (institutions) referred to therein shall mean the Ministry of National Defense, its subordinate agencies (institutions) and military units.

**Article 21**

From July 1, 2002, Paragraph 2 of Article 24 of the Act may apply *mutatis mutandis* to investment income contributed or distributed by a company or enterprise in a third area, established by any juristic person, organization, or other institution of the Taiwan Area permitted before by the competent authorities June 30, 2002 pursuant to Article 35 of the Act to make investments in the Mainland Area through a company or enterprise it establishes in the third area, regardless of the year when such income is generated.

Where any juristic person, organization, or other institution of the Taiwan Area permitted by the competent authorities after June 30, 2002 pursuant to Article 35 of the Act to make investments in the Mainland Area through a company or enterprise it establishes in a third area, the provisions in the preceding Paragraph applies to investment income contributed or distributed by such company or enterprise in the third area since the date of permission.

Provisions regarding the deduction of tax payable and calculation thereof under Paragraph 2 of Article 24 of the Act are as follows:

1. Under the Income Tax Act, taxable investment income from a company or enterprise in a third area refers to the investment income amount distributed by said company or enterprise in a third area, and there is no need to separately compute income from sources in the Mainland Area to consolidate tax returns.
2. The amount of income tax paid in the Mainland Area and a third area refers to:
  - (1) Investment income from Mainland Area sources of a company or

enterprise in a third area for which income tax on dividends has been paid in the Mainland Area.

(2) Investment income from Mainland Area sources of a company or enterprise in a third area for which corporate income tax has been paid in a third area as computed according to the following formula:

Corporate income tax of the year paid by the company or enterprise in a third area  $\times$  investment income of the year derived from the Mainland Area  $\div$  total income of the company or enterprise in a third area for that year.

(3) Investment income of a company or enterprise in a third area for which income tax on dividends has been paid in the third area.

3. In regard to the income tax on dividends paid in the Mainland Area as prescribed in Item 1 of the preceding Subparagraph and the corporate income tax paid in a third area for investment income from the Mainland Area as prescribed in Item 2 of said Subparagraph, after the certificates prescribed in Paragraphs 4 and 5 are obtained, deductions within the prescribed limits may be made regardless of the year when such tax is paid.

Any juristic person, organization, or other institution of the Taiwan Area reporting deduction of paid income tax pursuant to the provisions of the preceding Paragraph shall present the following documents in proof, in addition to the certificate of tax payment prescribed in Subparagraph 5:

1. Financial statements or related documents sufficient to substantiate the amount of investment income derived from the Mainland Area.

2. Relevant documents sufficient to substantiate the amount of investment income derived from the Mainland Area as part of the income of a company or enterprise in a third area for the year, including financial statements containing all of such company's income, cost and expense amounts, or related documents, as audited by certified accountants of a third area.

3. Financial statements or related documents sufficient to substantiate the amount of investment income distributed by a company or enterprise in a third area.

Any juristic person, organization, or other institution of the Taiwan Area deducting income tax paid in the Mainland Area and a third area pursuant to Paragraphs 1 and 2 of Article 24 of the Act shall obtain certificates of tax payment issued by the Mainland Area and by the third area. Certificate of tax payment issued by the Mainland Area shall be verified by the institution or private organization prescribed in Article 7 of the Act; certificate of tax payment issued by a third area shall be notarized by R.O.C. embassies, consulates or representative offices abroad or other institutions authorized by the Ministry of Foreign Affairs.

Under paragraph 3, Article 24 of the Act, the increased taxable amount computed in accordance with the applicable tax rates in the Taiwan Area, after including the income

derived from the sources in the Mainland Area, shall be computed according to the following formulas:

1. In regard to corporate income tax:

(Income from sources in the Taiwan Area + income from sources in the Mainland Area as prescribed in Paragraph 1 of Article 24 of the Act + investment income from a company or enterprise in a third area as prescribed in Paragraph 2 of Article 24 of the Act )  $\times$  tax rate  $\square$  progressive difference = payable tax for income generated within the R.O.C.

(Income from sources in the Taiwan Area  $\times$  tax rate)  $\square$  progressive amount = payable tax for business income from sources in the Taiwan Area

Payable tax for income generated within the R.O.C.  $\square$  payable tax for business income from sources in the Taiwan Area = increased payable tax after including income from sources in the Mainland Area and investment income from a company or enterprise in a third area.

2. In regard to consolidated income tax:

[(Income from sources in the Taiwan Area + income from sources in the Mainland Area)  $\square$  tax-free income  $\square$  tax withheld ]  $\times$  tax rate  $\square$  progressive amount = payable tax for consolidated income

(Income from sources in the Taiwan Area  $\square$  tax-free income  $\square$  tax withheld)  $\times$  tax rate  $\square$  progressive amount = payable tax for consolidated income from sources in the Taiwan Area

Payable tax for consolidated income  $\square$  payable tax for consolidated income from sources in the Taiwan Area = increased payable tax after including income from sources in the Mainland Area

**Article 22**

Any retired personnel from the military, government, state enterprises or educational institutions applying for a lump-sum pension payout pursuant to Paragraph 1 of Article 26 of the Act shall, three months before moving to reside in the Mainland Area for the long term, submit the following documents to their former employer (or the military unit) or the administrative district office thereof:

1. Application in writing.
2. Verification paper for receiving (or additionally receiving) monthly pension payments (from former employer or the military).
3. Household registration certificates, including all household members of the applicant.
4. Document verifying permission for or verification of traveling to the Mainland Area.



5. Letter of Intent regarding the decision to reside in the Mainland Area for the long term.
6. For those having dependents in the Taiwan Area, a notarized letter of consent from said dependents.
7. Related documents verifying the period of residency or stay in the Mainland Area in excess of 183 days in total within three years before applying for a lump-sum pension payout (from former employer or the military).

Where the verification documents prescribed in Subparagraph 4 in the preceding Paragraph cannot be submitted in advance, the former employer (or military unit) paying pensions to such retirees may, within one month after the applicant leaves the Taiwan Area, issue a written request to the Bureau of Immigration under the Ministry of the Interior's National Police Administration for verification, and then notify the approval-issuing institution of the verification result.

The former employer (or the military unit) of such retirees or the administrative office thereof, after processing the application prescribed in Paragraph 1, shall review the cases in detail and forward the corresponding monthly pension level of each applicant to the competent authorities for review and approval within two months. In case of approval, the applicant shall, one month before going to the Mainland Area, submit verifying documents for entry/exit of the Taiwan Area to institutions that pay the pension concerned and subsequently proceed with the payment procedures. Retirees from the military services, upon approval for a lump-sum pension payout, shall at the same time receive the certificate of payment of retirement benefits.

### **Article 23**

In cases where an applicant fails to move to reside in the Mainland Area for the long term within two months after receiving the lump-sum pension payout per the preceding Article, the former employer (or the military unit) of such retiree shall notify the paying institution to reclaim the paid lump-sum amount.

### **Article 24**

Any applicant falling under the preceding Article who fails to repay the received amount shall not apply to reinstate the monthly pension payments (from employer or the military) on any grounds.

### **Article 25**

For any person additionally receiving monthly pension payment, who applies under Paragraph 1 of Article 26 of the Act for a lump-sum pension payout, calculation of the payment shall be based on the ratio of the additional monthly pension payout.

### **Article 26**

Long-term residency in the Mainland Area as referred to in the Act shall mean those who reside or stay in the Mainland Area in excess of 183 days in any one year; provided that in any of the following situations for which evidence is submitted, the period concerned may be excluded from the calculation of time:

1. Imprisonment or detention.
2. Pregnancy of seven months or greater, birth or miscarriage, and the period following the occurrence of the event does not exceed two months.
3. Death in the Mainland Area of a blood relation within second degree, stepparent, parent-in-law, spouse, son-in-law or daughter-in-law, and the period following the occurrence of the event does not exceed two months.
4. Natural disaster or other unavoidable events, and the period following the occurrence of the event does not exceed one month.

**Article 27**

The dependents as referred to in Paragraph 2 of Article 26 of the Act shall mean dependents for whom support is required pursuant to Articles 1114 through 1118 of the Civil Code.

Where the dependent as referred to in the preceding Paragraph is a person who has no legal capacity, the consent shall be exercised by a legal representative or a guardian other than the applicant; where such dependant is a person of limited legal capacity, the consent shall be first approved by a legal representative or a guardian other than the applicant.

**Article 28**

The suspension of entitlement to retirement benefits (from employer or the military) as referred to in Paragraph 3 of Article 26 of the Act shall mean that the said entitlement is suspended from the time when a retiree from the military, government, state enterprise or educational institution obtains household registration in the Mainland Area or holds a passport issued by the Mainland Area; any overpaid amount shall be reclaimed.

**Article 29**

People of the Mainland Area applying under Article 26-1 of the Act for the death payment of the civil servant or military personnel insurance, a lump-sum payment of the death compensation, the balance of military service retirement benefits or a lump-sum payment of the death benefit, shall first apply in writing, together with relevant documents, to the agency (institution) or educational institution where the deceased last served, to be forwarded after initial review to the competent authorities and if approved, said agency (institution) or educational institution shall notify the applicant, who shall then apply on the basis of the aforesaid notification for entry into the Taiwan Area to receive said payments accordingly. In regard to military personnel, the Ministry of National Defense shall be the review and notification agency.

The respective payments prescribed in Paragraph 1 for retirees from the government, state enterprise or educational institution shall be processed in accordance with the regulations for insurance, retirement and compensation effective at the time of the death of the retirees concerned. The total amount of the aforesaid death payments shall not exceed two million New Taiwan Dollars, pursuant to Paragraph 2 of Article 26-1 of the Act, excluding the total amount of the estate assets inherited under 條 號 : 67 of the Act.

Applicants for the respective payments prescribed in Paragraph 1 shall be restricted to natural persons in the Mainland Area.

In case the agency (institution) or educational institution where the deceased last served and which is responsible for processing the matter has ceased to exist or has been merged, the matter shall be handed over for processing to the supervisory agency (institution) of the surviving or successor agency (institution) or educational institution.

A certificate stating that the deceased left no surviving relative or legal beneficiary in the Taiwan Area shall be issued by the agency (institution) or educational institution where the deceased last served or by the Ministry of National Defense on the basis of the complete household registration in the Taiwan Area including all household members, and related information such as government employee résumés or military registration data for military personnel. Where investigation and verification of the foregoing cannot be accomplished, the agency (institution) or educational institution where the deceased last served or the Ministry of National Defense shall post a notice of death in gazettes or newspapers, and a certificate may be issued after six months have elapsed and no one has come forward to acknowledge the deceased.

### **Article 30**

Any legal beneficiary in the Mainland Area applying for the death payment of insurance under Paragraph 1 of Article 26-1 of the Act shall submit the following documents:

1. Application for payment.
2. Certificate of Death of the deceased or other legal documents verifying the death thereof.
3. Proof that the deceased left no legal beneficiary in the Taiwan Area.
4. Document of identification (certificate of residency of the Mainland Area or long-term residency registration thereof) and verification document of the family ties, verified by an institution set up or designated by the Executive Yuan or a private organization entrusted by the Executive Yuan, concerning the legal beneficiary.

### **Article 31**

Any surviving relative in the Mainland Area applying for a lump-sum payment of death compensation under Paragraph 1 of Article 26-1 of the Act shall submit the following documents:

1. List of facts relating to the claimed compensations or application for lump-sum payment of death compensation.
2. Certificate of death of the deceased or other legal documents verifying the death thereof; death resulting from performance of an official duty shall require a certificate of death and related documents in proof sufficient to prove the death during performance of an official duty, to be separately submitted on behalf of the deceased.

3. Proof that the deceased left no surviving relatives in the Taiwan Area.
4. Document supporting the employment record of the deceased, verified by the agency (institution) or educational institution where the deceased last served while alive.
5. Document of identification as a surviving relative in the Mainland Area (certificate of residency of the Mainland Area or long-term residency registration thereof) and verification document of the relative as a surviving dependent, verified by an institution set up or designated by the Executive Yuan or a private organization entrusted by the Executive Yuan.

Calculation of the lump-sum payment of death compensation in the preceding Paragraph approved under the Civil Servant Death Compensation Act or the Act for Death Compensation of School Faculty and Personnel shall be processed in accordance with the criteria for lump-sum payment of death compensation under the Civil Servant Retirement Act or the Act for Retirement of School Faculty and Personnel.

#### **Article 32**

Any surviving relative in the Mainland Area applying for the balance of military service retirement benefit or the lump-sum payment of the death benefit pursuant to Paragraph 1 of Article 26-1 of the Act shall submit the following documents:

1. Application for the balance of military service retirement benefit or the lump-sum payment of the death benefit.
2. Certificate stating that the deceased had received (or additionally received) monthly pension payment.
3. Certificate of death of the deceased or other legal documents verifying the death thereof.
4. Proof that the deceased left no surviving relative or any lawful executor of the will in the Taiwan Area.
5. Document of identification as a surviving relative in the Mainland Area (certificate of residency of the Mainland Area or long-term residency registration thereof) or verification document of the lawful executor of the will, verified by an institution set up or designated by the Executive Yuan or a private organization entrusted by the Executive Yuan.
6. The executor of the will shall submit the will of the deceased.

#### **Article 33**

Where there are several persons that may apply for the respective payments under Article 26-1, an agreement shall be reached to have one person from among them file the application on behalf of the others, and the entrusted person shall submit a letter of entrustment together with the application.

In case the applicant cannot obtain a certificate of death of the deceased or other legal document verifying the death thereof, the applicant may request in writing that the agency (institution) or educational institution where the deceased last served provide assistance in verifying the deceased's identity or issue a certifying document, except that the foregoing shall be issued by the Ministry of National Defense for deceased military personnel.

Application for payment of the respective benefits reserved in accordance with law under Paragraph 3 of Article 26-1 of the Act shall be processed pursuant to the preceding four Articles. Where the application is not for payment of a lump sum of the death compensation for the personnel of the government, a state enterprise or an educational institution, a certificate of death or other legal document verifying death may be exempted from being filed with the application.

#### **Article 34**

The agency (institution) or educational institution where the deceased last served, when processing the application for the payment of the various benefits, shall investigate and ensure the accuracy of the entitlement of each benefit payable to the surviving relative or legal beneficiary. The competent (processing) authorities, after approving various payments, shall notify the paying agency (institution) to verify the foregoing and issue a check to be mailed to the agency (institution) or educational institution where the deceased last served, and said payments shall be made only after a receipt has been signed by the surviving relative or legal beneficiary and after the entry permit to the Taiwan Area and identity documents (certificate of residency of the Mainland Area or long-term residency registration thereof) of the surviving relative or legal beneficiary have been verified.

Where the total amount of death benefits exceeds two million New Taiwan Dollars, the agency (institution) or educational institution where the deceased last served shall determine and pay the amount payable for each category of benefits based on the ratio of the respective payments in proportion to the total amount to be paid, and shall notify in writing the respective paying institutions for recordation. The agency (institution) or educational institution where the deceased last served shall return the receipts signed by the surviving relative or legal beneficiary and any remaining unpaid balance of the payments to the respective paying institutions. However, the Ministry of National Defense shall take charge of such payments and related matters for military personnel.

Where the surviving relative or legal beneficiary claims the benefits by fraud or receives payments in excess of the entitled amount, the surviving relative or legal beneficiary and other related persons shall bear the legal responsibility arising therefrom.

#### **Article 35**

Where any surviving relative or legal beneficiary in the Mainland Area applies for the payment of the various benefits for military personnel under Paragraph 1 of Article 26-1 of the Act, calculation of such payments shall be made according to the following criteria:

1. Death payments under insurance policies:

(1) For military personnel who died after June 1, 1950 and before February 13, 1970, payments shall be made according to the amount approved for the reserved savings account and interest accruals thereupon.

(2) For military personnel who died after February 14, 1970, payment shall be made according to the criteria effective at that time. However, where the payment of insurance is reserved in accordance with the law, payment shall be made according to the criteria as of July 1, 1997.

2. Lump-sum payment of the Death Compensation:

(1) For military personnel who died after 1949 and before May 13, 1967 whose entitlement to death compensation has been reserved in accordance with the law, the amount shall be calculated according to the payment criteria as of May 14, 1967.

(2) For military personnel who died after May 14, 1967, the amount of death compensation shall be calculated according to the payment criteria effective at the time of death.

3. Balance of military service retirement benefit or lump-sum payment of the death benefit: the amount shall be calculated according to the payment criteria effective at the time of death.

**Article 36**

The special situations as referred to in Paragraph 4 of Article 26-1 of the Act shall mean any of the following situations as verified by the competent authorities:

1. Difficulty in movement due to injury or illness and thus inability to travel to the Taiwan Area. This situation must be verified in writing by a medical institution in the Mainland Area.

2. The amount under application for death payment of insurance, lump-sum payment of death compensation, balance of military service retirement benefit or lump-sum payment of death benefit that is under one hundred thousand New Taiwan Dollars.

3. Other special situations recognized by the competent authorities.

**Article 37**

Pursuant to Paragraph 4 of Article 26-1 of the Act, where an applicant is, as approved by the competent authorities, exempt from entry into the Taiwan Area to apply for the payments prescribed under public law, payment may be made by one of the following means:

1. Payment may be accepted on behalf of the surviving relative or legal beneficiary in the Mainland Area by a relative in the Taiwan Area where such relative has been appointed as agent, as evidenced by a power of attorney, or by

an institution prescribed in Paragraph 1 of Article 4 of the Act or an entrusted private organization prescribed in Paragraph 2 of said Article.

2. Payment may be remitted in accordance with the rules prescribed for financial institutions in the Taiwan Area to process remittances to the Mainland Area where the death payment of insurance, lump-sum payment of death compensation, balance of military service retirement benefit or lump-sum payment of death benefit in question does not exceed one hundred thousand New Taiwan Dollars.

3. Other appropriate means recognized by the competent authorities.

The competent authorities, before issuing approval for the various payments under the public law in accordance with the preceding provisions, shall request the surviving relative or legal beneficiary in the Mainland Area to submit an affidavit, and shall examine and verify related documents, such as the receipt signed in advance by the surviving relative or legal beneficiary.

#### **Article 38**

Documents prepared in the Mainland Area, such as a power of attorney, certificates of death, documents for verification of death, wills, written verification issued by a medical institution, affidavits, receipts and other related documents, shall be verified by an institution set up or designated by the Executive Yuan, or by a private organization entrusted by the Executive Yuan.

#### **Article 39**

The application form and processing procedures regarding the various payments under Article 26-1 of the Act shall be separately prescribed by the Ministry of Civil Service, Ministry of Education, Ministry of National Defense and other competent authorities.

#### **Article 40**

Vessels of the Republic of China as referred to in Articles 28 and 28-1 of the Act shall mean the vessels listed under Article 2 of the Law of Ships; aircraft of the Republic of China referred to in said Articles of the Act shall mean the aircraft registered in the Republic of China in accordance with civil aviation laws.

Mainland vessels and civil aircraft referred to in Paragraph 1 of Article 29 of the Act shall mean the vessels and civil aircraft registered in the Mainland Area, excluding military vessels and aircraft; the Taipei Flight Information Region shall mean the airspace prescribed by the International Civil Aviation Organization for which the Taiwan Area is responsible for providing flight information services and performing navigation aid services.

Foreign vessels and civil aircraft referred to in Paragraph 1 of Article 30 of the Act shall mean the vessels and aircraft registered at a place other than the Taiwan Area or the Mainland Area; regularly scheduled sea or air routes shall mean regularly-operated routes for transportation of passengers and cargo among certain seaports or airports.

Other means of transportation as referred to in Paragraph 1 of Article 28, Article 28-1, Paragraph 1 of Article 29 and Paragraph 1 of Article 30 of the Act shall mean any tools that can be used for purposes of transportation by sea or air.

#### **Article 41**

Any Mainland civil aircraft entering the controlled airspace of the Taipei Flight Information Region without permission shall be dealt with by the institution charged with air defense tasks according to the following rules:

1. Where the aircraft enters the controlled airspace and is thirty sea miles from the coastlines of Taiwan or Penghu, such aircraft, after being intercepted and identified, shall be turned away or guided to land.
2. Where the aircraft enters the controlled airspace and is between twelve and thirty sea miles from the coastlines of Taiwan or Penghu, such aircraft, after being intercepted and identified, shall be warned by gun shots, forced to leave or guided to land, and shall be subject to intensive surveillance and defensive measures.
3. Where the aircraft enters the controlled airspace and is within twelve sea miles from the coastlines of Taiwan or Penghu, such aircraft, after being intercepted and identified, shall be warned by gun shots, forced to leave, forced to land or guided to land.
4. Where the aircraft enters the controlled airspace of the offshore islands, such as Kinmen, Matsu, Dongyin, Wuchiou, or others, such aircraft shall be identified and kept under intensive surveillance and defensive measures, and, when necessary, cautioned with warning, forced to leave or forced to land.

#### **Article 42**

Any Mainland vessel entering the restricted or prohibited waters of the Taiwan Area without permission shall be dealt with by the competent authorities according to the following rules:

1. Any such vessel entering the restricted waters shall be turned away; any vessel that looks suspicious shall be forced to dock and be inspected. Any vessel that ignores the turn-away signal or is involved in contraband shall be detained together with the possessions and personnel onboard.
2. Any such vessel entering the prohibited waters shall be forced to leave; any vessel that looks suspicious shall be forced to dock and be inspected. Any vessel that fails to heed the leave signal, is involved in contraband or engages in illegal fishing, shall be detained together with the possessions and personnel onboard.
3. Any such vessel entering the restricted or prohibited waters to engage in fishing or other illegal acts may be detained together with the possessions and personnel onboard.
4. Warning shots may be fired to caution any Mainland vessel referred to in the preceding three Subparagraphs that refuses to dock or resists detainment; any vessel that fails to heed the warning may encounter gun shots fired directly at the vessel body to force such vessel to dock; any hostile action may cause the vessel concerned to be fired upon and destroyed.



**Article 43**

Any vessel seized under the provisions of the preceding Article shall be confiscated by the competent authorities upon the occurrence of any of the following:

1. Acts of piracy against vessels of the Taiwan Area.
2. Involvement in contraband or illegal fishing concerning the Taiwan Area.
3. Acts of transporting people to illegally enter into or depart from the Taiwan Area.
4. Hostile acts towards vessels that are on duty to carry out inspections.

Any vessel detained on the grounds of involvement in fishing or other illegal acts, or is verified by the competent authorities as having a record of being seized more than twice, may be confiscated.

Any detained vessel that neither falls under the circumstances as prescribed in the preceding two Paragraphs nor has been involved in any violation of law may be returned.

**Article 44**

The competent authorities as referred to in Paragraph 1 of Article 32 of the Act shall mean the agencies that actually perform duties regarding security, anti-smuggling and defense in the waters of the R.O.C.

The competent authorities as referred to in Paragraph 2 of Article 32 of the Act shall mean the coastal patrol and defense agencies and other anti-smuggling forces.

**Article 45**

Any item seized by the competent authorities pursuant to Article 42 above that is classified as a banned item, contraband, a fishing tool for illegal fishing or fish caught from illegal fishing shall be confiscated; any seized fishing tool for fishing or fish caught from fishing or other illegal acts may be confiscated; other seized items not involved in any violation of the law may be returned. However, where the person that possesses the aforesaid item is processed by judicial agency on suspicions of criminal activity, related items of evidence shall be processed as well.

**Article 46**

The competent authorities responsible for providing permission for matters concerning individuals as referred to in Articles 33, 33-1 and 72 of the Act shall be ascertained in light of the nature of the matters to be permitted; the competent authorities for providing approval for matters concerning juristic persons, organizations or other institutions shall be those agencies having authority over the establishment of such juristic persons, organizations or other institutions.

Where the proper competent authorities cannot be ascertained in accordance with the preceding rules, they shall be ascertained by the Mainland Affairs Council under the Executive Yuan.

**Article 47**

Educational institutions of the Mainland Area referred to in Article 23 of the Act and schools of the Mainland Area referred to in Paragraph 1 of Article 33-3 of the Act do not include schools established by Taiwanese businesspeople after filing with the Ministry of Education for records under Article 22-1 of the Act.

Article 33-3 of the Act concerning schools at all levels in the Taiwan Area shall apply *mutatis mutandis* to any alliance or any collaboration agreed in writing among any schools in the Mainland Area established by Taiwanese businesspeople and any schools in the Mainland Area.

**Article 48**

Goods originating from the Mainland Area, as referred to in the Act, shall be determined by applying, *mutatis mutandis*, the provisions of the Criteria for Determining the Origin of Imported Goods.

**Article 49**

The engagement in investment or technology cooperation under Paragraph 1 of Article 35 of the Act, and referred to in Paragraph 5 of said Article, shall mean any such act that is continuing while the amendment and implementation of the Act remain in effect.

**Article 50**

The financial, insurance, securities or futures institutions in the Taiwan Area as referred to in Article 36 of the Act shall mean any financial, insurance, securities or futures institution of the Taiwan Area established or supervised under the Banking Law, the Insurance Law, the Securities and Exchange Law, the Futures Trading Law, or other related laws, or any branch of foreign financial, insurance, securities or futures institution permitted to have business operations in the Taiwan Area under the Banking Law, the Insurance Law, the Securities and Exchange Law, the Futures Trading Law, or other related laws; the branch in any country or area outside the Taiwan Area as referred to in the said Article shall mean any branch of any financial, insurance, securities or futures institution of the R.O.C. established in any country or area outside the Taiwan Area, including branch, representative office, branch office and any subsidiary in the Mainland Area in which the parent company has a stake exceeding 50%.

**Article 51**

Funds from the Mainland Area as referred to in Article 36-1 of the Act shall include the following:

1. Inbound funds remitted, brought or delivered to the Taiwan Area from the Mainland Area.
2. Outbound funds remitted, brought or delivered to the Mainland Area from the Taiwan Area.
3. Funds flowing into or out of the Taiwan Area and not included in the preceding two Subparagraphs that, according to data on the flow of such funds, appear to be the funds of any individual, juristic person, organization or other institutions of the Mainland Area.

**Article 52**

The coins and notes as referred to in Article 38 of the Act shall mean the coins, notes and securities issued in the Mainland Area.

**Article 53**

The declaration prescribed in the proviso of Paragraph 1 of Article 38 of the Act shall be made in writing to Customs.

**Article 54**

The Chinese historic relics as referred to in Paragraph 1 of Article 39 of the Act shall mean the historic relics as prescribed in the Cultural Heritage Preservation Act.

**Article 55**

The related laws and regulations as referred to in Article 40 of the Act shall mean the Commodity Inspection Act, the Infectious Animal Disease Prevention And Control Act, the Wildlife Conservation Act, the Pharmaceutical Affairs Law, the Customs Law, the Customs Prevention of Smuggling Statute, any other related laws and regulations.

**Article 56**

The laws of the Taiwan Area as referred to in Chapter III of the Act shall mean the laws of the R.O.C.

**Article 57**

The place of the household registration as referred to in Article 42 of the Act shall mean the place of the household registration of the party concerned; the area of the household registration as referred to in Articles 55 through 57 and Article 59 of the Act shall mean the Taiwan Area or the Mainland Area, depending on the place of the household registration.

**Article 58**

The father or mother as referred to in Article 57 of the Act shall not include stepfather or stepmother.

**Article 59**

A person of the Mainland Area who inherits the estate of a person of the Taiwan Area according to Article 66 of the Act shall claim the inheritance within three years from the date of the commencement of succession by submitting the following documents to the court of the place where the deceased was domiciled:

1. A written application.
2. A transcript of household registration removing the deceased upon death and an inheritance diagram.
3. Verification of status as an entitled heir.

The written application provided for in Subparagraph 1 of the preceding Paragraph shall specify the following items and be signed by the applicant:

1. Name, gender, age, nationality, job, and domicile of the applicant; name and domicile of the service agent in the Taiwan Area for service of government documents, if any.
2. Intent to accept the inheritance and the purpose and facts thereof.
3. Evidence for verification or explanation.
4. Attached documents and the number of such documents.
5. District court.
6. Year, month and day.

The identification document under Subparagraph 3 of Paragraph 1 shall be verified by an institution set up or designated by the Executive Yuan or a private organization entrusted by the Executive Yuan. In case of several heirs in the same order of inheritance, each person shall additionally submit complete information relating to each person's family ties.

In case of approval of the application for inheritance pursuant to Paragraph 1, the court shall immediately notify the applicant, other heirs and the administrator; provided that such notification shall be exempt where it is not feasible.

#### **Article 60**

A person of the Mainland Area who inherits the estate of a person of the Taiwan Area under Article 66 of the Act shall file for inheritance tax in accordance with the Estate and Gift Taxes Law; any person that is exempt from filing a tax return within the prescribed time period under Article 23 of the Estate and Gift Taxes Law shall, within two months from the date of the application of succession submitted to the court at the place of the deceased's domicile, apply for an extension of the filing deadline, applying *mutatis mutandis* Article 26 of the Estate and Gift Taxes Law, provided that in case of inheritance involving other taxpayers outside the Mainland Area, the tax return shall still be filed in accordance with the Estate and Gift Taxes Law by taxpayers outside the Mainland Area.

The filing of a tax return is exempt in cases where inheritance taxes for the estate in question have been filed by taxpayers outside the Mainland Area or checked and approved by the tax authorities.

#### **Article 61**

For a person of the Mainland Area who inherits the estate of a person of the Taiwan Area under Article 66 of the Act, Article 17 of the Estate and Gift Taxes Law regarding the deduction of tax payable shall apply *mutatis mutandis* to the filings of inheritance taxes.

Any taxpayer applying for the additional itemization of tax deductions for heirs in the Mainland Area and the refund of excess tax payment shall proceed with the matter in accordance with Article 28 of the Law Governing the Levy of Tax.

**Article 62**

A person of the Mainland Area who inherits the estate deposited in a special custodian account as prescribed in Paragraph 2 of Article 67 of the Act shall, in addition to the statement of inheritance submitted to the court in accordance with Article 59 of the Act, notify the institution where the deceased last served while opening the special custodian account, or notify the administrator.

**Article 63**

Calculations based on the criteria prescribed in Paragraph 4 of Article 67 of the Act for converting the right of inheritance to a dollar amount shall be made in accordance with Article 10 of the Estate and Gift Taxes Law and Articles 31 through 33 of the Enforcement Rules thereof. In case of sale of any property of the deceased, the calculation shall be made using the actual sale price.

**Article 64**

Events relating to the estate of an active serviceman or veteran as referred to in Paragraph 2 of Article 68 of the Act shall mean, where such events are already being administered by the competent authorities prior to the coming into force of this Act, those events where disposition is made by the Combined Logistics Command under the Ministry of National Defense, and the Veterans Affairs Commission under the Executive Yuan, in accordance with the Regulations on Management of Estates of Veterans Without Heirs and the Regulations on the Processing of Death of Veterans and Remaining Belongings.

**Article 65**

Where a person of the Mainland Area dies and leaves behind estate assets in the Taiwan Area, the taxpayer concerned shall file the tax return, in accordance with the Estate and Gift Taxes Law, to the Taipei National Tax Administration, Ministry of Finance. The foregoing also applies to gifts, from a person of the Mainland Area, of such person's assets in the Taiwan Area.

In case of the filings of inheritance taxes prescribed in the preceding Paragraph, the deduction of tax payable shall be calculated pursuant to the provisions of Subparagraphs 8 through 11 of Paragraph 1 of Article 17 of the Estate and Gift Taxes Law, provided the foregoing covers only what occurs in the Taiwan Area.

**Article 66**

Where all the heirs are People of the Mainland Area and where one or several of the heirs apply for and acquire the inheritance of property rights that are required to be registered, such heirs shall not apply for the registration thereof until other heirs have waived the right of inheritance or have been deemed to waive the right of inheritance.

**Article 67**

An individual or juristic person of the Mainland Area referred to in Paragraph 1 of Article 72 of the Act shall not include Mainland Area shareholders of a Taiwan company as defined in the Statute on the Exercise of Share Rights by Mainland Area Shareholders of Companies in Taiwan.

**Article 68**

In regard to an application to the court for the recognition of a civil judgment or arbitral award under Article 74 of the Act, verification by an institution set up or designated by the Executive Yuan or a private organization entrusted by the Executive Yuan shall be required.

**Article 69**

In regard to a person of the Mainland Area who commits treason, but who is permitted to enter into the Taiwan Area, pursuant to Article 77 of the Act, by disclosure of the foregoing or as a special case exempt from such disclosure, the agency that grants the entry permit of such persons shall forward in a timely fashion the disclosure report or the report relating to the special case exempt from disclosure to the competent public prosecutors' offices for high courts or branch courts thereof to record.

Matters for which disclosure may be exempted in special cases as prescribed in the preceding Paragraph shall be determined by the Mainland Affairs Council, Executive Yuan.

**Article 70**

The loss or termination of entitlement to retirement benefits and any payment related thereto pursuant to Article 90-1 of the Act shall commence upon violation of the provisions concerned; any overpaid amount shall be reclaimed.

**Article 71**

The competent authorities prescribed in Article 94 of the Act shall mean, as used in Article 87 of the Act, the agency processing applications for permits or the agency discovering the offenses under this Act.

**Article 72**

To safeguard border security and national interests, a reason need not be provided for the refusal of issuance, revocation or annulment of entry permit for a person of the Mainland Area.

**Article 73**

The Enforcement Rules shall take effect from the date of promulgation.

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