

## **State Council Interim Regulations on Major Administrative Decision-making Procedures**

### **Chapter I General Principles**

Article 1. These Regulations are formulated on the basis of such provisions as the Constitution and the Organic Law of Local People's Congresses at All Levels and Local People's Governments at All Levels to strengthen decision-making mechanisms that are scientific, democratic, and law-based, to standardize major administrative decision-making procedures, to raise the quality and efficiency of decisions, and to clarify responsibility for decision-making.

Article 2. These Regulations shall apply to the procedures for local people's governments at the county level and above (hereafter, decision-making organs) to make and adjust major administrative decisions.

Article 3. Major decision-making matters as referred to in these Regulations (hereafter, decision-making matters) shall include:

- (1) Formulating major public policies and measures related to areas such as public services, market regulation, social management, and environmental protection;
- (2) Formulating important plans in areas such as economic and social development;
- (3) Formulating major public policies and measures on development, exploitation, and protection of important natural resources;
- (4) Decisions to implement major public construction projects in that administrative area;
- (5) Decisions on other major matters with a major impact on social and economic development or involving major public interests or vital interests of the public.

Where laws or administrative regulations have other provisions on the decision-making procedures for the matters stipulated in the first paragraph of this Article, those provisions shall be followed. These Regulations shall not apply to macro-control decisions such as fiscal policy and monetary policy, government legislative decisions, and emergency response decisions.

Decision-making organs may determine a catalog of and standards for decision-making matters on the basis of the first paragraph of this Article, combined with the limits of their authority and local conditions, and publish them to society with the consent of the party committee at the same level, and make adjustments based on the actual circumstances.

Article 4. Major administrative decision-making must uphold and strengthen the [Chinese Communist] Party's comprehensive leadership, comprehensively implement the Party's line, principles, policies and decision-making arrangements, give full play to the core role of the Party's leadership, and implement the Party's leadership throughout the entire major administrative decision-making process.

Article 5. The making of major administrative decisions should follow the principle of scientific decision-making, implement a developmental philosophy of innovation, coordination, greening, openness and sharing, persist in starting from actual conditions, apply scientific techniques and methods, respect objective principles, and adapt to the requirements of economic and social development and comprehensive deepening of reform.

Article 6. The making of major administrative decisions should follow the principle of democratic decision-making, fully listen to the opinions of various parties, and safeguard the people's participation in decision-making through multiple channels and forms.

Article 7. The making of major administrative decisions should follow the principle of law-based decision-making, persist in strictly complying with the statutory scope of authority, carry out statutory procedures in accordance with the law, and ensure that the content of decisions conforms to the provisions of laws, regulations and rules.

Article 8. Major administrative decision-making shall in accordance with the law be subject to supervision by the people's congress at that level and its standing committee. Major matters that, in line with the provisions of laws and regulations, are within the scope of discussion and decision by the people's congress at the same level and its standing committee or that should be reported to the standing committee of the people's congress at the same level before being introduced, shall be handled on the basis of relevant provisions.

Higher-level administrative organs should strengthen supervision over major administrative decision-making by lower-level administrative organs. Audit institutions shall supervise major administrative decision-making on the basis of relevant provisions.

Article 9. The circumstances of major administrative decision-making should be an important content of the evaluation and appraisal of decision-making organs and their leading personnel.

## **Chapter II    Formation of the Decision Draft**

### **Section 1. Initiating Decision-Making**

Article 10. Decision-making matters put forward by various parties shall, after having been researched and subjected to expert appraisal in accordance with the following provisions, be reported to the decision-making organ to decide whether to initiate decision-making procedures:

- (1) Suggestions on decision-making matters put forward by leading personnel of decision-making organs shall be delivered to the relevant entities to research and appraise;
- (2) For suggestions on decision-making matters put forward by departments under a decision-making organ or by the lower level people's government, the major issues to be resolved, the reasons and basis for the suggestion, and a preliminary plan for addressing the issues and its necessity and feasibility should be appraised;

(3) Suggestions on decision-making matters put forward by people's congress delegates and people's political consultative conference members through suggestions, motions, and other such means, and written suggestions on decision-making matters put forward by citizens, legal persons or other organizations, shall be turned over to the relevant entities for research and appraisal.

Article 11. Decision-making organs that decide to initiate decision-making procedures should clarify the entity to undertake the decision-making matter (hereafter, the decision-making entity), which shall be responsible for such work as drafting a major administrative decision-making plan. Where decision-making matters require undertaking by two or more entities, the lead decision-making entity should be clarified.

Article 12. Decision-making entities should conduct broad and in-depth investigation and research, comprehensively and accurately master relevant information and, on the basis of full consultation and coordination, draw up draft decisions.

Decision-making entities should comprehensively sort out the laws, regulations, rules, and policies that are relevant to decision-making matters, to ensure that draft decisions comply with laws and regulations and are in line with relevant policies.

Decision-making entities shall, as necessary, carry out analysis and forecast of costs such as the personnel, material, and financial investment, the consumption of resources, and the environmental impact, and the economic, social and environmental benefits involved in decision-making matters.

Where relatively large differences exist among relevant parties, decision-making entities may put forward two or more alternatives.

Article 13. Decision-making entities should consult fully with their subordinate departments or the lower level people's government when decision-making matters involve their duties or are closely related to them; where a consensus opinion cannot be reached, the main issues in dispute, the opinions of the relevant entities, and the opinions, reasoning, and basis of the decision-making entities should be explained to the decision-making organs.

## **Section 2. Public Participation**

Article 14. Except where the law prohibits disclosure of decision-making matters, decision-making entities should utilize methods that facilitate the public's participation to fully hear their opinions.

Hearing opinions may utilize multiple means, such as workshops, hearings, site visits, written solicitation of opinions, openly soliciting opinions from society, survey questionnaires, and public opinion polls.

If decision-making matters involve the interests of specific groups, decision-making entities should communicate and consult with relevant people's organizations, social organizations, and representatives of the masses, and fully listen to the opinions and suggestions of relevant groups.

Article 15. Where opinions from society on decision-making matters are openly solicited, decision-making entities should publish materials such as the draft decision and its explanation through government websites and new public affairs media, as well as through newspapers and periodicals, radio, television and other channels, to facilitate public knowledge, and specify the means and time period for putting forward opinions. The time period for openly soliciting opinions shall generally not be less than 30 days; where the time period needs to be shortened due to urgent circumstances, the time for openly soliciting opinions should be explained.

Decision-making entities may interpret and explain issues that the public is generally concerned about or that are highly professional or technical through expert interviews and other means.

Article 16. Hearings may be convened on decision-making matters that directly involve the vital interests of citizens, legal persons and other organizations or on which major differences of opinion exist. Where laws, regulations or rules have separate provisions on convening hearings, those provisions shall be followed.

Decision-making entities, or other entities organizing the hearing, should publish in advance materials such as the draft decision and its explanation and specify information such as the time, and location of the hearing.

Where it is necessary to select hearing participants, the decision-making entity, or other entity organizing the hearing, should publish in advance the measures for selecting hearing participants, fairly and openly organize the selection, and ensure that related parties all have representatives participating in the hearing. The list of hearing participants should be published to society in advance. Hearing materials should be delivered to the hearing participants seven days in advance of convening the hearing.

Article 17. Hearings should be held publicly in accordance with the following procedures:

- (1) The decision-making entity shall introduce the decision-making plan, basis, grounds, and relevant circumstances;
- (2) Hearing participants shall state opinions, conduct questioning, examine the evidence, and debate. When necessary, the decision-making entity or relevant experts may provide interpretations and explanations;
- (3) The hearing participants shall confirm and sign the hearing record.

Article 18. The decision-making entity should summarize, sort out, research and appraise the opinions put forward by various parties from society, fully adopt reasonable opinions, and improve the draft decision.

### **Section 3. Expert Appraisal**

Article 19. For decision-making matters having a relatively strong professional or technical character, decision-making entities should organize experts or professional institutions to appraise their necessity, feasibility, and scientific aspects and offer necessary safeguards.

Experts and professional institutions should independently carry out appraisal work, objectively, impartially and scientifically put forward appraisal opinions and fulfill their obligation to keep confidential in accordance with the law state secrets, commercial secrets and personal privacy of which they learn; appraisal opinions provided in writing should be signed or sealed.

Article 20. Decision-making entities may employ appraisal meetings, written consultation, entrusting appraisals to consultants and other means to organize expert appraisals. The selection of experts and professional institutions to participate in appraisal should insist on professionalism, representativeness and neutrality, and prioritize the selection of experts and professional institutions that maintain different opinions, and experts and professional institutions that have direct interests in the decision-making matter may not be selected.

Article 21. The people's governments of the provinces, autonomous regions and municipalities directly under the Central Government should establish a database of experts for consultation on and appraisal of decisions, regularize the expert database's operational management system, and perfect a mechanism for assessing the credibility of experts and for their withdrawal.

Municipal and county level people's governments may establish, as necessary, a database of experts for consultation on and appraisal of decisions.

Decision-making organs that have not established a database of experts for consultation on and appraisal of decisions may use the database of experts of the higher level administrative organ.

### **Section 4. Risk Assessment**

Article 22. Where implementing major administrative decisions might cause an adverse impact on social stability, public safety or other such areas, decision-making entities or other entities responsible for risk assessment work should organize risk controllability assessments of the draft decisions.

Where relevant risks have already been evaluated and assessed in accordance with relevant provisions, no redundant assessment shall be conducted.

Article 23. Risk assessment may be conducted through such forms as public opinion tracking, visits to key areas, and consultative analysis, and such methods as qualitative and quantitative analysis may be adopted to scientifically predict and comprehensively judge the risks of implementing the decision.

In conducting risk assessments, the opinions of relevant departments should be listened to and a risk assessment report assembled, specifying the risk points and putting forward risk prevention measures and a plan to deal with the risks.

In conducting risk assessments, professional institutions, social organizations and other third parties may be entrusted with implementation.

Article 24. Risk assessment results should serve as an important basis for major administrative decision-making. Where decision-making organs consider that the risks are controllable, they may make the decision; where they feel the risks are not controllable, they may make the decision after adopting measures such as adjustments to the decision-making draft to ensure the risks are controllable.

### **Chapter III Legality Review and Collective Discussion and Decision**

#### **Section 1. Legality Review**

Article 25: Before decision-making drafts are submitted to decision-making organs for discussion, the department responsible for legality review should conduct a legality review. Solicitation of opinions and other means may not substitute for legality review.

Where decision-making drafts do not undergo legality review or are found upon review to be unlawful, they may not be submitted to decision-making organs for discussion. In the case of exploratory reform decision-making matters for which the state has not yet made provisions, it is permissible to clearly indicate the legal risks and submit them to decision-making organs for discussion.

Article 26. Submissions requesting legality review shall provide the decision-making draft and related materials, including relevant laws, regulations, and rules that are its basis, and an explanation of the statutory decision-making procedures that were carried out. Where the materials provided do not meet requirements, the department responsible for legality review may return them or request they be supplemented.

Submissions requesting legality review should ensure the necessary time for review, which must generally not be less than seven business days.

Article 27. Legality review shall include:

- (1) Whether decision-making matters are in keeping with the statutory scope of authority;
- (2) Whether formation of the decision-making draft complied with statutory procedures;
- (3) Whether the content for decision-making conforms to the provisions of relevant laws, regulations, rules and state policies.

Article 28. Departments responsible for legality review should promptly put forward legality review opinions and, moreover, be responsible for their legality review opinions. During the process of legality review, they should organize legal consultants and public lawyers to put forward legal opinions. Decision-making entities shall make necessary adjustments and supplements on the basis of legality review opinions.

## **Section 2. Collective Discussion and Decision and Publication of Decisions**

Article 29. Decision-making entities that submit draft decisions to decision-making organs for discussion should submit the following materials:

- (1) The draft decision and related materials, and where the draft decision involves the economic activities of market participants, relevant information on fair competition review should be included;
- (2) Where public participation procedures were carried out, information on the research and adoption of the main comments submitted by the public should be submitted concurrently;
- (3) Where expert appraisal procedures were carried out, information on the research and adoption of the experts' appraisal comments should be submitted concurrently;
- (4) Where risk assessment procedures were carried out, materials relevant to the risk assessment report should be submitted concurrently;
- (5) Legality review opinions;
- (6) Other materials required to be submitted.

Article 30. Decision-making drafts should be discussed by the executive or plenary meeting of decision-making organs. The administrative heads of decision-making organs shall make decisions on the basis of the collective discussion.

When discussing decision-making drafts, the meeting's constituent members should fully express their opinions, and administrative heads shall express their views last. Where a decision proposed by the administrative head differs from the opinion of a majority of the meeting's constituent members, the reason should be explained at the meeting.

The circumstances of collective discussions and decisions should be accurately recorded, and differing opinions should be accurately noted.

Article 31. Major administrative decisions should be reported prior to their promulgation for instructions to the party committee at the same level in accordance with provisions.

Article 32: Decision-making organs should promptly publish major decisions through such channels as bulletins and websites of people's governments at the same level, as well as newspapers circulating within the same administrative region. For major administrative

decisions of general concern to the public or having a relatively strong professional or technical nature, except where in accordance with law they shall not be disclosed, the acceptance of public opinions and expert appraisal opinions should be explained, and publicity and interpretation shall be carried out through press conferences, interviews, etc.

Article 33. Decision-making organs should establish major administrative decision-making files, and relevant entities shall promptly and completely archive the relevant records and materials that were formed in carrying out the decision-making procedures.

## **Chapter IV Implementation and Adjustment of Decisions**

Article 34. Decision-making organs should clarify the entities responsible for implementing major administrative decisions (hereafter, decision implementing entities) and supervise and inspect decision implementation. Decision implementing entities should comprehensively, promptly, and correctly implement major administrative decisions, and report on implementation to the decision-making organs.

Article 35. Where decision implementing entities discover existing issues with major administrative decisions, where major changes occur in objective conditions, or where *force majeure* occurring during decision implementation has a serious impact on realization of the decision's objectives, they should promptly report to the decision-making organs.

Where citizens, legal persons, and other organizations believe there are problems with major administrative decisions or their implementation, they may put forward opinions and suggestions to the decision-making organs or decision implementing entities by such means as letters, telephone or email.

Article 36. Under any of the following circumstances, decision-making organs may organize post-decision assessment and designate an entity to undertake the specific assessment work:

- (1) Where implementation of major administrative decisions clearly fails to attain their anticipated result;
- (2) Where citizens, legal persons, and other organizations put forward a relatively large number of opinions;
- (3) Where decision-making organs believe it is necessary.

Professional institutions, social organizations or other third parties, other than entities that undertook the principal appraisal work before the decision was made, may be entrusted to conduct post-decision assessment.

In carrying out post-decision assessment work, it is important to listen to the public's opinions, and the participation and assessment of people's congress representatives, people's political consultative conference members, people's organizations, grassroots organizations, and social organizations should be incorporated.



Post-decision assessment conclusions should constitute an important basis for adjusting major administrative decisions.

Article 37. Major administrative decisions that have been made in accordance with the law may not be arbitrarily changed or their implementation stopped without going through statutory procedures; if any of the circumstances stipulated in Article 35 of these Regulations occurs during implementation, and if the situation is urgent, the administrative head of the decision-making organ may first decide to suspend implementation; if major adjustments are required, related statutory procedures should be carried out according to these Regulations.

## **Chapter V Legal Responsibility**

Article 38. If decision-making organs violate the provisions of these Regulations, the administrative organ at the next higher level shall order corrections, and the responsibility of the decision-making organ's administrative head, other leading personnel having responsibility and other directly responsible personnel shall be pursued in accordance with the law.

If decision-making organs that violate the provisions of these Regulations create serious errors in decision-making, or if they should in accordance with the law promptly make a decision but delay making the decision, thereby causing major loss or adverse impact, responsibility should be investigated and lifelong responsibility pursued and implemented, and the responsibility of the decision-making organ's administrative head, other leading personnel having responsibility and other directly responsible personnel shall be pursued in accordance with the law.

If relevant personnel, at the time that the decision-making organ is collectively discussing and deciding on a draft, express a different opinion on a decision having major errors, responsibility shall be reduced or exempted according to provisions.

Article 39. Where entities undertaking decision-making, or entities undertaking work related to decision-making, fail to carry out the decision-making procedures stipulated by these Regulations, or neglect their duties or commit malfeasance or fraud in carrying out the decision-making procedures, the decision-making organ shall order them to make corrections, and the responsibility of the leading personnel having responsibility and other directly responsible personnel shall be pursued in accordance with the law.

Article 40. Where entities implementing decision-making refuse to implement, shirk implementation, or delay implementation of major administrative decision-making, or conceal, lie about or fail to report major problems discovered in the course of implementation, the decision-making organ shall order them to make corrections and the responsibility of the leading personnel having responsibility and other directly responsible personnel shall be pursued in accordance with the law.

Article 41 Experts, professional institutions and social organizations that undertake assessment and appraisal work and violate professional ethics and the provisions of these Regulations shall be criticized in a circulated notice and ordered to rectify and improve their behavior within a

certain time period; where serious consequences are caused, their assessment qualifications shall be cancelled and they shall assume corresponding responsibility.

## **Chapter VI Supplementary Provisions**

Article 42. The provisions of these Regulations shall apply, by reference, to the procedures for making and adjusting major administrative decisions by departments of people's governments at or above the county level and township people's governments.

Article 43. The people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall, based on these Regulations, formulate specific systems of major decision-making procedures for their administrative areas.

The relevant departments of the State Council shall, with reference to the provisions of these Regulations, formulate specific systems of major administrative decision-making procedures for their departments.

Article 44. These Regulations shall come into effect on September 1, 2019.