

# Law of the People's Republic of China on Choice of Law for Foreign-related Civil Relationships

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Chapter I General Provisions

**Article 1** This Law is enacted in order to clarify the application of laws concerning foreign-related civil relations, reasonably solve foreign-related civil disputes and safeguard the legal rights and interests of parties.

**Article 2** The application of laws concerning foreign-related civil relations shall be determined in accordance with this Law. If there are otherwise special provisions in other laws on the application of laws concerning foreign-related civil relations, such provisions shall prevail.

If there are no provisions in this Law or other laws on the application of any laws concerning foreign-related civil relations, the laws which have the closest relation with this foreign-related civil relation shall apply.

**Article 3** The parties may explicitly choose the laws applicable to foreign-related civil relations in accordance with the provisions of law.

**Article 4** If there are mandatory provisions on foreign-related civil relations in the laws of the People's Republic of China, these mandatory provisions shall directly apply.

**Article 5** If the application of foreign laws will damage the social public interests of the People's Republic of China, the laws of the People's Republic of China shall apply.

**Article 6** As for the application of foreign laws on a foreign-related civil relation, if different laws are enforced in different regions of this foreign country, the laws of the region which has the closest relation with this foreign-related civil relation shall apply.

**Article 7** The proper laws applicable to the relevant foreign-related civil relations shall apply to the limitation of action.

**Article 8** Lex fori shall apply to the determination on the nature of foreign-related civil relations.

**Article 9** Foreign laws applicable to foreign-related civil relations do not include the Law of the Application of Law of this foreign country.

**Article 10** Foreign laws applicable to foreign-related civil relations shall be ascertained by the people's court, arbitral authority or administrative organ. If any party chooses the applicable foreign laws, he shall provide the laws of this country.

If foreign laws can not be ascertained or there are no provisions in the laws of this country, the laws of the People's Republic of China shall apply.

## Chapter II Civil Subjects

**Article 11** The laws at the habitual residence shall apply to the civil rights capacities of a natural person.

**Article 12** The laws at the habitual residence shall apply to the civil acts capacities of a natural person.

Where a natural person conducting civil activities is determined as incompetent for civil acts in accordance with the laws at the habitual residence but is determined as competent for civil acts in accordance with the laws at the locality of the acts, the laws at the locality of the acts shall apply unless they are related to marriage, family or inheritance.

**Article 13** The laws at the habitual residence of a natural person shall apply to the declaration of missing or declaration of death.

**Article 14** The laws at the locality of registration shall apply to such items as the civil rights capacities, civil acts capacities, organizational institutions, rights and obligations of shareholders, etc. of a legal person and its branch.

If the main business place of a legal person is inconsistent with the locality of registration, the laws of the main business place may apply. The main business place of a legal person shall be its habitual residence.

**Article 15** The laws at the habitual residence of a right holder shall apply to the contents of his right of personality.

**Article 16** The laws at the locality of agency act shall apply to agency, but the laws at the locality of agency relation shall apply to the civil relations between the principal and the agent.

The parties concerned may choose the laws applicable to entrustment of agency by agreement.

**Article 17** The parties concerned may choose the laws applicable to trust by agreement. If the parties do not choose, the laws at the locality of the trust or of the fiduciary relation shall apply.

**Article 18** The parties concerned may choose the laws applicable to arbitral agreement by agreement. If the parties do not choose, the laws at the locality of the arbitral authority or of the arbitration shall apply.

**Article 19** If the laws of the state of nationality are to apply in accordance with this Law and a natural person has more than two nationalities, the laws of the state of nationality in which he has a habitual residence shall apply; if he has no habitual residence in any of the states of nationality, the laws of the state of nationality with which he has the closest relation shall apply. If a natural person has no nationality or his nationality is uncertain, the laws at his habitual residence shall apply.

**Article 20** If the laws at the habitual residence are to apply in accordance with this Law and a natural person's habitual residence is uncertain, the laws at his current residence shall apply.

### Chapter III Marriage and Family

**Article 21** The laws at the mutual habitual residence of the parties shall apply to the marriage qualifications; if there is no mutual habitual residence, the laws of the mutual state of nationality shall apply; if there is no mutual nationality and the marriage is established at the habitual residence or in the state of nationality of one party, the laws at the locality where the marriage is established shall apply.

**Article 22** Marriage formalities shall be valid if they conform to the laws at the locality where the marriage is established or the laws at the habitual residence or of the state of nationality of one party.

**Article 23** The laws at the mutual habitual residence shall apply to the personal relation between husband and wife; if there is no mutual habitual residence, the laws of the mutual state of nationality shall apply.

**Article 24** As for the property relation between husband and wife, the parties concerned may choose the applicable laws at the habitual residence, of the state of nationality or at the locality of the main properties of one party by agreement. If the parties do not choose, the laws at the mutual habitual residence shall apply; if there is no mutual habitual residence, the laws of the mutual state of nationality shall apply.

**Article 25** The laws at the mutual habitual residence shall apply to the personal and property relations between parents and children; if there is no mutual habitual residence, the laws in favor of protecting the rights and interests of the weak in the laws at the habitual residence or of the state of nationality of one party shall apply.

**Article 26** As for a divorce by agreement, the parties concerned may choose the applicable laws at the habitual residence or of the state of nationality of one party by agreement. If the parties do not choose, the laws at the mutual habitual residence shall apply; if there is no mutual habitual residence, the laws of the mutual state of nationality shall apply; if there is no mutual nationality, the laws at the locality of the institution handling the divorce formalities shall apply.

**Article 27** The laws at the locality of the court shall apply to a divorce by litigation.

**Article 28** The laws at the habitual residence of the adopter and the adoptee shall apply to the qualifications and formalities of adoption. The laws at the habitual residence of the adopter at the time of adoption shall apply to the validity of adoption. The laws at the habitual residence of the adoptee at the time of adoption or at the locality of the court shall apply to the termination of the adoptive relation.

**Article 29** The laws in favor of protecting the rights and interests of the persons being maintained in the laws at the habitual residence, of the state of nationality or at the locality of the main properties of one party shall apply to maintenance.

**Article 30** The laws in favor of protecting the rights and interests of the persons under guardianship in the laws at the habitual residence or of the state of nationality of one party shall apply to guardianship.

#### Chapter IV Inheritance

**Article 31** The laws at the habitual residence at the time of death of the deceased shall apply to legal inheritance, but the laws at the locality of the real estate shall apply to the legal inheritance of a real estate.

**Article 32** A testament shall be confirmed as valid if its form conforms to the laws at the habitual residence, of the state of nationality or at the locality of the testamentary acts when the testament is made or at the time of death of the testator.

**Article 33** The laws at the habitual residence or of the state of nationality when the testament is made or at the time of death of the testator shall apply to the validity of a testament.

**Article 34** The laws at the locality of an estate shall apply to the administration of estates and related issues.

**Article 35** The laws at the locality of an estate at the time of death of the deceased shall apply to the disposition of a vacant estate.

#### Chapter V Real Right

**Article 36** The laws at the locality of immovables shall apply to the right to immovables.

**Article 37** The parties concerned may choose the laws applicable to the right over the movables by agreement. If the parties do not choose, the laws at the locality of the movables when the legal facts take place shall apply.

**Article 38** The parties concerned may choose the laws applicable to any change of the right over the movables taking place in transportation by agreement. If the parties do not choose, the laws at the destination of transportation shall apply.

**Article 39** The laws at the locality of the realization of the rights of negotiable securities or other laws which have the closest relation with the negotiable securities shall apply to negotiable securities.

**Article 40** The laws at the locality of the establishment of the right of pledge shall apply to the pledge of rights.

#### Chapter VI Creditor's Rights

**Article 41** The parties concerned may choose the laws applicable to contracts by agreement. If the parties do not choose, the laws at the habitual residence of the party whose fulfillment of obligations can best reflect the characteristics of this contract or other laws which have the closest relation with this contract shall apply.

**Article 42** The laws at the habitual residence of consumers shall apply to consumer contracts; If a consumer chooses the applicable laws at the locality of the provision of goods or services or an operator has no relevant business operations at the habitual residence of the consumer, the laws at the locality of the provision of goods or services shall apply.

**Article 43** The laws at the working locality of laborers shall apply to labor contracts; if it is difficult to determine the working locality of a laborer, the laws at the main business place of the employer shall apply. The laws at the dispatching place of labor services shall apply to labor dispatches.

**Article 44** The laws at the place of tort shall apply to liabilities for tort, but if the parties have a mutual habitual residence, the laws at the mutual habitual residence shall apply. If the parties choose the applicable laws by agreement after any tort takes place, the agreement shall prevail.

**Article 45** The laws at the habitual residence of the infringed shall apply to product liabilities; if the infringed chooses the applicable laws at the main business place of the infringer or at the locality of the infringement, or the infringer has no relevant business operations at the habitual residence of the infringed, the laws at the main business place of the infringer or at the locality of the infringement shall apply.

**Article 46** If such personal rights as the right of name, right of portrait, right of reputation, right of privacy, etc. are infringed upon via the network or by other means, the laws at the habitual residence of the infringed shall apply.

**Article 47** The applicable laws chosen by the parties concerned by agreement shall apply to ill-gotten gains and negotiorum gestio. If the parties do not choose, the laws at the mutual habitual residence of the parties shall apply; if there is no mutual habitual residence, the laws at the locality of ill-gotten gains and negotiorum gestio shall apply.

#### Chapter VII Intellectual Property Rights

**Article 48** The laws at the locality where protection is claimed shall apply to the ownership and contents of the intellectual property right.

**Article 49** A party may choose the laws applicable to the assignment and licensed use of intellectual property right by agreement. If the parties do not choose, the relevant provisions on contracts of this Law shall apply.

**Article 50** The laws at the locality where protection is claimed shall apply to the liabilities for tort for intellectual property, the parties concerned may also choose the applicable laws at the locality of the court by agreement after the tort takes place.

#### Chapter VIII Supplementary Provisions

**Article 51** If the provisions in [Article 146](#) and [Article 147](#) of the [General Principles of the Civil Law of the People's Republic of China](#) and [Article 36](#) of the [Law of Succession of the People's Republic of China](#) do not conform with the provisions in this Law, the provisions in this Law shall prevail.

**Article 52** This Law shall come into force on April 1, 2011.