

LAW OF THE PEOPLE'S REPUBLIC OF CHINA ON PROMOTION OF SMALL AND MEDIUM-SIZED ENTERPRISES

(Adopted at the 28th Meeting of the Standing Committee of the Ninth National People's Congress on June 29, 2002 and promulgated by Order No. 69 of the President of the People's Republic of China on June 29, 2002)

Contents

Chapter I General Provisions

Chapter II Funding

Chapter III Support for Establishment of Enterprises

Chapter IV Technological Innovation

Chapter V Market Development

Chapter VI Public Services

Chapter VII Supplementary Provisions

Chapter I General Provisions

Article 1 This Law is enacted for the purpose of improving the business environment for small and medium-sized enterprises, promoting their sound development, creating more job opportunities in both urban and rural areas, and giving play to the important role of such enterprises in national economic and social development.

Article 2 For purposes of this Law, small and medium-sized enterprises refer to the different forms of enterprises under different ownerships that are established within the territory of the People's Republic of China according to law, that help to meet the social needs and create more job opportunities, that comply with the industrial policies of the State and that are small and medium-sized in production and business operation.

The criteria for determining small and medium-sized enterprises shall be laid down by the department under the State Council in charge of work in respect of enterprises, on the basis of the number of employees, volume of sale, total assets, etc. of an enterprise and in light of the characteristics of different trades and shall be submitted to the State Council for approval.

Article 3 With regard to small and medium-sized enterprises, the State applies the principles of active support, strong guidance, perfect service, lawful standardization and guaranteed

rights and interests, in order to create a favorable environment for their establishment and development.

Article 4 The State Council shall be responsible for formulating policies regarding small and medium-sized enterprises and make overall planning for their development.

The department under the State Council in charge of work in respect of enterprises shall arrange for the implementation of the State policies and plans concerning the small and medium-sized enterprises, making all-round coordination and providing guidance and services in the work regarding such enterprises throughout the country.

The related departments under the State Council shall, according to the policies and overall planning of the State for small and medium-sized enterprises and within the scope of their respective functions and responsibilities, provide guidance and services to such enterprises.

Local people's governments at or above the county level, the administrative departments under them in charge of work in respect of enterprises and other departments concerned shall, within the scope of their respective functions and responsibilities, provide guidance and services to small and medium-sized enterprises located within their respective administrative areas.

Article 5 The department under the State Council in charge of work in respect of enterprises shall, according to the industrial policies of the State and in light of the characteristics of the small and medium-sized enterprises and the conditions of their development, determine the key ones for support by formulating a catalogue of small and medium-sized enterprises to be provided with guidance for their industrial development or by other means, in order to encourage the development of all such enterprises.

Article 6 The State protects the lawful investments made by small and medium-sized enterprises and their investors, as well as the legitimate profits earned from the investments. No unit or individual may infringe upon the property and lawful rights and interests of such enterprises.

No unit may, in violation of laws and regulations, charge fees to or impose fines on small and medium-sized enterprises, nor collect money or things of value from them. The enterprises shall have the right to refuse to make the payment and the right to report and accuse violations of the provisions mentioned above.

Article 7 Administrative departments shall safeguard the lawful rights and interests of small and medium-sized enterprises, protect their right to participate in fair competition and transaction according to law, and they may not discriminate against the enterprises or add unequal conditions to their transactions.

Article 8 small and medium-sized enterprises shall observe State laws and regulations governing occupational safety, occupational health, social security, resources, environment protection, product quality, public finance, taxation, finance, etc., and manage business according to law, and they may not infringe upon the lawful rights and interests of their employees or impair public interests.

Article 9 small and medium-sized enterprises shall observe professional ethics, abide by the principle of good faith, work hard to raise their business level and increase the ability to develop themselves.

Chapter II Funding

Article 10 In the budget of the Central Government there shall be a heading for small and medium-sized enterprises, under which to arrange special funds for supporting the development of such enterprises.

Local people's governments shall, in light of actual conditions, provide financial support to small and medium-sized enterprises.

Article 11 The special funds provided by the State for supporting the development of small and medium-sized enterprises shall be used to promote the establishment of a service system for such enterprises, to carry out work in their support, to supplement their funds for development and to support their development in other areas.

Article 12 The State establishes development funds for small and medium-sized enterprises, which are composed of the following:

- (1) the special funds arranged in the budget of the Central Government for supporting the said enterprises;
- (2) profits yielded by the funds;
- (3) donation; and
- (4) others.

The State encourages donations to the development funds for small and medium-sized enterprises through taxation policies.

Article 13 The State development funds for small and medium-sized enterprises shall be used to support the following fields of endeavor:

- (1) instructions on and services for establishment of enterprises;
- (2) establishment of a credit guaranty system for the enterprises;
- (3) technological innovation;
- (4) encouragement for their specialization and their cooperation with large enterprises;
- (5) personnel training and information consultancy, etc. provided by the service institutions for the enterprises;
- (6) creation of international market;
- (7) cleaner production; and

(8) others.

The administrative measures for establishment and use of the development funds for small and medium-sized enterprises shall be formulated separately by the State Council.

Article 14 The People's Bank of China shall give better guidance in credit policies and help improve the financing environment for small and medium-sized enterprises.

The People's Bank of China shall give more vigorous support to small and medium-sized financial institutions and encourage commercial banks to readjust their credit structure and provide greater credit support to small and medium-sized enterprises.

Article 15 All financial institutions shall provide financial support to small and medium-sized enterprises, make efforts to improve financial service, change their style of service, enhance their awareness of the importance of service and improve service quality.

All commercial banks and credit cooperatives shall improve credit management, expand the areas of services and develop financial products that are suited to the development of small and medium-sized enterprises, readjust their credit structure, and provide the enterprises with such services as loans, balancing of accounts, financial consultancy and investment management.

State policy-oriented financial institutions shall, within their business scope, provide financial services to small and medium-sized enterprises.

Article 16 The State takes measures to broaden the channels of direct financing for small and medium-sized enterprises and gives them active guidance in their efforts to create conditions for direct financing through various ways as permitted by laws and administrative regulations.

Article 17 The State, through taxation policies, encourages various kinds of risk investment institutions established according to law to increase investment in small and medium-sized enterprises.

Article 18 The State promotes the development of the credit system for small and medium-sized enterprises by establishing a collection and assessment system of credit information, in order to socialize the inquiry about and the exchange and sharing of credit information concerning such enterprises.

Article 19 People's governments at or above the county level and related departments shall promote and arrange for the establishment of a credit guaranty system for small and medium-sized enterprises, encourage credit guaranty for them and create conditions for their financing.

The administrative measures for credit guaranty for small and medium-sized enterprises shall be formulated separately by the State Council.

Article 20 The State encourages all kinds of guaranty institutions to provide credit guaranty to small and medium-sized enterprises.

Article 21 The State encourages small and medium-sized enterprises to enter into different forms of mutual-help financing guaranty according to law.

Chapter III Support for Establishment of Enterprises

Article 22 The government departments concerned shall actively create conditions to provide necessary and suitable information and consultancy and, when working out plans for urban and rural construction, make rational arrangements for the necessary places and facilities to meet the needs for the development of small and medium-sized enterprises and support the establishment of such enterprises.

Where unemployed or disabled establish small and medium-sized enterprises, the local government shall actively support them, provide conveniences and better guidance.

The government departments concerned shall take measures to broaden channels for the small and medium-sized enterprises to employ graduates of colleges and specialized secondary schools.

Article 23 The State supports and encourages, through relevant taxation policies, the establishment and development of small and medium-sized enterprises.

Article 24 With regard to the small and medium-sized enterprises that are established by unemployed persons or that employ laid-off workers in the year of their establishment, the number of whom reaches the percentage fixed by the State, the ones that use new and high technologies and conform to State policies for supporting and encouraging the development of such enterprises the ones that are established in minority ethnic areas and poverty-stricken areas, and the ones that provide jobs to disabled persons, the number of whom reaches the percentage fixed by the State, the State reduces the rate of tax or exempts them from income tax during a certain period of time, and adopts preferential taxation policies.

Article 25 Local people's governments shall, in light of actual conditions, provide persons who establish enterprises with policy consultancy and information services concerning industrial and commercial administration, public finance, taxation, financing, labor, employment, social security, etc.

Article 26 Government departments in charge of enterprise registration shall, in compliance with the statutory requirements and procedures, handle registration for the small and medium-sized enterprises established, increase their work efficiency and provide conveniences to the registrants. They may not impose preconditions for registration of enterprises beyond the provisions of laws and administrative regulations; and they may not collect fees beyond the ones or rates specified by laws and administrative regulations.

Article 27 The State encourages small and medium-sized enterprises, in accordance with the State policies for the use of foreign funds, to introduce foreign investment and advanced technology and management expertise and to establish Chinese-foreign equity joint ventures and contractual joint ventures.

Article 28 The State encourages individuals and legal persons, in accordance with law, to take part in the establishment of small and medium-sized enterprises by investing their industrial property right, nonpatented technology, etc.

Chapter IV Technological Innovation

Article 29 The State formulates policies to encourage small and medium-sized enterprises to develop new products and to adopt advanced technology, manufacturing technique and equipment to meet market needs and to improve product quality and make technological progress.

When launching projects for technological innovation and projects for technological updating in support of the products of large enterprises, small and medium-sized enterprises may enjoy the policy of discount interest on loans.

Article 30 The government departments concerned shall give policy-related support to small and medium-sized enterprises in terms of planning, land use and finance, promote the establishment of different kinds of technical service institutions and establish centers for advancing the productive forces and bases for creating science- and technology-oriented enterprises, in order to provide small and medium-sized enterprises with services relating to technological information, consultancy and transferring and services for the development of products and technologies, and to help promote the transformation of scientific and technological achievements and upgrade the technology and product of the enterprises.

Article 31 The State encourages technological cooperation, development and exchange between small and medium-sized enterprises on the one hand and research institutions and institutions of higher education on the other, in order to promote the industrialization of scientific and technological achievements and actively develop small and medium-sized enterprises that make use of scientific and technological achievements.

Chapter V Market Development

Article 32 The State encourages and supports large enterprises to establish, on the basis of resources allocation by the market, stable relations of cooperation with small and medium-sized enterprise in respect of the supply of raw and semi-processed materials, production, marketing, and technological development and updating, in order to help promote the development of small and medium-sized enterprises.

Article 33 The State gives guidance to, promotes and regulates the restructuring of the assets of small and medium-sized enterprises through merge, purchase, etc., in order to optimize the allocation of resources.

Article 34 When purchasing goods or service, the government shall give first priority to small and medium-sized enterprises.

Article 35 The government departments and institutions concerned shall provide guidance and assistance to small and medium-sized enterprises to stimulate the export of their products and promote their economic and technological cooperation and exchange with other countries.

The policy-oriented financial institutions of the State concerned shall, by means of providing loans for import and export, export credit insurance, etc., support small and medium-sized enterprises in their efforts to develop market abroad.

Article 36 The State formulates policies to encourage qualified small and medium-sized enterprises to invest abroad, participate in international trade and develop international market.

Article 37 The State encourages the service institutions for small and medium-sized enterprises to hold exhibitions and fairs for their products and to conduct information consultancy activities.

Chapter VI Public Services

Article 38 The State encourages all sectors of the society to establish and improve the service system for small and medium-sized enterprises and to provide them with services.

Article 39 The government shall, in light of actual needs, support the institutions established in the service of small and medium-sized enterprises and see that they provide top-notch services to the enterprises.

The service institutions for small and medium-sized enterprises shall make full use of computer networks and other advanced technologies to gradually establish and improve the information service system opening to the entire community.

The service institutions for small and medium-sized enterprises shall contact the various kinds of public intermediary agencies and encourage them to serve such enterprises.

Article 40 The State encourages the various kinds of public intermediary agencies to provide the small and medium-sized enterprises with such services as instructions on establishment of enterprises, business consulting, information consultancy, marketing, investment, financing, credit guaranty, property right transaction, technological support, bringing in of talents, personnel training, cooperation with other countries, exhibitions, fairs and legal advice.

Article 41 The State encourages related institutions and institutions of higher education to train managerial, technical and other personnel for small and medium-sized enterprises, in order to help raise the enterprises' level of marketing, management and technology.

Article 42 The self-regulating trade organizations shall actively serve the small and medium-sized enterprises.

Article 43 The self-regulating organizations in charge of the self-restricting and self serving small and medium-sized enterprises shall safeguard the legitimate rights and interests of the enterprises, express their suggestions and requirements, and serve them in market development and increase of their management ability.

Chapter VII Supplementary Provisions

Article 44 The provinces, autonomous regions and municipalities directly under the Central Government may, in light of the conditions of the local small and medium-sized enterprises, formulate measures for implementation of this Law.

Article 45 This Law shall go into effect as of January 1, 2003.

