

Implementation Measures for Administrative Licensing of the China Insurance Regulatory Commission

中国保险监督管理委员会行政许可实施办法

(The CIRC Ordinance No. 2004-5)

Reviewed and adopted by the Chairman Meeting of the China Insurance Regulatory Commission on June 3, 2004, the *Implementation Measures for Administrative Licensing of the China Insurance Regulatory Commission* is hereby promulgated and shall come into effect as of July 1, 2004.

Chairman: Wu Dingfu
June 30, 2004

Implementation Measures for Administrative Licensing Of the China Insurance Regulatory Commission

Article 1

These measures are formulated in accordance with *Administrative Licensing Law of the People's Republic of China* and *Insurance Law of the People's Republic of China* in order to regulate the implementation of administrative licensing of the China Insurance Regulatory Commission (hereafter referred to as the "CIRC") and the local offices of the CIRC (hereafter referred to as the "local offices"), to improve the efficiency of insurance supervision, and to safeguard the legitimate rights and interests of citizens, insurance institutions, other legal persons and organizations.

Article 2

Administrative licensing hereof refers to the action that the CIRC or its local offices examine the applications of citizens, insurance institutions, other legal persons and organizations in accordance with laws, administrative rules and the authorization as decided by the State Council, and permit them to conduct certain activities.

Article 3

The CIRC and its local offices shall implement administrative licensing in accordance with limits of authority, scope, conditions and procedures as prescribed by law, pursuing the principles of "open, fair, justified and convenient for people", so as to raise work efficiency and provide good service.

Article 4

The CIRC may enact regulations to authorize its local offices to implement administrative licensing. The local offices concerned shall implement administrative licensing with its limits of authority as prescribed by the regulations and in their own name.

The CIRC may enact normative documents and entrust its local offices with the implementation of administrative licensing. The local offices concerned shall implement administrative licensing according to the CIRC's entrustment and in the name of the CIRC. The CIRC shall take the legal responsibility for the result of the action.

Article 5

The CIRC shall not enact regulations or normative documents to create administrative licensing requirements. The local offices shall neither create administrative licensing requirements nor make specified stipulations on the implementation of administrative licensing.

Article 6

The CIRC may, in its regulations and normative documents, make specified stipulations on the implementation of administrative licensing of activities that require administrative licenses according to laws and administrative regulations or decisions by the State Council, but shall satisfy the requirements as follows:

1. No other conditions in violation of laws, administrative regulations or decisions of the State Council shall be added;
2. The conditions of administrative licensing shall be enumerated clearly;
3. Materials which the applicant needs to submit shall be enumerated clearly;
4. Conditions and materials not directly related to administrative licensing items shall not be enumerated.

Article 7

The normative documents enacted by the CIRC as stipulated in Article 6 hereof shall be announced and published in time on the CIRC proclamations or newspapers distributed across the country.

Article 8

Specific qualification tests of the insurance sector shall be implemented uniformly by the CIRC and held publicly. The local offices shall not add separate tests. The CIRC shall announce the conditions, measures, subjects and program of the tests in advance. The CIRC shall issue qualification certificates with the seal of the CIRC to those who have passed the tests and meet other legal conditions.

The licensing procedure of specific qualifications of the insurance sector, if otherwise stipulated by the CIRC, shall follow such stipulations.

Article 9

The CIRC or its local offices shall provide the applicant with the format of administrative licensing application if a standardized application is required.

The CIRC shall publish the administrative licensing items and the format of administrative licensing application on its official website so as for the applicants to browse and download conveniently.

Article 10

The General Office of the CIRC and the Offices of the local offices are institutions to uniformly accept administrative licensing applications (hereinafter referred to as the “accepting institution”). An accepting institution shall assume the responsibilities as follows:

1. It shall uniformly accept administrative licensing applications within the limits of authority of the CIRC or its local offices;
2. It shall conduct a preliminary examination of the completeness of the application materials and make suggestions on whether the application can be accepted or not;
3. It shall accept the inquiries of the public about insurance administrative licensing;
4. It shall superintend the handling of administrative licensing items;
5. It shall uniformly serve insurance administrative licensing decisions and certificates.

Article 11

The CIRC and its local offices shall announce the addresses and ways of contact of the accepting institutions on their official websites.

Article 12

An accepting institution shall have full-time personnel to accept administrative licensing applications uniformly in fixed office premises.

Article 13

An accepting institution shall display the following materials in office premises where administrative licensing applications are accepted for the public to look up.

1. Document(s) providing the basis for the implementation of administrative licensing;
2. Stipulations of the conditions, procedures, and time limit of the implementation of administrative licensing;
3. Catalogue of all materials which the applicant needs to submit;
4. Sample text of the standardized application.

In case an applicant asks for explanations of the displayed materials mentioned above, an accepting institution shall explain the materials concerned with accurate and reliable information.

Article 14

An accepting institution shall handle applicants' administrative licensing applications separately according to different circumstances as follows:

1. In case an application item does not need an administrative license according to law, an accepting institution shall inform the applicant immediately that the application shall not be accepted.
2. In case an application item is not within the limits of authority of the CIRC or its local offices according to law, an accepting institution shall immediately decide not to accept the application and shall inform the applicant to apply to the administrative authority concerned.
3. In case application materials contain any error(s) that can be corrected on the spot, an accepting institution shall allow the applicant to correct the error(s) on the spot and shall request the applicant to confirm the correction(s) by signing his/her name on the correction(s).
4. In case application materials are incomplete or do not accord with the legal format, an accepting institution shall make out a notice of materials supplement and correction on the spot or within 5 days, informing the applicant of what to be supplemented.
5. In case an application item is within the limits of authority of the CIRC and its local offices, and the application materials are complete and comply with the legal format or materials have been duly supplemented or corrected in accordance with requirement, an accepting institution shall accept the administrative licensing application.

In case an accepting institution cannot decide on the spot whether an application should be accepted or not, it shall, after receiving the applicant's application materials, provide the applicant with a note acknowledging receipt of the application materials and a list clearly enumerating the names of materials submitted.

Article 15

After deciding to or not to accept an application, an accepting institution shall provide a dated written decision certificate with a seal for the exclusive use of administrative licensing.

An accepting institution shall regard the date on which complete materials are received as the date to be indicated on the accepting certificate.

Article 16

An accepting institution shall inform an applicant to get the written decision certificate concerned on the day when a notice of material supplement and correction is made out or a decision to or not to accept the application is made.

If the applicant refuses to get the decision certificate, the accepting institution may serve the document by post.

Article 17

The CIRC and its local offices shall examine an applicant's application materials submitted.

If the CIRC or its local offices find that the administrative licensing item is directly related to others' material interests, the interested parties shall be informed. The applicant and the interested parties have the right to state their views and argue. The CIRC and its local offices shall hear the opinions of the applicant and the interested parties.

Article 18

If an applicant submits supplement materials after an accepting institution accepts the application and before an administrative licensing decision is made, the administrative licensing time shall be recalculated, starting from the date of the accepting institution receiving the supplement materials.

Article 19

If an applicant wants to withdraw the administrative licensing application after it is accepted and before a licensing decision is made, he/she shall submit a written application for withdrawal to the accepting institution. The CIRC or its local offices shall terminate the examination of the administrative licensing application in time and return the application materials to the applicant.

Article 20

A local office authorized or entrusted by the CIRC to conduct preliminary examination of applicants' administrative licensing applications, shall also be authorized or entrusted to accept administrative licensing applications and to serve licensing decisions and certificates uniformly.

The local office shall finish preliminary examination within the legal time limit and submit the preliminary examination opinion and the application materials to the CIRC. The CIRC shall not require the applicant to submit application materials separately.

Article 21

If the CIRC authorizes or entrusts its local offices to implement administrative licensing, the legal time limit of administrative licensing shall not be prolonged.

Article 22

If an applicant's application complies with legal conditions and standards, the CIRC or its local offices shall make a decision in writing to grant an administrative license. If the CIRC or its local offices makes a decision in writing to grant no administrative license according to law, it shall explain the reason and inform the applicant of the right to apply for administrative reconsideration or start administrative proceedings in accordance with law.

The CIRC or its local offices shall make the decision to or not to grant an administrative license in the legal time limit.

Article 23

If the CIRC or its local offices makes a decision to grant an administrative license and an insurance licensing certificate needs to be issued, it shall issue an insurance licensing certificate with the seal of the CIRC to the applicant.

Article 24

Administrative licensing decisions and insurance licensing certificates made by the CIRC or its local offices shall be uniformly served by the accepting institutions.

The decision to grant administrative licensing shall be served to the applicant by the accepting institution within 10 days from the day when the decision is made. If the CIRC or its local offices make the decision to grant an administrative license and an insurance licensing certificate needs to be issued, the insurance licensing certificate shall be served to the applicant by the accepting institution within 10 days from the day when the decision is made.

Time en route shall not be calculated in the above-mentioned period.

Article 25

Administrative licensing decisions and insurance licensing certificates shall be served directly by accepting institutions. If there is any difficulty in direct service, they may be served by post.

For direct service by an accepting institution, a receipt is necessary and the applicant shall date and sign or stamp on it. For service by post, an accepting institution must keep the postal certificate. The indicated date of receipt on the postal certificate shall be the date of service.

Article 26

If an administrative licensing decision cannot not be served directly or by post by an accepting institution, it shall be served by public announcement.

In case of serving an administrative licensing decision by public announcement, an accepting institution shall announce the decision in the CIRC's official website or newspapers. 60 days after the day of the announcement, the decision shall be regarded as having been served.

Article 27

The CIRC or its local offices shall publicize an administrative licensing decision on the CIRC proclamations or its official website.

Article 28

If a licensee requests an alteration of administrative licensing items, the licensee shall submit an application to the institution making the administrative licensing decision. If the application complies with legal conditions, the CIRC or its local offices shall go through the procedures of alteration according to law.

The CIRC and its local offices shall complete the procedures of alteration within the legal time limit.

Article 29

In case any regulation or normative document enacted by the CIRC for the implementation of administrative licensing is related to material public interests, the CIRC shall publicize it and convene a hearing.

Article 30

If administrative licensing is directly related to material interests between the applicant and others, the CIRC or its local offices shall inform the applicant and the interested parties of the right to request a hearing before making the administrative licensing decision; If the applicant or interested parties apply for a hearing within 5 days after they are informed of the right to request a hearing, the CIRC or its local offices shall organize a hearing within 20 days.

Article 31

The CIRC and its local offices shall gradually establish and perfect their supervisory system and assume the supervisory responsibilities by examining corresponding materials that reflect a licensee's activities in administrative licensing items.

When supervising and inspecting the licensee's activities in administrative licensing items, the CIRC and its local offices shall fill in record sheets, recording its supervision, inspection and the results of problem handling. Inspection officials shall sign and file them. The public has the right to read the record sheets.

Article 32

The CIRC and its local offices shall divide their work according to their respective regulatory responsibilities and shall supervise licensees effectively.

The local offices shall effectively supervise licensees in the area under its jurisdiction.

If a licensee is engaged in an illegal activity in a place outside its registered locality, the local office of the place where the illegal activity occurs shall be responsible for investigation and handling. The local office in charge of investigation and handling shall send a copy of the licensee's illegal facts and the results of handling to the

administrative institution making the administrative licensing decision and the local office of the locality of the licensee.

Article 33

The CIRC shall strengthen the supervision and inspection of the implementation of administrative licensing of its local offices, and shall correct illegal activities in the implementation of administrative licensing.

Article 34

If any of the following cases occurs, the CIRC or its local offices may alter or withdraw a valid administrative license according to law.

1. Alteration or abolishment of the laws and regulations on which administrative licensing is based;
2. Adjustment of conditions or standards of administrative licensing in the regulations or normative documents of the CIRC;
3. Material change in objective conditions on which an administrative license is based;
4. The granting of an administrative license has a serious negative effect on the public interests or the development of the insurance sector.
5. The qualification and conditions of the applicant change materially and do not comply with the legal conditions or standards of administrative licensing.

Article 35

If any of the following cases occurs, the CIRC or its local offices shall go through the procedures of cancellation of an administrative license according to law:

1. An administrative license expires but has not been renewed;
2. A citizen who has been granted the specific qualification of the insurance sector is dead or lost capacity.
3. A legal person or organization who has been granted an administrative license is terminated according to law;
4. The revocation or withdrawal of an administrative license, or the revocation of administrative licensing qualification according to law;
5. An administrative licensing item cannot be implemented owing to *force majeure*.

Article 36

The time limit of the implementation of administrative licensing stipulated in these Measures shall be calculated in terms of working days, excluding legal holidays.

Article 37

These Measures shall be effective as of July 1, 2004.

End.