

## **Appendix 62 -- Statute Governing Relations between People of the Taiwan Area and the Mainland Area\***

July 31, 1992

Promulgated by Presidential Directive No. Hwa-chung-(1)-Yi-3736 on July 31, 1992

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Added one item respectively to Article 26, Article 28, Article 67, Article 75 and Article 95, and promulgated Presidential Directive No. Hwa-Chung-(1)-Yi- 8600109250 on May 14, 1997; Amended Articles 5, 10, 11, 15, 16, 17, 18, 20, 27, 32, 35, 67, 74, 79, 80, 83, 85, 86, 88 and 96 on the same day, effective from July 1, 1997 upon decree of the Executive Yuan

Added and promulgated one item of Article 17 to Presidential Directive No. Hwa-Chung-(1)-Yi-8900301110 on December 20, 1999; Amended Article 2, Article 16 and Article 21, effective from February 20, 2001 upon decree of the Executive Yuan

Amended and promulgated Articles 24, 35 and 69 by Presidential Directive No. Hwa-Chung-(1)-Yi- 09100075590 on April 24, 2002, effective from July 1, 2002 upon decree of the Executive Yuan.

### Chapter One General Provisions

#### Article 1

This Statute is enacted in order to ensure the security of the Taiwan area and the well-being of people in Taiwan, regulate interaction between people in the Taiwan area and in the mainland area, and deal with derivative legal issues prior to the reunification of the state. Issues not covered by this Statute are subject to the regulations of other applicable statutes.

#### Article 2

Definitions of terms used in this Statute are as listed in the following:

Taiwan area: is composed of Taiwan, Penghu, Kinmen, Matsu and other areas under the

sovereignty of the Republic of China.

Mainland area: refers to the territory outside the Taiwan area of the Republic of China.

People of the Taiwan area: refers to people with established household registration in the Taiwan area. People of the mainland area: refers to people with established household registration in the mainland area.

#### Article 3

The regulations about people of the mainland area stipulated in this Statute are applicable to people of the mainland area residing overseas.

#### Article 4

The Executive Yuan shall set up or designate an intermediary agency to handle people-to-people relations between the Taiwan area and the mainland area.

Authorized supervision of the private intermediary agency referred to above shall be regulated by law. The methods used for handling relations across the Taiwan Strait shall be set by the Executive Yuan.

If civil servants transfer or have already been transferred to the intermediary organization or private agency as described above, they will maintain their annual salaries in those positions calculated as civil servants' pay after they return to their civil positions.

Methods used to calculate annual salaries referred to above shall be decided by both the Examination Yuan and the Executive Yuan.

#### Article 5

Without authorization from the competent authority, the organization or private agency set up or designated in accordance with Article 4 is forbidden to conclude any agreement of any form with legal entities, agencies or other organizations in the mainland area.

The agreements referred to in the subparagraph above will not come into effect before the ratification of the competent authority. However, the content of the agreements that involves the amendment of law or is regulated by law must acquire ratification from the Legislative Yuan.

#### Article 6

In order to handle people-to-people relations between the Taiwan area and the mainland area, the Executive Yuan shall permit mainland legal entities, agencies or other organizations to establish, under the principle of parity, branch offices in Taiwan.

The permission referred to above shall be stipulated by law.

#### Article 7

Any written documents originating from the mainland area need to be verified by the agency or private organization set up or designated by the Executive Yuan before being considered valid.

#### Article 8

If legal documents need to be delivered to the mainland area or require necessary investigation, the judicial authority shall entrust or consign the intermediary agency or private organization referred to in Article 4.

#### Chapter Two Administrative Provisions

##### Article 9

People of the Taiwan area must apply for permission before they may enter the mainland area. Citizens of the Taiwan area who are allowed to enter the mainland area with permission must not engage in any activity detrimental to national security or interests.

The permission should be initiated by the Ministry of the Interior and submitted to the Executive Yuan for ratification before it can be promulgated.

##### Article 10

Citizens of the mainland area are prohibited from entering the Taiwan area without permission from the appropriate administrative organization.

People of the mainland area who are allowed to enter the Taiwan area must not engage in any activity not in compliance with their intended purposes permitted in Taiwan.

Permission must be initiated by the competent authority and submitted to the Executive Yuan before it can be promulgated.

##### Article 11

Permission for employment of people of the mainland area in the Taiwan area should be applied for by the competent authority.

People of the mainland area who have acquired permission for employment can neither work more than one year nor change their employer or job. However, they are allowed to change employer and job upon permission from the competent authority if their employment relationship cannot continue due to extenuating events/accidents or because the employers close or stop their businesses.

Under the circumstances described above, the duration of employment with the new employer shall be calculated together with the time elapsed before the change.

In order to apply to the Council of Labor Affairs of the Executive Yuan to employ people of the mainland area, employers shall first try public recruitment in the Taiwan area by offering reasonable working conditions and registering for help in public employment service organizations. Only when their demand for employees is not met can they submit an application for recruitment of the number of people still required. However, when recruiting, employers must inform their labor union or employees of the full content of the recruitment announcement, and post the announcement in a location where people of the mainland area are expected to work.

Employment contracts with mainland employees must specify the duration of the period of employment. The aforementioned permission and management must be initiated by the Council of Labor Affairs of the Executive Yuan with the competent authority, and submitted to the Executive Yuan for ratification before its promulgation.

#### Article 12

The family dependents of people of the mainland area who have acquired permission to work in the Taiwan area are not entitled to corresponding insurance compensation if they themselves are injured, fall ill, give birth or die outside the areas covered by the Rules of Labor Insurance Act.

#### Article 13

Employers who hire people of the mainland area shall pay employment settlement fees to the special bank account set up by the Council of Labor Affairs of the Executive Yuan.

The standards of the charge and the administrative methods referred to in the preceding paragraph shall be drafted by the Council of Labor Affairs of the Executive Yuan and the Ministry of Finance, and submitted to the Executive Yuan for ratification before they are promulgated.

#### Article 14

If people of the mainland area who have acquired permission to work in the Taiwan area violate this Statute or other laws or regulations, the competent authorities can revoke their permission to work.

Once their work permits are revoked as stipulated in the first subparagraph, people of the mainland area must leave the Taiwan area. Otherwise, they will be forced to leave the area in accordance with article 18.

The regulations in the second subparagraph are applicable when employment contracts are suspended or terminated.

#### Article 15

The following behaviors are forbidden:

Enabling the illegal entry of people of the mainland area into the Taiwan area  
Soliciting people of the Taiwan area to enter the mainland area without permission

Enabling people of the mainland area to engage in unapproved activities or activities not in compliance with the intentions approved in the Taiwan area

Hiring or continuing to employ people of the mainland area in jobs that are not in compliance with the range of types of work permitted in the Taiwan area

Introducing others to the conduct specified in aforementioned subparagraphs

## Article 16

People of the mainland area can submit applications for business and sightseeing trips to the Taiwan area. The administrative methods shall be formulated by the competent authority.

People of the mainland area are entitled to apply for residency in the Taiwan area if they fall into one of the following categories:

People above the age of 70 or below the age of 12 who are linear relatives or spouses of people of the Taiwan area  
Individuals whose spouses in the Taiwan area have died and must come to Taiwan to take care of their own minor children in the Taiwan area

Service-people with household registration in the Taiwan area who have been stranded in the mainland area since 1945

Former service-people who were taken prisoner during war or on special missions after the government of the Republic of China (ROC) moved to Taiwan in 1949

Individuals who were sent to study in the mainland area at state expense before the ROC moved to Taiwan in 1949

People with household registration in the Taiwan area who went to the mainland area before the ROC government moved to Taiwan in 1949, and still have linear relatives, spouses or siblings in the Taiwan area

Fisherman or crew with household registration in the Taiwan area who have been stranded in the mainland area because of shipwreck, accident, or other act of God

The number of applicants of the mainland area for residency in the Taiwan area in accordance with paragraph 1 of article 16 can be limited.

The spouses, linear relatives, and linear relatives' spouses in the mainland area of the applicants referred to in categories 2 through 7 may also apply for permission together with the applicants if they intend to reside in Taiwan. Otherwise, the applicants can apply on their behalf once they have taken up residence in Taiwan.

## Article 17

People of the mainland area who fall into one of the following categories may apply for permission to stay in the Taiwan area:

Individuals who have been married to people of the Taiwan area for at least 2 years and/or already have children together

Other individuals to whom the competent authority grants permission after considering political, economic, social, educational, scientific or cultural factors

Applicants of the mainland area referred to in the preceding category 1 shall acquire

permission from the current spouse of their spouse in the Taiwan area who became a bigamist before November 1, 1987.

The classification and number of applicants for residency in the Taiwan area referred to in paragraph 1 can be restricted; the classification and number shall be formulated by the Executive Yuan and submitted to the Legislative Yuan for ratification before being announced.

People who have acquired permission to reside in the Taiwan area in accordance with the first paragraph can apply for settlement after having resided in Taiwan for two consecutive years. People who are permitted to reside in accordance with this article are allowed to work in the Taiwan area during their residency.

If there is enough evidence to prove a false marriage, the residency permit or household registration acquired by people of the mainland area in accordance with the first provision in paragraph 1 or paragraph 4 of article 16 will be revoked and they will be forced to leave Taiwan territory.

Rules in the above subparagraph and paragraph 1 are not applicable to people of the mainland area who enter Taiwan without a permit or stay in Taiwan over the permitted period of time. The methods for applying for settlement or residency referred to in the above subparagraph and paragraph 1 shall be drafted by the Ministry of Interior Affairs and related institutions, and submitted to the Executive Yuan for ratification before being promulgated.

#### Amendment to article 17

If spouses of people of the Taiwan area have already applied for residency permits in accordance with the subparagraph of article 17, they have to apply for work permits from the competent authority in order to accept employment in the Taiwan area during their stay.

The competent authority shall consider the employment market, public benefits and family economy in the Taiwan area when granting the permits specified in the preceding paragraph. The permit and its management shall be drafted by the Council of Labor Affairs of the Executive Yuan for ratification.

#### Article 18

People of the mainland area who have entered the Taiwan area shall be forced to leave the territory by the security authorities for committing any of the following offenses:

Entering the Taiwan area without permission

Entering the Taiwan area with an entry permit, but overstaying the deadline Engaging in activities or jobs that are not in compliance with the intentions permitted If there is enough evidence to prove they have committed criminal activities

If there is enough evidence to prove they have endangered national security or public security People of the mainland area shall be temporarily housed and engage in labor service before being forced to leave the territory.

The aforementioned two regulations are applicable to people of the mainland area who entered the Taiwan area before the rules were implemented.

Spouses of people of the Taiwan area in the aforementioned paragraph can apply for permanent residency permits in the Taiwan area after they have been married over two years or already have children. This rule is also applied to those who have already lived in the Taiwan area continuously for over two years.

The methods of deportation in paragraph 1 and the arrangement and management of the housing referred in paragraph 2 shall be drafted by the Ministry of Internal Affairs, and submitted to the Executive Yuan for ratification before being promulgated.

#### Article 19

People of the Taiwan area who guarantee the entry of people of the mainland area shall assist the competent authority in forcing them to leave Taiwan and bear the full cost of forcing them to leave Taiwan if the guaranteed people do not leave after the permitted period of stay.

The authorities enforcing the forced exit from Taiwan shall provide copies of receipts and calculations when informing the guarantor to make the payment before a given deadline. People who do not pay the expense will be taken to court and forced to make the payment.

#### Article 20

People of the Taiwan area shall bear the cost of forced exit in the following circumstances: If they have enabled people of the mainland area to enter Taiwan illegally

If they have employed people of the mainland area illegally

If they have employed people of the mainland area who are forced to leave Taiwan in accordance with the regulations in paragraphs 2 and 3 of Article 14

All people involved shall bear joint liability to pay the expense referred to in the preceding paragraph.

The competent authority shall provide copies of receipts and calculations of the expense mentioned in paragraph 1 and inform payer(s) to pay the expense before a deadline; those who do not pay the expense before the deadline shall be transferred to court for enforcement of the payment.

#### Article 21

People of the mainland area who enter the Taiwan area with an entry permit cannot be registered as candidates for public service positions, or join military service or public-run organizations and parties unless they have had household registration in the Taiwan area for over ten years. In the case of differing regulations between laws, please refer to those regulations.

People of the mainland area who enter the Taiwan area with an entry permit, set up household registration, and legally assume positions in universities, academic research centers or social education organizations, are not subject to the ten-year limit of household registration in the Taiwan area as set forth in the preceding paragraph.

People referred to in the preceding paragraph shall not assume any position that involves national security or confidential research in science and technology.

#### Article 22

Diplomas received in the mainland area by people of the Taiwan area and people of the mainland area who reside in the Taiwan area upon permission shall be verified, and the methods used for verification shall be drafted by the Ministry of Education, and submitted to the Executive Yuan for ratification before being promulgated.

#### Article 23

People, legal entities, organizations and other institutions, either in the Taiwan area, the mainland area or other areas shall not engage in student recruitment in the Taiwan area for educational organizations of the mainland area, or serve as intermediary agencies for that purpose.

#### Article 24

People, legal entities, organizations and other institutions of the Taiwan area shall pay income tax on both income originated from the mainland area and income originated from the Taiwan area. However, the amount of tax already paid in the mainland area can be deducted from the total amount of tax charged in the Taiwan area.

Legal entities, organizations or other institutions of the Taiwan area that invest in the mainland area through their companies located in third areas shall pay tax for income made by companies located in the third areas but originating from the mainland area in accordance with the regulations set forth in paragraph 1 of this Article. But if the aforementioned income has been subject to income tax in the mainland area and the third area, the amount taxed is deductible from the total amount charged in the Taiwan area.

But the sum of the deductible income referred to in the first two paragraphs of this Article shall not exceed the total taxable amount of income calculated based on the applicable tax rate set forth in the Taiwan area including income originated from the mainland area.

#### Article 25

People, legal entities, organizations or other agencies who have income originated from the Taiwan area shall withhold income tax according to the sources of their income and are exempted from reporting settlement of account while a withholding agent withheld income based on the regulated rate.

#### Article 26

People in such organizations as public education and public-run agencies drawing pensions are entitled to receive their total amount of pension in a lump sum, minus the part that has already been distributed to them, if they are permitted to leave for and decide to reside in the mainland area. The total amount of pension shall be calculated based on the monthly pension received by people with equivalent official rank or position at the time they applied for the withdrawal. If there is no pension left or the amount of pension left is less than 50% of the total amount of pension, the entitled amount shall be 50% of the total.

If the aforementioned applicants need to support dependents in the Taiwan area, they need to

obtain permission from those people before filing applications.

#### Amendment to Article 26

If people in public education or public-run organizations die while in service or people who receive pensions die during the period of time when they are entitled to a pension, their descendents or legal beneficiaries living in the mainland area are allowed to enter the Taiwan area and submit written application to the competent authority for the withdrawal of death insurance payment, a lump-sum compensation for death in public service or military service, the remaining retirement pension from the military, or a lump-sum consolation fund for those people in public service or military service within five years of the death of those pension annuitants if the deceased do not have descendents or legal beneficiaries in the Taiwan area. However, their descendents or monthly consolation funds; they lose their right to benefits if they do not apply for the withdrawal before the set deadline.

The total amount of insurance death payment, a lump-sum compensation for death in public service or military service, the remaining amount of retirement pension from the military or a lump-sum consolation fund shall not exceed 2 million NT Dollars.

For people who died prior to the enforcement of this rule, their descendents or legal beneficiaries living in the mainland area may apply for the withdrawal of insurance death payment, a lump sum compensation for death in public service or military service, the remaining amount of retirement pension from the military, or a lump sum consolation fund according to the regulations specified in paragraph 1 within five years of the enforcement of the amendment of this Article. These rights become invalid after the deadline passes.

Payments granted legally in the mainland area prior to the year 1949 that have never been applied for by the beneficiaries, or the withdrawal of which was suspended before the unification of the state, are not subject to this article.

#### Article 27

Veterans who have settled and been paid allowance by the Veterans Affairs Commission of the Executive Yuan continue to be entitled to the allowance and pension for the disabled and wounded after they enter the mainland area with permission.

The payment methods shall be drafted by the Veterans Affairs Commission of the Executive Yuan and submitted to the Executive Yuan for ratification before being promulgated.

#### Article 28

Ships, aircrafts and other transport vehicles of the ROC shall not enter the mainland area without permission from the competent authority.

The methods used to grant permission cited in the preceding paragraph shall be drafted by the Ministry of Transportation and Communications together with other competent authorities, and submitted to the Executive Yuan for ratification before being promulgated.

#### Amendment to Article 28

Ships, aircraft, and other transport vehicles of the ROC shall not transport people of the mainland area to the Taiwan area or other countries or regions outside the mainland area without permission.

People of the Taiwan area shall not use ships, aircrafts or other vehicles to transport people of the mainland area to the Taiwan area or other countries or regions outside the mainland area without permission.

#### Article 29

Ships, civil aircraft and other transport vehicles shall not enter any body of water restricted or forbidden by the Taiwan area or Taipei restricted airspace without permission from the competent authority.

The restricted or forbidden body of water and restricted area specified in the preceding paragraph shall be announced by Ministry of National Defense.

The methods used for granting permission referred to in the first paragraph shall be drafted by the Ministry of Transportation and Communications together with competent authorities, and submitted to the Executive Yuan for ratification before promulgation.

#### Article 30

Foreign ships, civil aircraft and other transport vehicles shall not enter harbors and airports of the Taiwan area and those of the mainland area; neither shall they run fixed sailing or flight routes between harbors and airports of such areas including Taiwan area and the mainland area through a third area by using foreign ships, civil aircraft or other transport vehicles.

The Ministry of Transportation and Communications shall restrict or forbid the entry of ships, civil aircraft and other transport vehicles referred to in the preceding paragraph that are rented, invested in, or run by people, legal entities, groups or other organizations of the mainland area into harbors or airports of the Taiwan area.

This restriction can be lifted entirely or partially by the Ministry of Transportation and Communications in necessary circumstances upon report to and ratification by the Executive Yuan.

#### Article 31

When civil aircraft of the mainland area enter into Taipei's restricted airspace without permission, the units on duty competent for air defense can warn them to leave or adopt necessary defensive actions.

#### Article 32

If ships of the mainland area enter into restricted areas or forbidden bodies of water in the Taiwan area, competent authorities have the authority to expel them, detain their ships and goods, hold personnel in custody, or take necessary defensive actions.

The competent authority shall deal with ships, goods or people detained in accordance with

the preceding paragraph within three months of detention as follows:

If detained ships and goods are not involved in illegal purposes, they shall be returned; if they are of serious illegal nature, they shall be confiscated.

Detained personnel shall be sent to competent authorities upon investigation for reception and repatriation or deportation in accordance with Article 18.

Ships, goods and personnel of the mainland area that were detained and dealt with by competent authorities before the implementation of this statute shall remain in their original settlement.

#### Article 33

People, legal entities, groups or other organizations of the Taiwan area shall not join or assume any position in legal entities, groups or other organizations of the mainland area without permission; neither shall they set up joint legal entities, groups or other organizations, or establish alliances with people, legal entities or other organizations of the mainland area without permission.

The methods used in the preceding paragraph shall be drafted by competent authorities and submitted to the Executive Yuan for ratification before being promulgated.

Those who have joined or assumed positions in the legal entities, groups or other organizations of the mainland area, or have set up alliances with people, legal entities, groups or other organizations of the mainland area before the implementation of this article shall apply for admission from the competent authority within six months of the date of implementation of the aforementioned methods; any late application or non-approved application will receive no permit.

#### Article 34

People, legal entities, groups or other organizations of the Taiwan area shall not authorize, be authorized, or engage in importing, producing, distributing, representing, playing, publishing or promoting advertisements of goods, labor or other things of the mainland area in the Taiwan area.

The methods used to grant permits in the preceding paragraph shall be set by the Executive Yuan.

#### Article 35

People, legal entities, groups or other organizations of the Taiwan area shall not make investments in or carry out technological cooperation with the mainland area or engage in business with people, legal entities, groups or other organizations of the mainland area without permission from the competent authority.

All trade without permission from the competent authority is forbidden between the Taiwan area and the mainland area.

The methods used to grant permission in the two preceding paragraphs shall be drafted by the competent authority and submitted to the Executive Yuan for ratification before being promulgated.

People who have engaged in investment or technological cooperation referred to in paragraph 1 of this article without permission before the implementation of this article shall submit applications to the competent authorities for permission within six months of the implementation of this article; late applications beyond the deadline or non-approved applications will be considered invalid.

#### Article 36

Financial and insurance organizations of the Taiwan area and their branches located in other countries or regions outside the Taiwan area shall not establish direct business relations with legal entities, groups or other organizations of the mainland area or their subsidiaries located in other countries or regions outside the mainland area without permission from the competent authorities.

The methods used to grant permission in the preceding paragraph shall be drafted by the Ministry of Finance and submitted to the Executive Yuan for ratification before being promulgated.

#### Article 37

Publications, films, video programs and broadcast TV programs of the mainland area shall not enter, be distributed, produced or played in the Taiwan area without permission from the competent authority.

The methods used to grant permission in the preceding paragraph shall be drafted by the press agency of the Executive Yuan and submitted to the Executive Yuan for ratification before being promulgated.

#### Article 38

Currency issued in the mainland area shall not enter or exit the Taiwan area. However, if people declare such currencies to customs when they enter the Taiwan area, they will be allowed to carry those currencies when they exit the Taiwan area.

If necessary, the competent authority can set control methods allowing certain currency issued in the mainland area to enter or exit the Taiwan area.

The methods used to grant permit in the preceding paragraph shall be drafted by the Ministry of Finance, and submitted to the Executive Yuan for ratification before being promulgated.

#### Article 39

Chinese antiques from the mainland area are allowed to be transported into the Taiwan area for the purpose of public display or exhibition. Antiques or art pieces of the mainland area other than the aforementioned shall be restricted or prohibited from public display or exhibition by competent authorities if they breach rules or laws, or negatively impact public

order or good customs.

#### Article 40

Goods of the mainland area carried into the Taiwan area are considered imported goods; the issues related to the inspection, quarantine, management and tax collection of those goods shall be handled in accordance with laws and regulations regulating imported materials.

### Chapter Three Civil laws

#### Article 41

Civil issues between people of the Taiwan area and people of the mainland area are subject to the regulations of the Taiwan area unless otherwise regulated in this Statute.

Issues among people of the mainland area, and those between them and foreign aliens, are subject to the regulations of the mainland area unless regulated otherwise in this Statute.

In this chapter, place of the act, contracting place, place of act's occurrence, place of performance, seat, and place of litigation or arbitration refer to the Taiwan area or the mainland area.

#### Article 42

If the regulations of the mainland area are applied in accordance with the Statute but vary in different places of the area, the regulations of the place where parties to the actions set up their household registration shall be applied.

#### Article 43

In a situation where laws of the mainland area should be applied in accordance with this Statute yet no explicit legal stipulation in the mainland area exists, or laws of Taiwan area should be applied in accordance with the mainland stipulation, laws of the Taiwan area shall be applied.

#### Article 44

Laws of the Taiwan area shall be applied to such cases that should be subject to the regulations of the mainland area in accordance with this Statute, but the regulations of which go against public order or good customs of the Taiwan area.

#### Article 45

If civil cases occur both in the Taiwan area and the mainland area, the Taiwan area is considered as the place of performance or the place of the act's occurrence.

#### Article 46

The capacity of people of the mainland area to enter into legal transactions is determined by laws of the mainland area; but married minors are considered to have capacity in their legal acts in the Taiwan area.

Capacity of rights and action of legal entities, groups or other organizations of the mainland area are subject to the regulations of the mainland area.

#### Article 47

The form of a legal act is determined by the law that is applicable to the act. However, it is also valid to determine the form of a legal act according to the regulations of the place of the act's occurrence.

The form of a legal act of real rights is determined by the regulations of the place of the act's occurrence.

The nature of a legal act that exercises or preserves the rights of documents is determined by the regulations of the place of the act's occurrence.

#### Article 48

Contracts of obligation are subject to the laws of the place where the contract is signed, but subject to the agreement of parties in action if stipulated otherwise.

If the contracting place referred to in the preceding paragraph is unclear, the regulations of the place of performance will be applied; if the place of performance is unclear, the regulations of the place of litigation or arbitration will be applied.

#### Article 49

Obligations incurred due to voluntary service, unjustified benefits or other legal facts in the mainland area shall be regulated by the laws of the mainland area.

#### Article 50

An act of tort is subject to the laws of the place where damage is caused. However, it is not applicable if the law of the Taiwan area does not consider it illegal.

#### Article 51

Real rights are subject to the laws of the place where the object is situated.

Real rights with rights as objects are subject to the laws of the place where the rights are established.

If the seat of an object is changed, the gain or loss of the real right is subject to the law of the place where the thing is situated when causal facts are finished.

Real rights of a ship are subject to the regulations of the place where the ship is registered.

Real rights of an aircraft are subject to the regulations of the place where the aircraft is registered.

#### Article 52

Forms and other essential elements of marriage or divorce by consent are subject to the regulations of the place of occurrence.

Judgment of divorce is subject to the laws of the Taiwan area.

#### Article 53

The validity of the marriage or divorce of a couple with one party from the Taiwan area and the other from the mainland area is subject to the laws of the Taiwan area.

#### Article 54

If a person from the Taiwan area gets married to a person from the mainland area in the mainland, their common property is regulated under the laws of the mainland area. However, any common property in the Taiwan area is subject to the laws of the Taiwan area.

#### Article 55

The elements essential to establishing the legal status of illegitimate children are subject to the laws of the place where both the person to claim legitimization and the person legitimized set up their household registration when the legitimization is made.

The effect of legitimization is subject to laws of the place where the person to claim legitimization set up his or her household registration.

#### Article 56

The establishment and termination of legitimization is subject to the laws of the place where the person legitimated sets up his or her household registration.

The effect of legitimization is subject to the laws of the place where the person claiming legitimization set up his or her household registration.

#### Article 57

If one parent is from the Taiwan area and the other parent is from the mainland area, the legal relationship between the parents and their children is subject to the rules of the place where the father sets up his household registration; if the children have no father or the father has died, the legal relationship is regulated by the rules of the place where the mother sets up her household registration.

#### Article 58

If the ward is from the mainland area, guardianship is subject to the rules of the mainland area. But if the ward has residence in the Taiwan area, guardianship is subject to the laws of the Taiwan area.

#### Article 59

Obligation to bring up children is subject to the laws of the place of household registration of the adoptive parents.

#### Article 60

If an heir is from the mainland area, the inheritance is subject to the rules of the mainland area. But an inheritance located in the Taiwan area is subject to the laws of the Taiwan area.

#### Article 61

The essential elements of the establishment or revocation and the validity of the will of an individual of the mainland area are subject to the rules of the mainland area. But a will that bequeaths property located in the Taiwan area is subject to the laws of the Taiwan area.

#### Article 62

The establishment or revocation and the validity of an act of donation by a person of the mainland area is subject to the regulations of the mainland area, but subject to the laws of the Taiwan area if the property donated is located in the Taiwan area.

#### Article 63

The civil legal relations created between people of the Taiwan area and people of the mainland area, among people of the mainland area, or between people of the mainland area and people of foreign nations, and the benefits and obligations thus incurred prior to the implementation of this statute, are considered valid if not detrimental to public order or good customs of the Taiwan area.

The regulation of the preceding paragraph is not applicable to cases in which other laws or regulations have restricted the implementation or transference of rights before the enforcement of this statute.

The following obligations incurred prior to the reunification of the state will not be handled:  
Foreign currency bonds issued in the mainland area before 1949 which have not yet been paid off, and short- term gold bonds of the year 1949;

All debts owed by the national banking agencies and financial agencies that accepted deposits before the retreat from the mainland area.

#### Article 64

If a couple can not cohabitate because one party lives in the Taiwan area and the other party lives in the mainland area, and one party committed bigamy before June 4, 1985, the interested persons may not apply for revocation; the current marriage is considered the valid marriage if bigamy was committed between June 5, 1985 and November 1, 1987.

Under the circumstances in paragraph 1, if both parties of the couple committed bigamy, the original marital relationship terminates upon the date when the most recent bigamy was committed.

#### Article 65

Cases in which a person of the Taiwan area adopts a person of the mainland area are subject to the regulations of Paragraph 5 of Article 1070 of the Civil law. Courts shall not recognize the adoption under the following conditions:

Adoptive parent already has children or adopted children. Two children are adopted at the same time.

The act of adoption was not examined by the agency set up or designated by the Executive

Yuan or the private group authorized by the Executive Yuan.

#### Article 66

People of the mainland area who are bequeathed the inheritance of people of the Taiwan area shall submit written notification of their succession to the court where the deceased's place of residence within 3 years upon the beginning of the succession; overdue notification will be considered as renunciation of succession.

If a person of the mainland area is bequeathed the inheritance of a serviceman or retired serviceman of the Taiwan area which is a vacant succession in the Taiwan area, and the inheritance has been handled by the competent authority prior to the implementation of this Statute, the time period of the written notification of succession referred to in the preceding paragraph is 4 years.

If the succession started before the implementation of this Statute, the time period referred to in the preceding two paragraphs starts from the date when this Statute is implemented.

#### Article 67

The total amount of inheritance of the decedent in the Taiwan area that can be inherited by a person of the mainland area shall not exceed NT \$2,000,000. The additional inheritance shall go to other heirs or the national treasury if there are no heirs in the Taiwan area.

The Statute is not applicable to the inheritance referred to in the preceding paragraph that belonged to the national treasury legally before the implementation of this Statute.

The amount of inheritance that a testator of the Taiwan area can bequeath to people, legal entities, groups or other organizations by will shall not exceed NT \$2,000,000.

If the inheritance referred to in paragraph 1 is immovable property, the right of inheritance shall be evaluated in terms of money. But the heirs of the mainland shall not inherit immovable property for which residence by the heirs in the Taiwan area is necessary, and the monetary value of this immovable property shall not be accounted into the total sum of inheritance.

#### Amendment to Article 67

If all the heirs referred to in paragraph 1 are people of the mainland, excluding the situations covered by Article 68, the heirs, interested people or prosecutors may apply in court to designate State-owned Equity Administration Department of the Ministry of Finance as the administrator to manage the inheritance.

If the registration of inheritance of the decedent is required, the administrator shall register in the responsible registration office.

The methods used to manage the inheritance referred to in paragraph 1 shall be drafted by the Ministry of Finance, and submitted to the Executive Yuan for ratification before being promulgated.

#### Article 68

If servicemen or retired servicemen have no heirs, it is unclear whether they have heirs or not, or their heirs cannot manage the inheritance for some reason, the competent authority shall manage the inheritance.

If the inheritance referred to in the preceding paragraph has been settled by the relevant authority before the implementation of this Statute, the original settlement remains.

The methods used to manage inheritance referred to in paragraph 1 shall be drafted respectively by the Ministry of Defense and the Veterans Affairs Commission of the Executive Yuan, and submitted to the Executive Yuan for ratification before being promulgated.

If people of the mainland area have not completed the succession of inheritance referred to in paragraph 1 and paragraph 2, the competent authority shall sponsor the establishment of a foundation of legal entities for veterans and veterans' dependents which are not bound by the regulation of paragraph 1 that the inheritance shall be transferred to the national treasury, when handle the following transactions:

The ratification of an application for inheritance of and the distribution of inheritance to the deceased or retired servicemen's heirs who are in the mainland area

Assistance in serious disasters that occur to veterans

Academic awards and education subsidies granted to the children of poor veterans Other issues related to benefits and services for veterans and their dependents

The distribution of inheritance referred to in transaction 1 is limited to the part of the inheritance of the deceased servicemen or retired servicemen that has been incorporated into the foundation of legal entities for veterans and veterans' dependents.

The charter of the foundation of legal entities for veterans and veterans' dependents shall be drafted by the Veterans Affairs Commission of the Executive Yuan, and submitted to the Executive Yuan for ratification before being promulgated.

#### Article 69

People, legal entities, groups or other organizations of the mainland area or companies which make investment in third areas, if without permission from administrative authorities, shall not acquire, establish or transfer the rights of immovable property in the Taiwan area. However, all pieces of land listed in paragraph 1 of Article 17 of Land Law shall not be acquired, placed under contractual obligations, or rented.

The methods used to grant permission to the issues referred to in the preceding paragraph, such as qualifications of applicants, conditions and usages of permission, application procedures, subjects claimed, documents needed, methods of examination, the settlement of usage without permission and other issues that need to be complied with, shall be drafted by

the competent authority, and submitted to the Executive Yuan for ratification before being promulgated.

#### Article 70

Legal entities, groups or other organizations of the mainland area that enter the Taiwan area without permission shall not conduct acts which are legal acts in the Taiwan area.

#### Article 71

If legal entities, groups or other organizations of the mainland area have conducted legal acts in the Taiwan area in their name with other people, the others involved in the act shall bear joint liability together with legal entities, groups or other organizations of the mainland area.

#### Article 72

People, legal entities, groups or other organizations of the mainland area, without permission, shall not join or assume any position in legal entities, groups or other organizations of the Taiwan area.

The methods used to grant permission referred to in the preceding paragraph shall be drafted by the competent authority, and submitted to the Executive Yuan for ratification before being promulgated.

#### Article 73

Foreign companies, 20% of the shares of which are owned by people, legal entities, groups or other organizations of the mainland area, shall not be recognized. The recognition that has been given shall be cancelled.

This also applies to foreign companies of the mainland area whose main influential parties are people, legal entities, groups or other organizations.

#### Article 74

Application for a court's ruling and the approval of the court are required to confirm that civil rulings and civil arbitration judgments made in the mainland area are not in violation of public order or good customs of the Taiwan area.

The ruling or judgment approved by the court's ruling, the subject of which is payment, shall be enforced.

The regulations in the two preceding paragraphs are applicable to civil rulings absolute and civil arbitration judgments made in the Taiwan area that shall be ratified or enforced by the court's ruling of the mainland area.

### Chapter Four Criminal provisions

#### Article 75

People who committed crimes in the mainland area or in ships or aircraft of the mainland area shall be sentenced even if they have already been penalized in the mainland area. However, all or part of the sentence may be waived.

#### Amendment to Article 75

If people of the mainland area leave the Taiwan area after committing a crime and can not appear in court, the court may suspend the trial before their appearance in court. However, the court can pass judgment without their presence in court if it is clear that they are innocent or exempt from criminal penalties.

#### Article 76

If a person committed bigamy or cohabited with a non-spouse for the purpose of common life before November 1, 1987 while they and their spouse lived separately in the Taiwan area and the mainland area, they are exempted from being prosecuted and penalized; This also applies to their current spouses or live-in partners.

#### Article 77

People of the mainland area who committed a crime of insurrection or a crime relating to foreign aggression are exempted from being prosecuted and penalized if they declared the fact when applying for entry permission and entered the Taiwan area with permission; this rule is also applicable to people who enter the Taiwan area to participate in a conference or activity approved by the competent authority and are exempted from declaration upon project permission.

#### Article 78

The right of protest or private prosecutions of people of the mainland area whose copyright or other rights are infringed in the Taiwan area are limited to the equivalent litigious rights that people of the Taiwan area can enjoy in the mainland area.

#### Chapter Five Penalty Provisions

##### Article 79

People in violation of rule 1 of Article 15 shall be sentenced to up to five years in prison, arrested, and/or charged a fine of up to NT \$500,000.

People who repeat an offense of rule 1 of Article 15 shall be sentenced to over one year and up to seven years in prison, and/or charged a fine of up to NT \$1,000,000.

The attempted offense of the rule referred to in paragraph 1 shall be penalized.

##### Article 80

Owners, operators, or captains of ships or aircraft of the Republic of China or drivers of other vehicles of the Republic of China in violation of the rule specified in paragraph 1 of Article 28, that in paragraph 1 of the Amendment to Article 28, or people of the Taiwan area in violation of rules specified in paragraph 2 of the Amendment to Article 28 shall be sentenced to up to three years in prison, detained, and/or charged a fine of over NT \$1,000,000 and up to NT\$15,000,000. But if the violation is made through the personal decision of the captain or drivers of ROC ships, aircrafts or other transport vehicles, the penalty shall be charged to the drivers or captains.

If the owners or operators of the ROC ships, aircrafts or other transport vehicles referred to in the preceding paragraph are legal entities, the legal entities shall be charged a fine of an

amount as specified in the preceding paragraph, in addition to the penalty on the people carrying out the act. However, this rule is not applicable to the representatives of legal entities who have tried their best to prevent the act of violation.

Rules of Article 7 of the Criminal Law are not applicable to people of the Taiwan area who privately transport outside of the ROC territory people of the mainland area to the Taiwan area and countries or regions outside the mainland area.

In the situation described in paragraph 1, the competent authority shall impose the suspension of voyage or cancellation or revocation of relevant licenses, and stop or revoke the business licenses or qualifications of the captains or drivers.

#### Article 81

Parties involved in making the decision that leads to the direct communication prohibited by Article 36 shall be sentenced to up to three years in prison, detained, and/or charged a fine of at least NT \$1,000,000 and up to NT\$15,000,000.

In the aforementioned situation, the financial insurance agencies shall be charged a fine of the amount specified in the preceding paragraph in addition to the penalty on the parties involved in the decision-making process.

The regulations in the two preceding paragraphs are applicable to people who committed the crime outside the ROC's territory.

#### Article 82

People who engage in recruitment of students or serve as intermediary agencies in violation of Article 23 shall be sentenced to up to three years in prison, arrested, charged or concurrently charged a fine of up to NT \$1,000,000.

#### Article 83

People in violation of the rules specified in paragraph 4 or 5 of Article 15 shall be sentenced to up to 2 years in prison, arrested, and/or charged a fine of up to NT \$300,000.

People who violate the rules of paragraph 5 of Article 15 for the purpose of making profits shall be sentenced to up to 3 years in prison, detained, and/or charged a fine of up to NT \$600,000.

People who repeat an offense of the rules referred to in the preceding paragraph shall be sentenced to up to five years in prison and/or charged a fine of up to NT \$600,000.

If the representatives, legal entities or agencies, employees or other professionals of sui juris violate the crimes referred to in the preceding three paragraphs while running their businesses, the legal entities or sui juris shall be charged a fine of the amount specified in the preceding three paragraphs, in addition to the penalty charged on the people carrying out the act. However, this rule is not applicable if the representatives of the legal entities or sui juris have already tried their best to prevent the violation.

#### Article 84

People in violation of the rule specified in paragraph 2 of Article 15 shall be sentenced to up to six months in prison, arrested, and/or charged a fine of up to NT \$100,000.

If the representatives, legal entities or agencies of sui juris, employees or other professionals who committed the crime referred to in the preceding paragraph while running their business, the legal entity or sui juris shall be charged a fine of the amount specified in the preceding paragraph, in addition to the people who carried out the act. However, the rule is not applicable to any situation in which the representatives of the legal entities or sui juris have tried their best to prevent the violation.

#### Article 85

People in violation of the rule specified in paragraph 1 of Article 30 shall be charged a fine of over NT\$3,000,000 and up to NT\$15,000,000 and all the ships, civil aircraft or other transport vehicles belonging to the owners and operators of the ships, civil aircraft or other transportation involved shall be forbidden to enter harbors and airports of the Taiwan area for a determined period of time.

The ships, civil aircraft or other transport vehicles belonging to the owners or operators who do not have branches of their business in the Taiwan area shall be restricted from leaving harbors and airports of the Taiwan area by the competent authority as soon as the penalty is sentenced and until the fine is paid.

The rule is not applicable to situations in which the same amount of cash deposit as the amount of fine charged has been provided.

#### Article 86

People who engage in prohibited investment, technical cooperation or business in violation of the rules of paragraph 1 of Article 35 shall be charged a fine of a minimum of NT \$1,000,000 and a maximum of NT\$5,000,000, and ordered to stop the investment, technical cooperation or business within a certain time limit; people who do not stop before the time limit has elapsed shall be subject to further penalties.

Parties that engage in the trade prohibited by paragraph 2 of Article 35 shall be forbidden to import or export goods for a minimum of two months and a maximum of one year or have their import/export license cancelled.

#### Article 87

Parties in violation of the rule specified in paragraph 3 of Article 15 shall be charged a fine of a minimum of NT \$200,000 and a maximum of NT\$1,000,000.

#### Article 88

Parties in violation of Article 37 shall be charged a fine of a minimum of NT \$40,000 and a maximum of NT \$200,000.

Publications, films, videos or broadcast TV programs referred to in the preceding paragraph shall be confiscated regardless of ownership.

#### Article 89

Parties in violation of paragraph 1 of Article 34 shall be charged a fine of a minimum of NT \$100,000 and a maximum of NT \$500,000.

The advertisements referred to in the preceding paragraph shall be confiscated regardless of possession or ownership.

#### Article 90

Parties in violation of the rule specified in paragraph 1 of Article 33 shall be charged a fine of a minimum of NT \$100,000 and a maximum of NT \$500,000.

#### Article 91

Parties in violation of the rule specified in paragraph 1 of Article 9 shall be charged a fine of a minimum of NT\$20,000 and a maximum of NT \$100,000.

#### Article 92

Currency that is not declared in violation of the rule specified in paragraph 1 of Article 38 shall be confiscated by customs.

#### Article 93

Antiques or art pieces involved in violation of the restrictions and prohibitions of the rule specified in paragraph 2 of Article 39 shall be confiscated by the competent authority

#### Article 94

The fine set up in this Statute is charged by the competent authority; if payment of the fine is not submitted within the notified time limit upon receiving the notice, the case shall be transferred to a court for enforcement.

### Chapter Six Supplementary Provisions

#### Article 95

Resolutions of the Legislative Yuan are required before the competent authority of the Taiwan area conducts direct exchanges of trade and direct exchanges of navigation with the mainland area, and before people of the mainland area can enter the Taiwan area; the Legislative Yuan is deemed to consent if it does not make a resolution within a one month session.

#### Amendment to Article 95

The competent authority that accepts applications, give approvals, administers examinations and issues certificates and licenses may charge examination fees and certification fees. The charging standards are to be determined by each authority responsible.

#### Article 96

The detailed rules for implementation and the date of implementation are to be decreed by the

Executive Yuan. The date of implementation of the amended articles is to be decreed by the Executive Yuan.

\* This is an unofficial translation done by the East Asia Nonproliferation Program, Monterey Institute of International Studies.

Title (English): Statute Governing Relations between People of the Taiwan Area and the Mainland Area

Title (original): 臺灣地區與大陸地區人民關係條例

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