

LAW MAKING IN THE REPUBLIC OF CHINA (TAIWAN)

Law making in Taiwan is governed by the Law on the Standardization of Central Laws and Regulations. ^{1/} This Law applies to the enactment, implementation, application, revision, and abolition of the central laws and regulations of the Republic of China, which are now effective only for the province of Taiwan.

Enactments can be divided into two major categories. The first are the laws passed by the Legislative Yuan and promulgated by the President. These may be known as fa (laws), lu (also translated as laws), tisoli (regulations), or tongze (general principles). ^{2/}

The second major category of enactments is known as orders (mingling). They are issued by various other government organs and may be called guicheng (provisions), guize (rules), xize (detailed rules), banfa (measures), gangyao (outlines), biaojun (standards), or junze (standard principles) (Art. 3). These orders, depending on their nature, may be sent by the organs of the state to subordinate agencies or announced, and must be sent to the Legislative Yuan. ^{3/}

Enactments must be in the form of laws, not orders, if:

1. the Constitution or other laws require that the act be a law;

^{1/} Promulgated Aug. 31, 1970. Zuixin liufa quanshu [Most Recent Complete Book of the Six Codes] 42-43 (Taipei, Sanmin Books, 1984).

^{2/} Art. 2 & 4. The pinyin system of romanization is used for the Chinese terms in this report. Although pinyin is not generally used in Taiwan, it is used in the People's Republic. Here it is used to make the terms more easily comparable to the ones used in the report on the PRC.

^{3/} Art. 7. Although it is not stated in the law, presumably these orders are sent to the legislature for record-keeping purposes.

2. the rights and obligations of the people are involved;
3. they concern the organization of state agencies; or
4. they concern other important matters of the sort that should be governed by law (Art. 5).

No law may contradict the Constitution, and no order may contradict either the Constitution or a law. Furthermore, orders issued by lower-level organs must be consistent with those of higher-level organs (Art. 11). Specialized laws are considered to be superior to ordinary laws. If a matter were covered by both a general law that covered a broad area and specific one devoted to that matter alone, the specialized law would govern. This is true regardless of which law had been enacted first (Art. 16).

All government organs, in applying laws and regulations to individual cases, apply the law existing at the time when the case arose. If there should be a change of law before the matter is resolved, however, the new law can be applied unless the old law was beneficial to any party to the case. The only exception would be for those laws which explicitly prohibit the application of previous legislation (Art. 18).

The Law on the Standardization of Central Laws and Regulations also includes articles governing the form in which laws should be written and procedures for the revision, abolition, and extension of laws.

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