



# 中华人民共和国行政监察法

LAW OF THE PEOPLE'S REPUBLIC OF CHINA  
ON ADMINISTRATIVE SUPERVISION

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Law of the People' s Republic of China  
on Administrative Supervision

全国人民代表大会常务委员会法制工作委员会印制

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on Administrative Supervision**

Translated by  
the Legislative Affairs Commission of  
the Standing Committee of  
the National People's Congress of  
the People's Republic of China

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**Order of the President of the People's  
Republic of China**

**No. 85**

**The Law of the People's Republic of China on  
Administrative Supervision, adopted at the 25th  
Meeting of the Standing Committee of the Eighth  
National People's Congress of the People's Republic  
of China on May 9, 1997, is hereby promulgated  
and shall enter into force as of the date of promulga-  
tion.**

**Jiang Zemin**

**President of the People's Republic of China**

**May 9, 1997**

# **Law of the People's Republic of China**

## **on Administrative Supervision**

*(Adopted at the 25th Meeting of the Standing Committee of the Eighth National People's Congress on May 9, 1997)*

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# Chapter I

## **General Provisions**

**Article 1** This Law is enacted in accordance with the Constitution, in order to strengthen the supervision, guarantee the smooth implementation of government decrees, maintain administrative discipline, facilitate the building of an honest and clean government, improve administration and raise administrative efficiency.

**Article 2** Supervisory organs are organs that exercise the function of supervision on behalf of the people's governments, supervising in accordance with this Law administrative organs and public servants of the State and other persons appointed by administrative organs of the State.

**Article 3** Supervisory organs shall exercise their functions and powers in accordance with law and shall be subject to no interference from any administrative departments, public organizations or individuals.

**Article 4** Supervision shall be enforced in adherence to the principles of seeking truth from facts, laying stress on evidence, investigation and study, and applying laws and rules of administrative discipline to **people** on an equal footing.

**Article 5** In supervision, education shall be combined with punishment, and supervision and inspection shall be conducted for the purpose of improving work.

**Article 6** Supervision shall be enforced by relying on the general public. Supervisory organs shall institute an informing system, under which all citizens shall have the right to bring to supervisory organs accusations or expositions against any administrative organs or public servants of the State or any persons appointed by State administrative organs that violate laws or are derelict in their duties.

## Chapter II

### Supervisory Organs and Supervisors

**Article 7** The supervisory organ under the State Council shall be in charge of supervision throughout the country.

A supervisory organ of a local **people's government** at or above the county level shall be responsible for supervision in its administrative area, and shall be responsible and report its work to the **people's government** to which it belongs and to the supervisory organ at the next higher level. Supervision shall be enforced mainly under the guidance of the supervisory organ at a higher level.

**Article 8** A supervisory organ of a **people's government** at or above the county level may, where necessary and with the approval of the **people's government** to which it belongs, have supervisory bodies or supervisors in departments under the government.

The supervisory bodies and supervisors dispatched by the supervisory organs shall be responsible and report their work to the supervisory organs that dispatch them.

**Article 9** A supervisor shall abide by laws

and observe rules of discipline, be faithful to their duties, enforce laws impartially, remain honest and upright and keep secrets.

**Article 10 A** supervisor shall be familiar with supervision and shall have received an appropriate education and acquired sufficient professional knowledge.

**Article 11** The chief or deputy chief of a supervisory organ of a local people's government at or above the county level shall be appointed or dismissed from office with the consent' of the supervisory organ at the next higher level before the decision on the appointment or dismissal is submitted for approval.

**Article 12 A** supervisory organ shall apply a system of supervision over the supervisors' performance of their official duties and observance of the rules of discipline.

**Article 13** A supervisor, in performing his official duties in accordance with law, shall be protected by law.

No organization or individual may refuse to undergo supervision, or obstruct the supervisors' performance of their official duties, or retaliate against supervisors.

**Article 14** A supervisor shall withdraw when he himself or his close relatives have an interest in the matter of supervision he is handling.

### Chapter III

#### **Functions and Duties of Supervisory Organs**

**Article 15** The supervisory organ under the State Council shall exercise supervision over the following government departments and persons:

(1) the various departments under the State Council and the public servants of the State working in such departments;

(2) other persons appointed by the State Council and the various departments under it; and

(3) the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government and the leading

members of such governments.

**Article 16** The supervisory organ of a local people's government at or above the county level shall exercise supervision over the following government departments and persons:

(1) the various departments under the people's government to which it belongs and the public servants of the State working in such departments;

(2) other persons appointed by the people's government to which it belongs and by the various departments under this government; and

(3) the people's government at the next lower level and its leading members.

The supervisory organ of the people's government of a county, autonomous county, city not divided into districts or a municipal district shall, in addition, exercise supervision over the public servants of the State working in the people's governments of townships, nationality townships and towns under the jurisdiction of the people's government to which it belongs as well as other persons appointed by the governments of these townships, nationality townships and towns.

**Article 17** A supervisory organ at a higher level may handle matters of supervision that are under the supervision of a supervisory organ at a lower level and may, when necessary, handle such matters that are under the jurisdiction of the supervisory organs at the various lower levels.

Where a dispute over jurisdiction arises between supervisory organs, it shall be settled by a supervisory organ at a higher level above both the disputing parties.

**Article 18** A supervisory organ shall perform the following duties in order to fulfill its function of supervision:

(1) to inspect the problems of the administrative organs of the State that occur in the course of their observing and enforcing laws and rules and regulations as well as government decisions and decrees;

**(2) to accept** and handle accusations and expositions against administrative organs or public servants of the State or other persons appointed by such organs that violate rules of administrative discipline;

(3) to investigate and handle violations of

rules of administrative discipline committed by administrative organs or public servants of the State or other persons appointed by such organs;

(4) to accept and handle complaints presented by public servants of the State or other persons appointed by administrative organs of the State who refuse **to accept** decisions on administrative sanctions made by the competent administrative organs, and other complaints to be accepted and handled by supervisory organs as prescribed by laws and administrative rules and regulations; and

(5) to perform other duties as prescribed by laws and administrative rules and regulations.

## Chapter IV

### **Jurisdiction of Supervisory Organs**

**Article 19** A supervisory organ shall have the right to take the following measures to perform its official duties:

(1) to require the departments and persons under supervision to provide documents, data, financial accounts and other materials relevant to

the matters under supervision for examination and duplication;

(2) to require the departments and persons under supervision to explain or clarify questions concerning the matters under supervision; and

(3) to order the departments and persons under supervision to cease violating laws, rules and regulations and rules of administrative discipline.

**Article 20** In investigating violations of the rules of administrative discipline, a supervisory organ may adopt the following measures in light of actual conditions and needs:

(1) to temporarily seize and seal up documents, data, financial accounts and other relevant materials which may be used as proof of violations of the rules of administrative discipline;

(2) to order the units and persons suspected of being involved in a case not to sell off or transfer any property relevant to the case during the period of investigation;

(3) to order the persons suspected of violating the rules of administrative discipline to explain and clarify questions relevant to the matters under investigation at a designated time and place; **howev-**

er, no such persons may be taken into custody or detained in disguised form; and

(4) to propose to the competent authorities that they suspend the persons suspected of seriously violating the rules of administrative discipline from execution of their official duties.

**Article 21** In investigating violations of the rules of administrative discipline, such as graft, bribery and misappropriation of public funds, a supervisory organ may inquire about the deposits of the suspected units and persons at banks or other banking institutions, with the approval of the leading members of a supervisory organ at or above the county level. When necessary, it may request the People's Court to adopt preservation measures to freeze the deposits of such persons at banks or other banking institutions in accordance with law.

**Article 22** In handling cases of violating the rules of administrative discipline, a supervisory organ may request the authorities of public security, auditing, taxation and the Customs, the administrative departments for industry and commerce

and other authorities to extend assistance.

**Article 23** A supervisory organ may, on the basis of findings from examinations and investigations, make a supervisory recommendation under any of the following situations;

(1) Where the parties concerned refuse to enforce the laws or rules and regulations or violate the laws or rules and regulations as well as the decisions or decrees of the people's government, which should be set right;

(2) Where the decisions, decrees or instructions issued by departments under the people's government to which it belongs or by the people's governments at lower levels contravene the laws or rules and regulations or State policies and should be modified or revoked;

(3) Where the interests of the State or the collective or the lawful rights and interests of citizens are impaired and remedial measures need be taken;

(4) Where decisions on employment, appointment, dismissal from office, reward or punishment are obviously inappropriate and should be rectified;

(5) Where the parties concerned should be

given administrative penalties in accordance with relevant laws or rules and regulations; or

(6) Other situations for which a supervisory recommendation is needed.

**Article 24** A supervisory organ may, on the basis of findings from examinations and investigations, make a supervisory decision or recommendation under any of the following situations:

(1) Where the parties concerned violate the rules of administrative discipline and should be given administrative sanctions in accordance with law, such as administrative warning, the recording of a demerit , the recording of a major demerit , demotion, dismissal from office or discharge; or

(2) Where the parties concerned take money or property in violation of the rules of administrative discipline, which should be confiscated, recovered, or returned or compensated under orders.

A supervisory decision or recommendation for the situation mentioned in sub-paragraph (1) of the preceding paragraph shall be made in accordance with the State regulations on the limits of authority and procedure for personnel management.

**Article 25** A supervisory decision made by a supervisory organ in accordance with law shall be implemented by the departments and persons concerned. A supervisory recommendation made by a supervisory organ in accordance with law shall be adopted by the departments concerned, unless they have justifiable reasons not to do so.

**Article 26** A supervisory organ shall have the right to inquire of the units and individuals involved in the matters under supervision.

**Article 27** Leading members of a supervisory organ may attend as observers relevant meetings of the people's government to which it belongs, and supervisors may attend as observers meetings concerning the matters under supervision held by the departments under supervision.

**Article 28** A supervisory organ may, in accordance with relevant regulations, award the persons who have rendered meritorious services in accusing or exposing serious violations of laws and the rules of discipline.

## Chapter V

### Procedures of Supervision

**Article 29** A supervisory organ shall conduct inspection in accordance with the following procedure:

(1) to register the matters that need inspection;

(2) to formulate plans for inspection and organize their implementation;

(3) to submit reports on the results of inspection to the **people's** government to which it belongs or the supervisory organ at a higher level; and

(4) to make a supervisory decision or recommendation, on the basis of the findings from inspection.

For the registration of a consequential matter for inspection, a supervisory organ shall report the matter to the **people's** government to which it be-

longs and the supervisory organ at the next higher level for the record.

**Article 30** A supervisory organ shall investigate and handle violations of the rules of administrative discipline in accordance with the following procedure:

(1) to conduct preliminary examination of the matters that require investigation and handling, and to register the matters for which it believes that there are facts to prove the violations of the rules of administrative discipline and that the parties concerned should be investigated for their responsibility for violating the rules of administrative discipline;

(2) to make arrangements for investigation to collect relevant evidence;

(3) to handle cases for which there is evidence to prove the violation of the rules of administrative discipline and the parties concerned should be given administrative sanctions or handled otherwise; and

(4) to make a supervisory decision or recommendation.

For the registration of a consequential and

complicated case, a supervisory organ shall report the matter to the **people's** government to which it belongs and the supervisory organ at the next higher level for the record.

**Article 31** Where through investigation into a registered case the supervisory organ believes that there are no facts to prove the violation of the rules of administrative discipline or that there is no need to investigate the parties concerned for their responsibility for violation of the rules of administrative discipline, it shall quash the case and notify the investigated units and the authorities above them or the investigated persons and their units of the matter.

For the quashing of a consequential and complicated case, a supervisory organ shall report the matter to the **people's** government to which it belongs and to the supervisory organ at the next higher level for the record.

**Article 32** A case registered by a supervisory organ for investigation shall be closed within six months from the date of registration. Where the period for handling a case need be **ex-**

tended due to special reasons, it may be extended appropriately, but it may not exceed one year at the maximum. And the matter shall be reported to the supervisory organ at the next higher level for the record.

**Article 33** A supervisory organ shall, in the course of inspection and investigation, hear the statements and explanations made by the departments or persons under supervision.

**Article 34** Major supervisory decisions and recommendations made by a supervisory organ shall be submitted to the people's government to which it belongs and to the supervisory organ at the next higher level for consent. Major supervisory decisions and recommendations made by the supervisory organ under the State Council shall be submitted to the State Council for consent.

**Article 35** Supervisory decisions or recommendations shall be delivered in writing to the units or persons concerned.

**Article 36** The units or persons concerned

shall notify the supervisory organ within 30 days from the date of receiving the supervisory decision or recommendation of how such decision has been implemented or of how such recommendation has been dealt with.

**Article 37** Where a public servant of the State or any other person appointed by an administrative organ of the State refuses to **accept** a decision made by the competent administrative organ on imposing administrative sanctions on him, he may lodge a complaint to the supervisory organ within 30 days from the date of receiving such decision. The supervisory organ on its part shall, within 30 days from the date of receiving the complaint, make a decision after review of the decision. If he still refuses to **accept** the decision made after the review, he may, within 30 days from the date of receiving the decision, **apply** to the supervisory organ at the next higher level for check. The supervisory organ at the next higher level shall, within 60 days from the date of receiving the application, make a decision after checking the decision.

During the period of review or check, implementation of the decision originally made

shall not be suspended.

**Article 38** If, after the review conducted upon receiving the complaint against the decision made by the competent administrative organ on imposing administrative sanctions, the supervisory organ believes that the original decision is inappropriate, it may propose to the organ that made the decision to modify or revoke its decision; it may also, within the **scope** of its functions and powers, directly decide to modify or revoke such decision.

Complaints about other matters to be accepted and handled by supervisory organs, as provided for by laws and administrative rules and regulations, shall be governed by such laws and administrative rules and regulations.

**Article 39** Whoever refuses to **accept** a supervisory decision may, within 30 days from the date of receiving the decision, **apply** to the organ that made the decision for reexamination; the supervisory organ on its **part** shall, within 30 days from the date of receiving the application for reexamination, make a decision after

reexamination. If he still refuses to accept the decision made after reexamination, he may, within 30 days from the date of receiving the decision, apply to the supervisory organ at the next higher level for check, which shall, within 60 days from the date of receiving the application for check, make a decision after the check.

During the period of reexamination or check, implementation of the decision originally made shall not be suspended.

**Article 40** Where a supervisory organ at a higher level considers a supervisory decision made by a supervisory organ at a lower level inappropriate, the former may instruct the latter to modify or revoke this decision or, when necessary, the former may also directly decide to modify or revoke the decision.

**Article 41** The decisions made by a supervisory organ at a higher level after check and the decisions made by the supervisory organ under the State Council after review or reexamination shall be final.

**Article 42** Whoever has any objections to a supervisory recommendation may, within 30 days from the date of receiving the recommendation, raise his objections to the supervisory organ that made the recommendation, the supervisory organ on its part shall, within 30 days from the date of receiving the objections, give a reply. If he still has objections to the reply, the supervisory organ shall submit the matter to the people's government to which it belongs or to the supervisory organ at the next higher level for a decision.

**Article 43** Where a supervisory organ, in the course of handling matters under supervision, finds that the matters under investigation do not fall within the **scope** of functions and duties of the supervisory organ, it shall transfer them to the unit that has the authority to handle them. In the case of a criminal suspect, the matter shall be transferred to a judicial organ, which shall handle the case according to law.

The unit or organ that **accepts** the matter transferred shall notify the said supervisory organ of how the matter is handled.

## Chapter VI

### Legal Responsibility

**Article 44** Where departments or persons under supervision violate the provisions of this Law by committing any of the following acts, the competent authorities or supervisory organ shall order them to mend their ways and circulate a notice of criticism against the departments and shall, in accordance with law, impose administrative sanctions on the persons who are directly in charge and the other persons who are directly responsible for the violation:

(1) to withhold the truth, provide false evidence or conceal, transfer, alter or destroy evidence;

(2) to deliberately delay providing documents, data, financial accounts or other materials or information relevant to the matters under supervision or refuse to provide them;

(3) to sell off or transfer suspect property during the period of investigation;

(4) to refuse to explain or clarify the questions raised by the supervisory organ;

(5) to refuse to implement the supervisory decision or refuse to adopt the supervisory recommendation without justifiable reasons; or

(6) to have committed any other acts in violation of the provisions of this Law, where the circumstances are serious.

**Article 45** Whoever retaliates against or frames up any complainants, accusers, exposers or supervisors shall be given administrative sanctions in accordance with law; if the act constitutes a crime, he shall be investigated for criminal responsibility in accordance with law.

**Article 46** If a supervisor abuses his power, commits **malpractices** for selfish ends, neglects his duties or divulges secrets, he shall be given administrative sanctions in accordance with law; if his act constitutes a crime, he shall be investigated for criminal responsibility in accordance with law.

**Article 47** If a supervisory organ or supervisor exercises its or his functions and powers in violation of laws, infringing upon the lawful rights and interests of a citizen, legal person or any other

organization and thus causing damage thereto, it or he shall make compensation in accordance with law.

## Chapter VII

### Supplementary Provisions

**Article 48** This Law shall become effective as of the date of its promulgation. The Regulations of the People's Republic of China on Administrative Supervision promulgated by the State Council on December 9, 1990 shall be repealed at the same time.

*(In case of discrepancy between the English translation and the original Chinese text, the Chinese text shall prevail.-Tr.)*

# 中华人民共和国主席令

第八十五号

《中华人民共和国行政监察法》已由中华人民共和国第八届全国人民代表大会常务委员会第二十五次会议于1997年5月9日通过，现予公布，自公布之日起施行。

中华人民共和国主席 江泽民  
1997年5月9日

# 中华人民共和国行政监察法

(1997年5月9日第八届全国人民代表大会常务委员会第二十五次会议通过 1997年5月9日中华人民共和国主席令第八十五号公布自公布之日起施行)

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## 第一章 总 则

**第一条** 为了加强监察工作，保证政令畅通，维护行政纪律，促进廉政建设，改善行政管理，提高行政效能，根据宪法，制定本法。

**第二条** 监察机关是人民政府行使监察职能的机关，依照本法对国家行政机关、国家公务员和国家行政机关任命的其他人员实施监察。

**第三条** 监察机关依法行使职权，不受其他行政部门、社会团体和个人的干涉。

**第四条** 监察工作必须坚持实事求是，重证据、重调查研究，在适用法律和行政纪律上人人平等。

**第五条** 监察工作应当实行教育与惩处相结合、监督检查与改进工作相结合。

**第六条** 监察工作应当依靠群众。监察机关建立举报制度，公民对于任何国家行政机关、国家公务员和国家行政机关任命的其他人员的违法失职行为，有权向监察机关提出控告或者检举。

## 第二章 监察机关和监察人员

**第七条** 国务院监察机关主管全国的监察工

作。

县级以上地方各级人民政府监察机关负责本行政区域内的监察工作，对本级人民政府和上一级监察机关负责并报告工作，监察业务以上级监察机关领导为主。

**第八条** 县级以上各级人民政府监察机关根据工作需要，经本级人民政府批准，可以向政府所属部门派出监察机构或者监察人员。

监察机关派出的监察机构或者监察人员，对派出的监察机关负责并报告工作。

**第九条** 监察人员必须遵纪守法，忠于职守，秉公执法，清正廉洁，保守秘密。

**第十条** 监察人员必须熟悉监察业务，具备相应的文化水平和专业知识。

**第十一条** 县级以上地方各级人民政府监察机关正职、副职领导人员的任命或者免职，在提请决定前，必须经上一级监察机关同意。

**第十二条** 监察机关对监察人员执行职务和遵守纪律实行监督的制度。

**第十三条** 监察人员依法执行职务，受法律保护。

任何组织和个人不得拒绝、阻碍监察人员依法执行职务，不得打击报复监察人员。

**第十四条** 监察人员办理的监察事项与本人或者其近亲属有利害关系的，应当回避。

### **第三章 监察机关的职责**

**第十五条** 国务院监察机关对下列机关和人员实施监察：

- (一) 国务院各部门及其国家公务员；
- (二) 国务院及国务院各部门任命的其他人员；
- (三) 省、自治区、直辖市人民政府及其领导人员。

**第十六条** 县级以上地方各级人民政府监察机关对下列机关和人员实施监察：

- (一) 本级人民政府各部门及其国家公务员；
- (二) 本级人民政府及本级人民政府各部门任命的其他人员；
- (三) 下一级人民政府及其领导人员。

县、自治县、不设区的市、市辖区人民政府监察机关还对本辖区所属的乡、民族乡、镇人民政府的国家公务员以及乡、民族乡、镇人民政府任命的其他人员实施监察。

**第十七条** 上级监察机关可以办理下一级监察机关管辖范围内的监察事项；必要时也可以办理所辖各级监察机关管辖范围内的监察事项。

监察机关之间对管辖范围有争议的，由其共同的上级监察机关确定。

**第十八条** 监察机关为行使监察职能，履行下列职责：

（一）检查国家行政机关在遵守和执行法律、法规和人民政府的决定、命令中的问题；

（二）受理对国家行政机关、国家公务员和国家行政机关任命的其他人员违反行政纪律行为的控告、检举；

（三）调查处理国家行政机关、国家公务员和国家行政机关任命的其他人员违反行政纪律的行为；

（四）受理国家公务员和国家行政机关任命的其他人员不服主管行政机关给予行政处分决定的申诉，以及法律、行政法规规定的其他由监察机关受理的申诉；

（五）法律、行政法规规定由监察机关履行的其他职责。

#### **第四章 监察机关的权限**

**第十九条** 监察机关履行职责，有权采取下列措施：

（一）要求被监察的部门和人员提供与监察事项有关的文件、资料、财务帐目及其他有关材料，进行查阅或者予以复制；

（二）要求被监察的部门和人员就监察事项涉及的问题作出解释和说明；

（三）责令被监察的部门和人员停止违反法律、法规和行政纪律的行为。

**第二十条** 监察机关在调查违反行政纪律行为时，可以根据实际情况和需要采取下列措施：

（一）暂予扣留、封存可以证明违反行政纪律行为的文件、资料、财务帐目及其他有关材料；

（二）责令案件涉嫌单位和涉嫌人员在调查期间不得变卖、转移与案件有关的财物；

（三）责令有违反行政纪律嫌疑的人员在指定的时间、地点就调查事项涉及的问题作出解释和说明，但是不得对其实行拘禁或者变相拘禁；

（四）建议有关机关暂停有严重违反行政纪律嫌疑的人员执行职务。

**第二十一条** 监察机关在调查贪污、贿赂、

挪用公款等违反行政纪律的行为时，经县级以上监察机关领导人员批准，可以查询案件涉嫌单位和涉嫌人员在银行或者其他金融机构的存款；必要时，可以提请人民法院采取保全措施，依法冻结涉嫌人员在银行或者其他金融机构的存款。

**第二十二条** 监察机关在办理行政违纪案件中，可以提请公安、审计、税务、海关、工商行政管理等机关予以协助。

**第二十三条** 监察机关根据检查、调查结果，遇有下列情形之一的，可以提出监察建议：

（一）拒不执行法律、法规或者违反法律、法规以及人民政府的决定、命令，应当予以纠正的；

（二）本级人民政府所属部门和下级人民政府作出的决定、命令、指示违反法律、法规或者国家政策，应当予以纠正或者撤销的；

（三）给国家利益、集体利益和公民合法权益造成损害，需要采取补救措施的；

（四）录用、任免、奖惩决定明显不适当，应当予以纠正的；

（五）依照有关法律、法规的规定，应当给予行政处罚的；

（六）其他需要提出监察建议的。

**第二十四条** 监察机关根据检查、调查结果，遇有下列情形之一的，可以作出监察决定或者提出监察建议：

（一）违反行政纪律，依法应当给予警告、记过、记大过、降级、撤职、开除行政处分的；

（二）违反行政纪律取得的财物，依法应当没收、追缴或者责令退赔的。

对前款第（一）项所列情形作出监察决定或者提出监察建议的，应当按照国家有关人事管理权限和处理程序的规定办理。

**第二十五条** 监察机关依法作出的监察决定，有关部门和人员应当执行。监察机关依法提出的监察建议，有关部门无正当理由的，应当采纳。

**第二十六条** 监察机关对监察事项涉及的单位和个人有权进行查询。

**第二十七条** 监察机关的领导人员可以列席本级人民政府的有关会议，监察人员可以列席被监察部门的与监察事项有关的会议。

**第二十八条** 监察机关对控告、检举重大违法违纪行为的有功人员，可以依照有关规定给予奖励。

## 第五章 监察程序

**第二十九条** 监察机关按照下列程序进行检查：

- (一) 对需要检查的事项予以立项；
- (二) 制定检查方案并组织实施；
- (三) 向本级人民政府或者上级监察机关提出检查情况报告；
- (四) 根据检查结果，作出监察决定或者提出监察建议。

重要检查事项的立项，应当报本级人民政府和上一级监察机关备案。

**第三十条** 监察机关按照下列程序对违反行政纪律的行为进行调查处理：

- (一) 对需要调查处理的事项进行初步审查；认为有违反行政纪律的事实，需要追究行政纪律责任的，予以立案；
- (二) 组织实施调查，收集有关证据；
- (三) 有证据证明违反行政纪律，需要给予行政处分或者作出其他处理的，进行审理；
- (四) 作出监察决定或者提出监察建议。

重要、复杂案件的立案，应当报本级人民政府和上一级监察机关备案。

**第三十一条** 监察机关对于立案调查的案件，经调查认定不存在违反行政纪律事实的，或者不需要追究行政纪律责任的，应当予以撤销，并告知被调查单位及其上级部门或者被调查人员及其所在单位。

重要、复杂案件的撤销，应当报本级人民政府和上一级监察机关备案。

**第三十二条** 监察机关立案调查的案件，应当自立案之日起六个月内结案；因特殊原因需要延长办案期限的，可以适当延长，但是最长不得超过一年，并应当报上一级监察机关备案。

**第三十三条** 监察机关在检查、调查中应当听取被监察的部门和人员的陈述和申辩。

**第三十四条** 监察机关作出的重要监察决定和提出的重要监察建议，应当报经本级人民政府和上一级监察机关同意。国务院监察机关作出的重要监察决定和提出的重要监察建议，应当报经国务院同意。

**第三十五条** 监察决定、监察建议应当以书面形式送达有关单位或者有关人员。

**第三十六条** 有关单位和人员应当自收到监察决定或者监察建议之日起三十日内将执行监察决定或者采纳监察建议的情况通报监察机关。

**第三十七条** 国家公务员和国家行政机关任命的其他人员对主管行政机关作出的行政处分决定不服的，可以自收到行政处分决定之日起三十日内向监察机关提出申诉，监察机关应当自收到申诉之日起三十日内作出复查决定；对复查决定仍不服的，可以自收到复查决定之日起三十日内向上一级监察机关申请复核，上一级监察机关应当自收到复核申请之日起六十日内作出复核决定。

复查、复核期间，不停止原决定的执行。

**第三十八条** 监察机关对受理的不服主管行政机关行政处分决定的申诉，经复查认为原决定不适当的，可以建议原决定机关予以变更或者撤销；监察机关在职权范围内，也可以直接作出变更或者撤销的决定。

法律、行政法规规定由监察机关受理的其他申诉，依照有关法律、行政法规的规定办理。

**第三十九条** 对监察决定不服的，可以自收到监察决定之日起三十日内向作出决定的监察机关申请复审，监察机关应当自收到复审申请之日起三十日内作出复审决定；对复审决定仍不服的，可以自收到复审决定之日起三十日内向上一级监察机关申请复核，上一级监察机关应当自收

到复核申请之日起六十日内作出复核决定。

复审、复核期间，不停止原决定的执行。

**第四十条** 上一级监察机关认为下一级监察机关的监察决定不适当的，可以责成下一级监察机关予以变更或者撤销，必要时也可以直接作出变更或者撤销的决定。

**第四十一条** 上一级监察机关的复核决定和国务院监察机关的复查决定或者复审决定为最终决定。

**第四十二条** 对监察建议有异议的，可以自收到监察建议之日起三十日内向作出监察建议的监察机关提出，监察机关应当自收到异议之日起三十日内回复；对回复仍有异议的，由监察机关提请本级人民政府或者上一级监察机关裁决。

**第四十三条** 监察机关在办理监察事项中，发现所调查的事项不属于监察机关职责范围内的，应当移送有处理权的单位处理；涉嫌犯罪的，应当移送司法机关依法处理。

接受移送的单位或者机关应当将处理结果告知监察机关。

## 第六章 法律责任

**第四十四条** 被监察的部门和人员违反本法规定，有下列行为之一的，由主管机关或者监察机关责令改正，对部门给予通报批评；对负有直接责任的主管人员和其他直接责任人员依法给予行政处分：

（一）隐瞒事实真相、出具伪证或者隐匿、转移、篡改、毁灭证据的；

（二）故意拖延或者拒绝提供与监察事项有关的文件、资料、财务帐目及其他有关材料和其他必要情况的；

（三）在调查期间变卖、转移涉嫌财物的；

（四）拒绝就监察机关所提问题作出解释和说明的；

（五）拒不执行监察决定或者无正当理由拒不采纳监察建议的；

（六）有其他违反本法规定的行为，情节严重的。

**第四十五条** 对申诉人、控告人、检举人或者监察人员进行报复陷害的，依法给予行政处分；构成犯罪的，依法追究刑事责任。

**第四十六条** 监察人员滥用职权、徇私舞弊、玩忽职守、泄露秘密的，依法给予行政处分；构成犯罪的，依法追究刑事责任。

**第四十七条** 监察机关和监察人员违法行使职权，侵犯公民、法人和其他组织的合法权益，造成损害的，应当依法赔偿。

## **第七章 附 则**

**第四十八条** 本法自公布之日起施行。1990年12月9日国务院发布的《中华人民共和国行政监察条例》同时废止。



全国人民代表大会常务委员会法制工作委员会印制

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