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# 中华人民共和国侵权责任法

# Tort Law of the People's Republic of China

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主席令第二十一号

Presidential Decree No. 21

《中华人民共和国侵权责任法》已由中华人民共和国第十一届全国人民代表大会常务委员会第十二次会议于2009年12月26日通过，现予公布，自2010年7月1日起施行。

The Tort Law of the People's Republic of China, adopted at the 12th session of the Standing Committee of the 11th National People's Congress of the People's Republic of China on December 26, 2009, is hereby promulgated and shall come into effect on July 1, 2010.

中华人民共和国主席 胡锦涛

President Hu Jintao

2009年12月26日

December 26, 2009

中华人民共和国侵权责任法

Tort Law of the People's Republic of China

（2009年12月26日第十一届全国人民代表大会常务委员会第十二次会议通过）

(Adopted at the 12th Meeting of the Standing Committee of the 11th National People's Congress on 26 December 2009)

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第一章 一般规定

Chapter 1 General Provisions

第一条   为保护民事主体的合法权益，明确侵权责任，预防并制裁侵权行为，促进社会和谐稳定，制定本法。

Article 1 This Law is formulated for the purposes of protecting the legitimate rights and interests of civil entities, specifying tort liability, preventing and sanctioning tortious acts and promoting social harmony and stability.

第二条   侵害民事权益，应当依照本法承担侵权责任。

Article 2 Anyone who infringes a civil right or interest shall be liable for the infringement in accordance with this Law.

本法所称民事权益，包括生命权、健康权、姓名权、名誉权、荣誉权、肖像权、隐私权、婚姻自主权、监护权、所有权、用益物权、担保物权、著作权、专利权、商标专用权、发现权、股权、继承权等人身、财产权益。

Civil rights and interests referred to in this Law shall include personal and property rights and interests such as right to life, right to health, right to name, right to reputation, right to honour, portrait rights, privacy rights, marital autonomy, guardianship, ownership, usufruct, security interests, copyright, patent, exclusive trademark rights, discovery right, equity, inheritance right, etc.

第三条   被侵权人有权请求侵权人承担侵权责任。

Article 3 An infringed party shall have the right to request that the tortfeasor bear tort liability.

第四条   侵权人因同一行为应当承担行政责任或者刑事责任的，不影响依法承担侵权责任。

Article 4 Administrative liability or criminal liability to be borne by an infringer for the same act shall not prejudice bearing of tort liability by the tortfeasor pursuant to the law.

因同一行为应当承担侵权责任和行政责任、刑事责任，侵权人的财产不足以支付的，先承担侵权责任。

Where an infringing party shall bear tort liability and administrative liability or criminal liability for the same act but its assets are insufficient for payment, tort liability shall rank first.

第五条   其他法律对侵权责任另有特别规定的，依照其规定。

Article 5 Where other laws have special provisions on tort liability, such provisions shall prevail.

第二章 责任构成和责任方式

Chapter 2 Composition and Manner of Liability

第六条   行为人因过错侵害他人民事权益，应当承担侵权责任。

Article 6 A doer whose negligence has harmed the civil rights and interests of others shall bear tort liability.

根据法律规定推定行为人有过错，行为人不能证明自己没有过错的，应当承担侵权责任。

Where the provisions of the laws presume that a doer has committed negligence and the doer cannot prove that it has not committed negligence, the doer shall bear tort liability.

第七条   行为人损害他人民事权益，不论行为人有无过错，法律规定应当承担侵权责任的，依照其规定。

Article 7 Where a doer has harmed the civil rights and interests of others, regardless if the doer has committed negligence, and the laws provide that the doer shall bear tort liability, such provisions shall prevail.

第八条   二人以上共同实施侵权行为，造成他人损害的，应当承担连带责任。

Article 8 Where two or more persons have committed a tortious act jointly and caused others to suffer damages, they shall bear connected liability.

第九条   教唆、帮助他人实施侵权行为的，应当与行为人承担连带责任。

Article 9 Persons who instigate or assist others in committing a tortious act shall bear connected liability with the doer.

教唆、帮助无民事行为能力人、限制民事行为能力人实施侵权行为的，应当承担侵权责任；该无民事行为能力人、限制民事行为能力人的监护人未尽到监护责任的，应当承担相应的责任。

Persons who instigate or assist persons with no capacity for civil conduct or persons with limited capacity for civil conduct in committing a tortious act shall bear tort liability; where the guardian of a person with no capacity for civil conduct or a person with limited capacity for civil conduct has not performed guardianship responsibilities, he/she shall bear the corresponding liability.

第十条   二人以上实施危及他人人身、财产安全的行为，其中一人或者数人的行为造成他人损害，能够确定具体侵权人的，由侵权人承担责任；不能确定具体侵权人的，行为人承担连带责任。

Article 10 Where two or more persons have committed an act that endangers another person's personal or property safety, and the act of one or more of such persons causes damage to that person, if the specific infringing party can be determined, the infringing party shall be liable; otherwise, all persons involved shall be jointly and severally liable.

第十一条   二人以上分别实施侵权行为造成同一损害，每个人的侵权行为都足以造成全部损害的，行为人承担连带责任。

Article 11 Where the tortious acts committed by two or more persons have caused the same damages, and the tortious act of each person is able to cause all the damages, the doers shall bear connected liability.

第十二条   二人以上分别实施侵权行为造成同一损害，能够确定责任大小的，各自承担相应的责任；难以确定责任大小的，平均承担赔偿责任。

Article 12 Where the tortious acts committed by two or more persons have caused the same damages, and the extents of responsibilities can be determined, such persons shall bear the corresponding liability; where it is difficult to determine the extents of responsibilities, such persons shall bear compensation liability equally.

第十三条   法律规定承担连带责任的，被侵权人有权请求部分或者全部连带责任人承担责任。

Article 13 Where the law provides that joint and several liability shall be assumed, the party whose rights are infringed upon shall be entitled to claim liability in whole or in part against all parties jointly and severally liable.

第十四条   连带责任人根据各自责任大小确定相应的赔偿数额；难以确定责任大小的，平均承担赔偿责任。

Article 14 Persons who are required to bear connected liability shall determine the corresponding compensation amount pursuant to their respective extent of responsibilities; where it is difficult to determine the extent of responsibilities, such persons shall bear compensation liability equally.

支付超出自己赔偿数额的连带责任人，有权向其他连带责任人追偿。

Where a person who is required to bear connected liability has paid a compensation amount which exceeds his/her compensation amount, he/she shall have the right to seek recourse against other persons who are required to bear connected liability.

第十五条   承担侵权责任的方式主要有：

Article 15 Tort liability can be borne mainly by:

（一）停止侵害；

1. cessation of infringement;

（二）排除妨碍；

(II) Removal of obstacles;

（三）消除危险；

(III) elimination of dangers;

（四）返还财产；

(IV) return of property;

（五）恢复原状；

(V) restoration to the original state;

（六）赔偿损失；

(VI) compensation for losses;

（七）赔礼道歉；

(VII) extension of apology; and

（八）消除影响、恢复名誉。

(VIII) Elimination of ill effects and rehabilitation of reputation.

以上承担侵权责任的方式，可以单独适用，也可以合并适用。

The above methods may be applied exclusively or concurrently.

第十六条   侵害他人造成人身损害的，应当赔偿医疗费、护理费、交通费等为治疗和康复支出的合理费用，以及因误工减少的收入。造成残疾的，还应当赔偿残疾生活辅助具费和残疾赔偿金。造成死亡的，还应当赔偿丧葬费和死亡赔偿金。

Article 16 Whoever harms another person and causes personal injury shall compensate his reasonable expenses for treatment and rehabilitation such as medical expenses, nursing expenses and transportation expenses as well as his lost income due to absence from work. In the event of disability, compensation for disability assisted living facilities and disability compensation shall be made. In the event of death, the business operator shall also make compensation for funeral expenses and death compensation.

第十七条   因同一侵权行为造成多人死亡的，可以以相同数额确定死亡赔偿金。

Article 17 Where the same tortious act causes several persons to die, the amount of death compensation payable may be the same.

第十八条   被侵权人死亡的，其近亲属有权请求侵权人承担侵权责任。被侵权人为单位，该单位分立、合并的，承继权利的单位有权请求侵权人承担侵权责任。

Article 18 In the event of death of an infringed party, his/her immediate relatives shall have the right to request that the infringer bears tort liability. Where the infringed party is an organisation and the organisation is divided or merged, the organisation which succeeds its rights shall have the right to request that the infringor bear tort liability.

被侵权人死亡的，支付被侵权人医疗费、丧葬费等合理费用的人有权请求侵权人赔偿费用，但侵权人已支付该费用的除外。

Where the party whose rights are infringed upon dies, the party who has paid reasonable expenses such as medical expenses and funeral expenses shall be entitled to request the infringing party to make compensation, unless the infringing party has already paid such expenses.

第十九条   侵害他人财产的，财产损失按照损失发生时的市场价格或者其他方式计算。

Article 19 Where a tortious act has caused others to suffer damages to assets, the asset loss shall be computed in accordance with the market price at the time of the loss or by way of any other method.

第二十条   侵害他人人身权益造成财产损失的，按照被侵权人因此受到的损失赔偿；被侵权人的损失难以确定，侵权人因此获得利益的，按照其获得的利益赔偿；侵权人因此获得的利益难以确定，被侵权人和侵权人就赔偿数额协商不一致，向人民法院提起诉讼的，由人民法院根据实际情况确定赔偿数额。

Article 20 Where property damages have been caused by an infringement of the personal rights of another person, compensation shall be paid on the basis of the damage suffered by the infringed party. Where it is difficult to determine the damage suffered by the infringed party and the infringer derives benefits therefrom, compensation shall be paid on the basis of the benefits received by the infringer. Where it is difficult to determine the benefits received by the infringer therefrom, but the infringee and the infringer fail to reach an agreement on the amount of damages and file a suit with a people's court, the damages shall be determined by the people's court in accordance with the actual circumstances.

第二十一条   侵权行为危及他人人身、财产安全的，被侵权人可以请求侵权人承担停止侵害、排除妨碍、消除危险等侵权责任。

Article 21 Where a tortious act endangers the personal or property safety of another person, the party whose rights are infringed upon may request that the infringing party assume tort liability such as ceasing infringement, removing obstruction, eliminating danger, etc.

第二十二条   侵害他人人身权益，造成他人严重精神损害的，被侵权人可以请求精神损害赔偿。

Article 22 Where the infringements upon a person's personal rights and interests cause the person to suffer from serious mental suffering, the infringed party may request compensation for mental suffering.

第二十三条   因防止、制止他人民事权益被侵害而使自己受到损害的，由侵权人承担责任。侵权人逃逸或者无力承担责任，被侵权人请求补偿的，受益人应当给予适当补偿。

Article 23 Where a person is harmed as a result of preventing or stopping others' civil rights and interests from being infringed, the infringer shall be held liable. Where a tortfeasor has fled or is unable to bear liability, and the infringed party requests for compensation, the beneficiary shall make appropriate compensation.

第二十四条   受害人和行为人对损害的发生都没有过错的，可以根据实际情况，由双方分担损失。

Article 24 Where neither the victim nor the doer is at fault in the occurrence of the damage, they may share the losses according to the actual circumstances.

第二十五条   损害发生后，当事人可以协商赔偿费用的支付方式。协商不一致的，赔偿费用应当一次性支付；一次性支付确有困难的，可以分期支付，但应当提供相应的担保。

Article 25 Upon occurrence of damages, the parties concerned may negotiate the payment method for compensation expenses. Where the negotiation is unsuccessful, one-off payment of the compensation expenses shall be made; where there is genuine difficulty in making a one-off payment, instalments may be made but the corresponding guarantee shall be provided.

第三章 不承担责任和减轻责任的情形

Chapter 3 Circumstances under which Liability is Waived or Mitigated

第二十六条   被侵权人对损害的发生也有过错的，可以减轻侵权人的责任。

Article 26 Where the infringed party has committed negligence in respect of the occurrence of the damages, the liability of the infringer may be mitigated.

第二十七条   损害是因受害人故意造成的，行为人不承担责任。

Article 27 Where damage is intentionally caused by a victim, the actor shall not be liable.

第二十八条   损害是因第三人造成的，第三人应当承担侵权责任。

Article 28 Where damage is caused by a third party, the third party shall bear tortious liability.

第二十九条   因不可抗力造成他人损害的，不承担责任。法律另有规定的，依照其规定。

Article 29 Persons who have caused others to suffer damages due to a force majeure event shall not be held liable. Where the laws provide otherwise, such provisions shall prevail.

第三十条   因正当防卫造成损害的，不承担责任。正当防卫超过必要的限度，造成不应有的损害的，正当防卫人应当承担适当的责任。

Article 30 No party shall be liable for damage caused in self-defence. If justifiable defence exceeds the limits of necessity and undue harm is caused, the person exercising justifiable defence shall be liable on a reasonable basis.

第三十一条   因紧急避险造成损害的，由引起险情发生的人承担责任。如果危险是由自然原因引起的，紧急避险人不承担责任或者给予适当补偿。紧急避险采取措施不当或者超过必要的限度，造成不应有的损害的，紧急避险人应当承担适当的责任。

Article 31 If an injury is caused by an action taken to avoid an imminent danger, the person who gave rise to such danger shall be liable. The person acting to avoid danger shall not be liable or shall be given reasonable compensation if the danger arose from natural causes. If the action taken to avoid such danger is improper or exceeds the limits of necessity and undue harm is caused, the person acting to avoid such danger shall be liable on a reasonable basis.

第四章 关于责任主体的特殊规定

Chapter 4 Special Provisions on Liable Parties

第三十二条   无民事行为能力人、限制民事行为能力人造成他人损害的，由监护人承担侵权责任。监护人尽到监护责任的，可以减轻其侵权责任。

Article 32 If a person without or with limited capacity for civil conduct causes damage to others, his guardian shall bear tort liability. Where the guardian has performed guardianship responsibilities, his/her tort liability may be mitigated.

有财产的无民事行为能力人、限制民事行为能力人造成他人损害的，从本人财产中支付赔偿费用。不足部分，由监护人赔偿。

If a person who has property but is without or with limited capacity for civil conduct causes damage to others, the expenses of compensation shall be paid from his property. Any deficiency shall be paid by the guardian.

第三十三条   完全民事行为能力人对自己的行为暂时没有意识或者失去控制造成他人损害有过错的，应当承担侵权责任；没有过错的，根据行为人的经济状况对受害人适当补偿。

Article 33 Where a person with full capacity for civil conduct has a temporary loss of awareness or has lost control over his/her action and caused others to suffer damages, he/she shall bear tort liability; where the person has no fault, he/she shall make appropriate compensation to the victim in accordance with his/her financial status.

完全民事行为能力人因醉酒、滥用麻醉药品或者精神药品对自己的行为暂时没有意识或者失去控制造成他人损害的，应当承担侵权责任。

Where a person with full capacity for civil conduct has a temporary loss of awareness or has lost control over his/her action as a result of drunken state or abuse of narcotic drugs or psychotropic drugs and has caused others to suffer damages, he/she shall bear tort liability.

第三十四条   用人单位的工作人员因执行工作任务造成他人损害的，由用人单位承担侵权责任。

Article 34 Where an employee of an employer has caused others to suffer damages as a result of performance of work assignment, the employer shall bear tort liability.

劳务派遣期间，被派遣的工作人员因执行工作任务造成他人损害的，由接受劳务派遣的用工单位承担侵权责任；劳务派遣单位有过错的，承担相应的补充责任。

In the course of labour secondment, where the seconded personnel have caused others to suffer damages as a result of performance of work assignment, the employer which accepts the secondment shall bear tort liability; where the secondment organisation is at fault, it shall bear the corresponding supplementary liability.

第三十五条   个人之间形成劳务关系，提供劳务一方因劳务造成他人损害的，由接受劳务一方承担侵权责任。提供劳务一方因劳务自己受到损害的，根据双方各自的过错承担相应的责任。

Article 35 Where a labour relationship has formed between individuals and the party providing labour services has caused others to suffer damages as a result of the labour services, the party accepting labour services shall bear tort liability. If any damage is caused by the labor of the party providing labor, the party shall bear corresponding liabilities according to their respective faults.

第三十六条   网络用户、网络服务提供者利用网络侵害他人民事权益的，应当承担侵权责任。

Article 36 Network users and network service providers shall bear tort liability in the event of making use of network to harm the civil rights and interests of others.

网络用户利用网络服务实施侵权行为的，被侵权人有权通知网络服务提供者采取删除、屏蔽、断开链接等必要措施。网络服务提供者接到通知后未及时采取必要措施的，对损害的扩大部分与该网络用户承担连带责任。

Where an internet user engages in tortious conduct through internet services, the injured party shall have the right to inform the internet service provider that it should take necessary action such as by deleting content, screening, breaking links, etc. Where the network service provider failed to adopt the requisite measures promptly upon notification, it shall bear joint and several liability with the network user in respect of the extended damages.

网络服务提供者知道网络用户利用其网络服务侵害他人民事权益，未采取必要措施的，与该网络用户承担连带责任。

Where the network service provider is aware that the network user has used its network services to harm the civil rights and interests of others but does not adopt the requisite measures, it shall bear connected liability with the network user.

第三十七条   宾馆、商场、银行、车站、娱乐场所等公共场所的管理人或者群众性活动的组织者，未尽到安全保障义务，造成他人损害的，应当承担侵权责任。

Article 37 Managers of public premises such as hotels, shopping malls, banks, stations, entertainment premises, etc or organisers of mass activities who failed to perform safety assurance obligations and caused others to suffer damages shall bear tort liability.

因第三人的行为造成他人损害的，由第三人承担侵权责任；管理人或者组织者未尽到安全保障义务的，承担相应的补充责任。

In the event of damages of others caused by a third party, the third party shall bear tort liability; where the manager or the organiser fails to perform safety assurance obligations, it shall bear the corresponding supplementary liability.

第三十八条   无民事行为能力人在幼儿园、学校或者其他教育机构学习、生活期间受到人身损害的，幼儿园、学校或者其他教育机构应当承担责任，但能够证明尽到教育、管理职责的，不承担责任。

Article 38 Where a person with no capacity for civil conduct has suffered personal injury during learning or living in a kindergarten, school or any other educational institution, the kindergarten, school or educational institution shall be held liable; however, if it can be proven that the kindergarten, school or educational institution has performed educational and management duties, it shall not be held liable.

第三十九条   限制民事行为能力人在学校或者其他教育机构学习、生活期间受到人身损害，学校或者其他教育机构未尽到教育、管理职责的，应当承担责任。

Article 39 Where a person with limited capacity for civil conduct has suffered personal injury during learning or living in a school or any other educational institution, the school or educational institution shall be liable for failure to perform education and management duties.

第四十条   无民事行为能力人或者限制民事行为能力人在幼儿园、学校或者其他教育机构学习、生活期间，受到幼儿园、学校或者其他教育机构以外的人员人身损害的，由侵权人承担侵权责任；幼儿园、学校或者其他教育机构未尽到管理职责的，承担相应的补充责任。

Article 40 Where a person with no capacity for civil conduct or a person with limited capacity for civil conduct has suffered personal injury inflicted by non-personnel of the kindergarten, school or any other educational institution during learning or living in the kindergarten, school or educational institution, the tortfeasor (s) shall bear tort liability; where the kindergarten, school or educational institution has failed to perform management duties, it shall bear the corresponding supplementary liability.

第五章 产品责任

Chapter 5 Product Liability

第四十一条   因产品存在缺陷造成他人损害的，生产者应当承担侵权责任。

Article 41 Producers shall bear tortious liability for damage caused to others by their defective products.

第四十二条   因销售者的过错使产品存在缺陷，造成他人损害的，销售者应当承担侵权责任。

Article 42 Sellers shall bear tortious liability for damage caused to others by defective products where the seller is at fault.

销售者不能指明缺陷产品的生产者也不能指明缺陷产品的供货者的，销售者应当承担侵权责任。

Sellers shall be liable for infringement if they cannot identify the producers or suppliers of the defective products.

第四十三条   因产品存在缺陷造成损害的，被侵权人可以向产品的生产者请求赔偿，也可以向产品的销售者请求赔偿。

Article 43 In the event of damages caused by product defects, the infringed party may seek compensation from the manufacturer of the products or the seller of the products.

产品缺陷由生产者造成的，销售者赔偿后，有权向生产者追偿。

Where the product defects are caused by the manufacturer, the seller shall have the right to seek recourse against the manufacturer after the seller has made compensation.

因销售者的过错使产品存在缺陷的，生产者赔偿后，有权向销售者追偿。

Where the product defect is caused by the seller, the producer may, after paying compensation, claim the same from the seller.

第四十四条   因运输者、仓储者等第三人的过错使产品存在缺陷，造成他人损害的，产品的生产者、销售者赔偿后，有权向第三人追偿。

Article 44 Where the product defect is caused by the transporter, the warehouse or another third party, the producer and the seller may, after paying compensation, claim the same from the third party.

第四十五条   因产品缺陷危及他人人身、财产安全的，被侵权人有权请求生产者、销售者承担排除妨碍、消除危险等侵权责任。

Article 45 In the event of product defects which compromise the personal safety or property safety of others, the infringed party shall have the right to request that the manufacturer and the seller bear tort liability such as elimination of obstruction, elimination of danger, etc.

第四十六条   产品投入流通后发现存在缺陷的，生产者、销售者应当及时采取警示、召回等补救措施。未及时采取补救措施或者补救措施不力造成损害的，应当承担侵权责任。

Article 46 Where defects are discovered after the products are put into circulation, the manufacturer and the seller shall promptly adopt remedial measures such as warning, recall, etc. In the event of damages caused by failure to adopt remedial measures promptly or failure to adopt effective remedial measures, the manufacturer and the seller shall bear tort liability.

第四十七条   明知产品存在缺陷仍然生产、销售，造成他人死亡或者健康严重损害的，被侵权人有权请求相应的惩罚性赔偿。

Article 47 Where any producer or seller knowingly produces or sells defective products that cause death or serious damage to the health of others, the infringed may claim appropriate punitive damages.

第六章 机动车交通事故责任

Chapter 6 Liability for Traffic Accidents of Motor Vehicles

第四十八条   机动车发生交通事故造成损害的，依照道路交通安全法的有关规定承担赔偿责任。

Article 48 In the event of damages caused by a traffic accident involving a motor vehicle, compensation liability shall be borne pursuant to the relevant provisions of the Road Traffic Safety Law.

第四十九条   因租赁、借用等情形机动车所有人与使用人不是同一人时，发生交通事故后属于该机动车一方责任的，由保险公司在机动车强制保险责任限额范围内予以赔偿。不足部分，由机动车使用人承担赔偿责任；机动车所有人对损害的发生有过错的，承担相应的赔偿责任。

Article 49 Where the owner and user of a motor vehicle are not the same person in circumstances such as a lease, lending, etc., in the event liability for a traffic accident is borne by the person driving the vehicle, such liability may be covered by the insurance company within the compensation limit under the compulsory insurance procured for said vehicle. The user of the motor vehicle shall bear compensation liability for any shortfall; where the owner of the motor vehicle has committed negligence in respect of the occurrence of damages, the owner shall bear the corresponding compensation liability.

第五十条   当事人之间已经以买卖等方式转让并交付机动车但未办理所有权转移登记，发生交通事故后属于该机动车一方责任的，由保险公司在机动车强制保险责任限额范围内予以赔偿。不足部分，由受让人承担赔偿责任。

Article 50 Where the parties concerned have transferred and delivered the motor vehicle by way of sale and purchase, etc, but the formalities for transfer of ownership have not been completed, and the motor vehicle party is liable for occurrence of a traffic accident, the insurance company shall make compensation within the scope of limits for motor vehicle compulsory insurance liability. Any shortfall shall be borne by the transferee.

第五十一条   以买卖等方式转让拼装或者已达到报废标准的机动车，发生交通事故造成损害的，由转让人和受让人承担连带责任。

Article 51 Where an assembled motor vehicle or a motor vehicle that is due to be scrapped is sold or transferred by other means, the transferor and the transferee shall be jointly and severally liable for damage caused by the traffic accident.

第五十二条   盗窃、抢劫或者抢夺的机动车发生交通事故造成损害的，由盗窃人、抢劫人或者抢夺人承担赔偿责任。保险公司在机动车强制保险责任限额范围内垫付抢救费用的，有权向交通事故责任人追偿。

Article 52 In the event of damages caused by a traffic accident involving a motor vehicle which is stolen, robbed or looted, the thief, robber or looter shall bear compensation liability. Where an insurance company pays the rescue expenses in advance within the limit of the compulsory insurance for motor vehicles, it shall have the right to recover the rescue expenses from the person liable for the traffic accident.

第五十三条   机动车驾驶人发生交通事故后逃逸，该机动车参加强制保险的，由保险公司在机动车强制保险责任限额范围内予以赔偿；机动车不明或者该机动车未参加强制保险，需要支付被侵权人人身伤亡的抢救、丧葬等费用的，由道路交通事故社会救助基金垫付。道路交通事故社会救助基金垫付后，其管理机构有权向交通事故责任人追偿。

Article 53 Where a motor vehicle driver flees after a traffic accident, if it is covered by the compulsory insurance, the insurance company shall make compensation within the compensation limit under the compulsory insurance procured for said motor vehicle; if the motor vehicle is unknown or if it is not covered by the compulsory insurance, thus, the costs paid for rescuing or burying the injured party and other relevant costs shall be advanced from the social aid fund for road traffic accidents. After the social aid fund for road traffic accidents has been advanced, its management institution has the right to recover the payment from the persons liable for the traffic accidents.

第七章 医疗损害责任

Chapter 7 Medical Injury Liability

第五十四条   患者在诊疗活动中受到损害，医疗机构及其医务人员有过错的，由医疗机构承担赔偿责任。

Article 54 Where a patient suffers damages in medical activities, and the medical institution and its medical personnel are at fault, the medical institution shall bear compensation liability.

第五十五条   医务人员在诊疗活动中应当向患者说明病情和医疗措施。需要实施手术、特殊检查、特殊治疗的，医务人员应当及时向患者说明医疗风险、替代医疗方案等情况，并取得其书面同意；不宜向患者说明的，应当向患者的近亲属说明，并取得其书面同意。

Article 55 Medical personnel shall explain illnesses and medical procedures to patients in clinic activities. Where a patient needs to undergo surgery, special examination or special treatment, the medical personnel shall promptly explain medical risks, alternative medical procedures, etc to the patient and obtain his/her written consent; where it is not advisable to explain to the patient, the medical personnel shall explain to the immediate relatives of the patient and obtain their written consent.

医务人员未尽到前款义务，造成患者损害的，医疗机构应当承担赔偿责任。

In the event of damages suffered by a patient due to failure of the medical personnel to perform the obligations in the preceding paragraph, the medical institution shall bear compensation liability.

第五十六条   因抢救生命垂危的患者等紧急情况，不能取得患者或者其近亲属意见的，经医疗机构负责人或者授权的负责人批准，可以立即实施相应的医疗措施。

Article 56 Under emergency circumstances such as rescue of critical patients or where the consent of the patient or his/her immediate relatives cannot be obtained, the corresponding medical measures may be forthwith implemented upon approval by the person-in-charge of the medical institution or the authorised person-in-charge.

第五十七条   医务人员在诊疗活动中未尽到与当时的医疗水平相应的诊疗义务，造成患者损害的，医疗机构应当承担赔偿责任。

Article 57 Where a medical professional fails to perform his diagnosis and treatment obligations according to current standards, thereby resulting in damage to the patient, the medical institution concerned shall be liable to pay compensation.

第五十八条   患者有损害，因下列情形之一的，推定医疗机构有过错：

Article 58 Where any damage is caused to the patient under any of the following circumstances, the medical institution shall be deemed to be at fault:

（一）违反法律、行政法规、规章以及其他有关诊疗规范的规定；

1. Violation of laws, administrative regulations, rules and other provisions on diagnosis and treatment norms;

（二）隐匿或者拒绝提供与纠纷有关的病历资料；

(II) Concealing or refusing to provide medical records relating to the dispute; or

（三）伪造、篡改或者销毁病历资料。

(III) Forging, tampering with or destroying medical records.

第五十九条   因药品、消毒药剂、医疗器械的缺陷，或者输入不合格的血液造成患者损害的，患者可以向生产者或者血液提供机构请求赔偿，也可以向医疗机构请求赔偿。患者向医疗机构请求赔偿的，医疗机构赔偿后，有权向负有责任的生产者或者血液提供机构追偿。

Article 59 If any damage is caused to the patient due to defective drugs, disinfectants, or medical devices, or unqualified blood, the patient may claim compensation from the producer, the agency supplying the blood, or the medical institution. Where the patient seeks compensation from the medical institution, the medical institution shall have the right to seek recourse against the liable manufacturer or the liable organisation which provides the blood after it has made compensation.

第六十条   患者有损害，因下列情形之一的，医疗机构不承担赔偿责任：

Article 60 If any damage is caused to the patient under any of the following circumstances, the medical institution shall not be liable to pay compensation:

（一）患者或者其近亲属不配合医疗机构进行符合诊疗规范的诊疗；

1. The patient or any of his close relatives fails to cooperate with the medical institution in the course of qualified medical treatment;

（二）医务人员在抢救生命垂危的患者等紧急情况下已经尽到合理诊疗义务；

(II) The medical personnel have performed their reasonable obligations to provide emergency treatment to critically ill patients;

（三）限于当时的医疗水平难以诊疗。

(III) Existing medical standards are not high enough to treat the patient.

前款第一项情形中，医疗机构及其医务人员也有过错的，应当承担相应的赔偿责任。

Where the medical institution and its medical personnel have committed negligence under the circumstances stipulated in item (1) of the preceding paragraph, the medical institution and its medical personnel shall bear the corresponding compensation liability.

第六十一条   医疗机构及其医务人员应当按照规定填写并妥善保管住院志、医嘱单、检验报告、手术及麻醉记录、病理资料、护理记录、医疗费用等病历资料。

Article 61 Medical institutions and their medical personnel shall fill in and keep medical records such as hospitalisation records, medical advice, examination report, operation and anesthesia records, pathological materials, nursing records, medical expenses, etc properly pursuant to the provisions.

患者要求查阅、复制前款规定的病历资料的，医疗机构应当提供。

Where a patient requests for inspection or photocopying of medical records stipulated in the preceding paragraph, the medical institution shall provide.

第六十二条   医疗机构及其医务人员应当对患者的隐私保密。泄露患者隐私或者未经患者同意公开其病历资料，造成患者损害的，应当承担侵权责任。

Article 62 Medical institutions and their medical personnel shall keep confidentiality of patient privacy. Where patient privacy is divulged or the medical records of a patient are made public without the consent of the patient and the patient suffers damages, tort liability shall be borne.

第六十三条   医疗机构及其医务人员不得违反诊疗规范实施不必要的检查。

Article 63 Medical institutions and their medical staff shall not violate medical norms in carrying out unnecessary examination.

第六十四条   医疗机构及其医务人员的合法权益受法律保护。干扰医疗秩序，妨害医务人员工作、生活的，应当依法承担法律责任。

Article 64 The legitimate rights and interests of medical institutions and their medical personnel are protected by law. Anyone who disturbs the order of medical treatment or hinders the work or life of medical workers shall bear legal liability according to law.

第八章 环境污染责任

Chapter 8 Environmental Pollution Liability

第六十五条   因污染环境造成损害的，污染者应当承担侵权责任。

Article 65 In the event of damages caused by environmental pollution, polluters shall bear tort liability.

第六十六条   因污染环境发生纠纷，污染者应当就法律规定的不承担责任或者减轻责任的情形及其行为与损害之间不存在因果关系承担举证责任。

Article 66 In the event of a dispute over environmental pollution, the polluter shall bear the burden of proof regarding any exemption from or mitigation of liability and the causal relationship between his conduct and the damage.

第六十七条   两个以上污染者污染环境，污染者承担责任的大小，根据污染物的种类、排放量等因素确定。

Article 67 Where two or more polluters pollute the environment, the extent of responsibility borne by the polluters shall be determined pursuant to factors such as the type of pollutant, emission, etc.

第六十八条   因第三人的过错污染环境造成损害的，被侵权人可以向污染者请求赔偿，也可以向第三人请求赔偿。污染者赔偿后，有权向第三人追偿。

Article 68 In the event of damages caused by environmental pollution caused by negligence of a third party, the infringed party may seek compensation from the polluter or the third party. The polluter has the right of recourse to the third party after paying compensation.

第九章 高度危险责任

Chapter 9 High Risk Liability

第六十九条   从事高度危险作业造成他人损害的，应当承担侵权责任。

Article 69 Persons engaging in ultrahazardous activities which have caused others to suffer damages shall bear tort liability.

第七十条   民用核设施发生核事故造成他人损害的，民用核设施的经营者应当承担侵权责任，但能够证明损害是因战争等情形或者受害人故意造成的，不承担责任。

Article 70 Where any damage is caused by a civil nuclear facility, the operator of said civil nuclear facility shall bear tortious liability unless he can prove that the damage was caused by war or that the victim deliberately incurred the damage.

第七十一条   民用航空器造成他人损害的，民用航空器的经营者应当承担侵权责任，但能够证明损害是因受害人故意造成的，不承担责任。

Article 71 Where any damage is caused by a civil aircraft, the operator of said civil aircraft shall bear tortious liability unless he can prove that that the victim deliberately incurred the damage.

第七十二条   占有或者使用易燃、易爆、剧毒、放射性等高度危险物造成他人损害的，占有人或者使用人应当承担侵权责任，但能够证明损害是因受害人故意或者不可抗力造成的，不承担责任。被侵权人对损害的发生有重大过失的，可以减轻占有人或者使用人的责任。

Article 72 Where any damage is caused by the possession or use of flammable, explosive, toxic, radioactive, or other high-risk materials, the person in possession or use thereof shall bear tortious liability unless he can prove that that that the victim deliberately incurred the damage or that the damage was caused by a force majeure event. Where the infringed party has committed gross negligence in respect of the occurrence of damages, the liability of the owner or the user may be mitigated.

第七十三条   从事高空、高压、地下挖掘活动或者使用高速轨道运输工具造成他人损害的，经营者应当承担侵权责任，但能够证明损害是因受害人故意或者不可抗力造成的，不承担责任。被侵权人对损害的发生有过失的，可以减轻经营者的责任。

Article 73 Where any damage is caused by high-altitude operations, high-pressure operations, underground mining activities or the use of high-speed rail transport, the operator shall bear tortious liability unless he can prove that that that the victim deliberately incurred the damage or that the damage was caused by a force majeure event. If the infringed party is at fault in the occurrence of the damage, the liability of the operator may be mitigated.

第七十四条   遗失、抛弃高度危险物造成他人损害的，由所有人承担侵权责任。所有人将高度危险物交由他人管理的，由管理人承担侵权责任；所有人有过错的，与管理人承担连带责任。

Article 74 Where any damage is caused by discarding or abandoning high-risk materials, the owner shall bear tortious liability. Where the owner has arranged for others to manage the ultrahazardous substances, the manager shall bear tort liability; where the owner has committed negligence, it shall bear connected liability with the manager.

第七十五条   非法占有高度危险物造成他人损害的，由非法占有人承担侵权责任。所有人、管理人不能证明对防止他人非法占有尽到高度注意义务的，与非法占有人承担连带责任。

Article 75 In the event of damages of others caused by illegal possession of ultrahazardous substances, the party who possesses the ultrahazardous substances illegally shall bear tort liability. If the owner or the administrator cannot prove that they have performed a high degree of care to prevent others from unlawfully possessing the goods, they shall be jointly and severally liable for the possession.

第七十六条   未经许可进入高度危险活动区域或者高度危险物存放区域受到损害，管理人已经采取安全措施并尽到警示义务的，可以减轻或者不承担责任。

Article 76 In the event of damages caused by unauthorised entry into ultrahazardous activities areas or storage areas for ultrahazardous substances, where the manager has adopted safety measures and performed warning obligations, the liability of the manager may be mitigated or the manager may not be held liable.

第七十七条   承担高度危险责任，法律规定赔偿限额的，依照其规定。

Article 77 Where the law provides limits for compensation for liability for ultrahazardous activities, such provisions shall prevail.

第十章 饲养动物损害责任

Chapter 10 Liability for Damage Caused by Domesticated Animals

第七十八条   饲养的动物造成他人损害的，动物饲养人或者管理人应当承担侵权责任，但能够证明损害是因被侵权人故意或者重大过失造成的，可以不承担或者减轻责任。

Article 78 In the event of damages of others caused by domesticated animals, the animal keeper or the manager shall bear tort liability; however, if it can be proven that the damages are caused deliberately by the infringed party or caused by gross negligence of the infringed party, the animal keeper or the manager may be exempted or mitigated of liability.

第七十九条   违反管理规定，未对动物采取安全措施造成他人损害的，动物饲养人或者管理人应当承担侵权责任。

Article 79 In the event of damages of others caused by violation of administrative provisions in failure to adopt safety measures for animals, the animal keeper or the manager shall bear tort liability.

第八十条   禁止饲养的烈性犬等危险动物造成他人损害的，动物饲养人或者管理人应当承担侵权责任。

Article 80 In the event of damages of others caused by dangerous animals such as fierce dogs for which keeping is prohibited, the animal keeper or the manager shall bear tort liability.

第八十一条   动物园的动物造成他人损害的，动物园应当承担侵权责任，但能够证明尽到管理职责的，不承担责任。

Article 81 In the event of damages of others caused by zoo animals, the zoo shall bear tort liability; however, if it can be proven that the zoo has performed management duties, the zoo shall not be held liable.

第八十二条   遗弃、逃逸的动物在遗弃、逃逸期间造成他人损害的，由原动物饲养人或者管理人承担侵权责任。

Article 82 In the event of damages of others caused by deserted or runaway animals during the desertion or runaway period, the original animal keeper or the manager shall bear tort liability.

第八十三条   因第三人的过错致使动物造成他人损害的，被侵权人可以向动物饲养人或者管理人请求赔偿，也可以向第三人请求赔偿。动物饲养人或者管理人赔偿后，有权向第三人追偿。

Article 83 Where any damage is caused by an animal for which a third party is at fault, the injured party may seek compensation either from the keeper or manager thereof or from the third party. The keeper or manager may, after paying compensation, claim the same from the third party.

第八十四条   饲养动物应当遵守法律，尊重社会公德，不得妨害他人生活。

Article 84 Anyone who raises animals shall abide by laws and show respect for social ethics, and shall refrain from hindering the lives of others.

第十一章 物件损害责任

Chapter 11 Article Eleven Liability for Damage to Articles

第八十五条   建筑物、构筑物或者其他设施及其搁置物、悬挂物发生脱落、坠落造成他人损害，所有人、管理人或者使用人不能证明自己没有过错的，应当承担侵权责任。所有人、管理人或者使用人赔偿后，有其他责任人的，有权向其他责任人追偿。

Article 85 In the event of damages of others caused by detached or fallen objects stored in or suspended from buildings, structures or other facilities, the owner, the manager or the user shall bear tort liability if it cannot prove that it has not committed negligence. Where there are any other responsible persons, the owner, the manager or the user shall have the right to seek recourse against such responsible persons after the owner, the manager or the user has made compensation.

第八十六条   建筑物、构筑物或者其他设施倒塌造成他人损害的，由建设单位与施工单位承担连带责任。建设单位、施工单位赔偿后，有其他责任人的，有权向其他责任人追偿。

Article 86 In the event of damages of others caused by collapsed buildings, structures or other facilities, the developer and the builder shall bear joint and several liability. Where there are any other responsible persons, the developer or the builder shall have the right to seek recourse against such responsible persons after the developer or the builder has made compensation.

因其他责任人的原因，建筑物、构筑物或者其他设施倒塌造成他人损害的，由其他责任人承担侵权责任。

Where any damage is caused by a collapsing building, structure or other facility due to the fault of other liable persons, such persons shall bear tortious liability.

第八十七条   从建筑物中抛掷物品或者从建筑物上坠落的物品造成他人损害，难以确定具体侵权人的，除能够证明自己不是侵权人的外，由可能加害的建筑物使用人给予补偿。

Article 87 Where any damage is caused by an object thrown or falling from a building, if it is difficult to identify the infringing party, the user of the building who is the potential infringing party shall pay compensation unless he can prove that he is not the infringing party.

第八十八条   堆放物倒塌造成他人损害，堆放人不能证明自己没有过错的，应当承担侵权责任。

Article 88 In the event of damages of others caused by collapse of stacked materials, the party which stacks the materials shall bear tort liability if it cannot prove that it has not committed negligence.

第八十九条   在公共道路上堆放、倾倒、遗撒妨碍通行的物品造成他人损害的，有关单位或者个人应当承担侵权责任。

Article 89 In the event of damages of others caused by stacking, dumping and scattering of objects on public roads which obstruct access, the relevant organisation (s) or individual (s) shall bear tort liability.

第九十条   因林木折断造成他人损害，林木的所有人或者管理人不能证明自己没有过错的，应当承担侵权责任。

Article 90 Where any damage is caused by a damaged tree, the owner or manager of the tree shall bear tortious liability unless he can prove that he was not at fault.

第九十一条   在公共场所或者道路上挖坑、修缮安装地下设施等，没有设置明显标志和采取安全措施造成他人损害的，施工人应当承担侵权责任。

Article 91 Any constructor who engages in excavation, repairs or installation of underground facilities in a public place or on a road without setting up clear signs and adopting safety measures and thereby causes damage to others shall bear tortious liability.

窨井等地下设施造成他人损害，管理人不能证明尽到管理职责的，应当承担侵权责任。

Where any damage is caused by a manhole or other underground facilities, the manager shall bear tortious liability unless he can prove that he has fulfilled his management responsibilities.

第十二章 附则

Chapter 12 Supplementary Provisions

第九十二条   本法自２０１０年７月１日起施行。

Article 92 This Law shall come into effect on July 1, 2010.