

Law of the PRC on the Prevention and Treatment of Occupational Diseases

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

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Chapter I — General Provisions

Article 1 — This Law is enacted for the purposes of preventing, controlling, and eliminating occupational disease hazards, preventing and treating occupational diseases, protecting the health of workers and their related rights and interests, and promoting economic and social development.

Article 2 — This Law shall apply to the prevention and treatment of occupational diseases within the territory of the People's Republic of China. For the purposes of this Law, "occupational disease" means a disease caused by exposure to dust, radioactive substances, and other toxic or harmful factors during the occupational activities of workers in enterprises, public institutions, individual economic organizations, and other employers. The classification and catalog of occupational diseases shall be formulated, adjusted, and published by the health administrative department under the State Council in conjunction with the labor and social security administrative department under the State Council.

Article 3 — The prevention and treatment of occupational diseases shall adhere to the principle of giving priority to prevention and combining prevention with treatment, and shall implement categorized management and comprehensive control.

Article 4 — Workers shall enjoy the right to occupational health protection in accordance with the law. Employers shall create a working environment and conditions that comply with the national occupational health standards and health requirements for workers, and shall adopt measures to ensure that workers receive occupational health protection. Employers shall establish and improve a responsibility system for the prevention and treatment of occupational diseases, strengthen the management of the prevention and treatment of occupational diseases, improve the level of prevention and treatment of occupational diseases, and be responsible for the occupational disease hazards generated by their own units.

Article 5 — The principal person in charge of an employer shall be fully responsible for the prevention and treatment of occupational diseases in its own unit.

Article 6 — Employers shall, in accordance with the law, participate in work-related injury insurance. The State Council and local people's governments at or above the county level shall formulate plans for the prevention and treatment of occupational diseases, incorporate them into national economic and social development plans, and organize the implementation thereof. People's governments at the township level and the sub-district offices shall, in accordance with their duties, take measures to carry out the prevention and treatment of occupational diseases.

Article 7 — The health administrative department under the State Council shall be responsible for the supervision and administration of occupational health nationwide. The relevant departments under the State Council shall, within their respective scopes of duties, be responsible for the supervision and administration of the prevention and treatment of occupational diseases. The health administrative departments and other relevant departments of local people's governments at or above the county level shall, within their respective scopes of duties, be responsible for the supervision and administration of the prevention and treatment of occupational diseases within their respective administrative areas.

Article 8 — The State encourages and supports the research in, development, promotion, and application of new technologies, new processes, new equipment, and new materials for the prevention and treatment of occupational diseases, raises the level of scientific and technological prevention and treatment of occupational diseases, and actively adopts effective occupational disease prevention and treatment techniques, processes, equipment, and materials. Trade unions shall, in accordance with the law, supervise the prevention and treatment of occupational diseases and protect the lawful rights and interests of workers.

Article 9 — The State shall implement an occupational health supervision system. The specific implementation measures shall be formulated by the health administrative department under the State Council.

Article 10 — The State Council and local people's governments at or above the county level shall, in accordance with the actual conditions, organize health administrative departments and other relevant departments to carry out publicity and education on the prevention and treatment of occupational diseases, and popularize knowledge on the prevention and treatment of occupational diseases.

Article 11 — The State shall encourage and support scientific research on the prevention and treatment of occupational diseases, popularize advanced technology, and encourage the research and development of new technologies, new processes, new equipment, and new materials conducive to the prevention and treatment of occupational diseases and the protection of workers' health.

Article 12 — Any unit or individual shall have the right to report violations of this Law and acts causing occupational disease hazards. The relevant departments shall handle such reports in a timely manner after receiving them.

Chapter II — Prevention

Article 13 — The site selection of a construction project that may cause occupational disease hazards shall be subject to the overall planning of the health administrative department. No employer may engage in production or business operations without effective protective facilities for occupational disease hazards.

Article 14 — Employers shall adopt the following measures for the prevention and treatment of occupational diseases: (1) setting up or designating an occupational health management institution or organization, staffed with full-time or part-time occupational health management personnel to be responsible for the prevention and treatment of occupational diseases in the unit; (2) formulating plans and implementation programs for the prevention and treatment of occupational diseases; (3) establishing and improving occupational health management systems and operating procedures; (4) establishing and improving occupational health archives and workers' health monitoring archives; (5) establishing and improving monitoring and assessment systems for occupational disease hazard factors in the workplace; and (6) establishing and improving emergency rescue plans for occupational disease hazard accidents.

Article 15 — New construction, expansion, reconstruction construction projects, and technical transformation and technology introduction projects that may cause occupational disease hazards shall comply with the provisions of laws and administrative regulations on occupational health. The protective facilities for occupational disease hazards shall be designed, constructed, and put into production and use simultaneously with the main body of the project.

Article 16 — The State shall implement categorized management of occupational disease hazard projects. The specific measures shall be formulated by the health administrative department under the State Council.

Article 17 — Employers shall, in accordance with the provisions, timely and truthfully declare information on existing occupational disease hazard projects to the health administrative department and accept supervision.

Article 18 — For construction projects that may cause occupational disease hazards, the employer shall conduct pre-assessment of occupational disease hazards before the feasibility study stage, submit a pre-assessment report to the health administrative department for review, and may commence construction only after the review is passed. The protective facilities for occupational disease hazards of a construction project shall be subject to an occupational disease hazard control effect evaluation upon completion. Only after the evaluation is passed may the project be put into production and use.

Article 19 — Employers shall adopt effective occupational disease protection measures to prevent occupational disease hazards. Priority shall be given to the use of new technologies, new processes, new equipment, and new materials conducive to the prevention and treatment of occupational diseases and the protection of workers' health.

Article 20 — Employers shall set up bulletin boards in conspicuous positions to publish the rules and regulations on the prevention and treatment of occupational diseases, operating procedures, emergency rescue measures for occupational disease hazard accidents, and the results of the detection and assessment of occupational disease hazard factors in the workplace. For workplaces with serious occupational disease hazards, warning signs and Chinese warning descriptions shall be set up in conspicuous positions. Warning descriptions shall specify the types, consequences, and prevention of occupational disease hazards, emergency rescue measures, and other contents.

Article 21 — For acute occupational disease hazard accidents that may occur, employers shall have emergency rescue facilities and equipment, formulate emergency rescue plans, and conduct drills on a regular basis.

Article 22 — Employers shall maintain, repair, and test protective equipment for occupational disease hazards and emergency rescue facilities on a regular basis to maintain their normal operation and use, and shall not dismantle or stop using them without authorization.

Article 23 — Employers shall conduct daily monitoring of occupational disease hazard factors in the workplace and ensure that the monitoring system operates normally. Employers shall, in accordance with the provisions, regularly test and assess occupational disease hazard factors in the workplace. The results of such testing and assessment shall be entered into the occupational health archives of the employer and reported to the local health administrative department on a regular basis, and the workers shall also be informed.

Chapter III — Protection During Employment

Article 24 — Employers shall sign labor contracts with workers, in which the types of occupational disease hazards that may arise during the course of work, the consequences thereof, protective measures, and treatment shall be truthfully informed to the workers, and such information shall be stated in the labor contract without concealment or deception. Where a worker transfers to a new position or adopts new technologies, new processes, new equipment, or new materials that may cause occupational disease hazards, the employer shall provide the worker with education and training on the prevention of occupational disease hazards, and urge the worker to observe the laws, regulations, rules, and operating procedures on the prevention and treatment of occupational diseases.

Article 25 — Employers shall provide workers with occupational health training before taking up their posts and regular occupational health training during their employment, popularize occupational health knowledge, urge workers to observe the laws, regulations, rules, and operating procedures on the prevention and treatment of occupational diseases, and guide workers in the correct use of occupational disease protection equipment and personal protective equipment for occupational diseases.

Article 26 — Employers shall provide workers with occupational health examinations before taking up their posts, during their employment, and upon leaving their posts, and truthfully inform the workers of the examination results. The expenses for occupational health examinations shall be borne by the employer. Employers shall not assign workers who have not received pre-employment occupational health examinations to engage in operations with occupational disease hazards.

Article 27 — Employers shall establish occupational health monitoring files for workers and keep them properly for a prescribed period. The occupational health monitoring files shall include the workers' occupational history, history of exposure to occupational disease hazards, occupational health examination results, diagnosis and treatment of occupational diseases, and other relevant personal health information. When a worker leaves an employer, the employer shall truthfully and without charge provide the worker with a copy of the occupational health monitoring file and affix its seal thereto.

Article 28 — In the event of an acute occupational disease hazard accident or when such an accident may occur, the employer shall immediately adopt emergency rescue and control measures, and shall promptly report to the local health administrative department and other relevant departments. The health administrative department shall, jointly with other relevant departments, promptly investigate and handle the situation, and urge the employer to adopt effective measures.

Article 29 — Employers shall not assign underage workers to engage in operations with occupational disease hazards; shall not assign female workers during pregnancy or lactation to engage in operations harmful to themselves, their fetuses, or their infants.

Article 30 — Workers shall enjoy the following occupational health protection rights: (1) receiving occupational health education and training; (2) receiving occupational health examinations, occupational disease diagnosis and treatment, rehabilitation, and other occupational disease prevention and treatment services; (3) knowing the occupational disease hazard factors, consequences, and protective measures that arise or may arise in the workplace; (4) requiring the employer to provide protective facilities and personal protective equipment for occupational diseases that comply with the requirements for the prevention and treatment of occupational diseases, and to improve working conditions; (5) criticizing, reporting, and accusing acts that violate the laws and regulations on the prevention and treatment of occupational diseases and endanger the health of life; (6) refusing to follow illegal commands and orders to engage in operations without occupational disease protection; and (7) participating in the democratic management of the employer's occupational health work and raising opinions and suggestions on the prevention and treatment of occupational diseases. The employer shall not reduce workers' wages, welfare, or other treatment, or terminate or cancel labor contracts with workers because they exercise their lawful rights in accordance with the law.

Chapter IV — Diagnosis and Occupational Disease Patient Protection

Article 31 — Occupational disease diagnosis shall be carried out by medical and health institutions that have obtained the qualification for occupational disease diagnosis in accordance with the law. The health administrative department shall strengthen the standardized management of occupational disease diagnosis work and the supervision and inspection of the quality of occupational disease diagnosis. The administrative departments of labor and social security shall urge employers to pay work-related injury insurance premiums in full and on time, and ensure that workers suffering from occupational diseases enjoy work-related injury insurance benefits in accordance with the law.

Article 32 — Workers may undergo occupational disease diagnosis at medical and health institutions lawfully qualified for occupational disease diagnosis at the place where the employer is located, the place where their household registration is located, or the place where they habitually reside. Medical and health institutions undertaking occupational disease diagnosis shall not refuse workers' requests for occupational disease diagnosis.

Article 33 — The diagnosis of an occupational disease shall be based on the diagnostic criteria for occupational diseases and shall be comprehensively analyzed based on the worker's occupational history, history of exposure to occupational disease hazards, on-site investigation data on occupational health in the workplace, clinical manifestations, and laboratory test results.

Article 34 — For the diagnosis of an occupational disease, the employer concerned shall truthfully provide the worker's occupational history and history of exposure to occupational disease hazards, the test results of occupational disease hazard factors in the workplace, and other relevant materials. Where the employer fails to provide the relevant diagnostic materials, the medical and health institution undertaking the occupational disease diagnosis may request the work safety administrative department to urge the employer to provide the same.

Article 35 — Where a worker disputes the diagnosis of an occupational disease, an appraisal may be applied for from the health administrative department of the local people's government at the districted city level where the medical and health institution that made the diagnosis is located. Where the party concerned disputes the appraisal conclusion, it may apply for re-appraisal from the health administrative department of the people's government of the province, autonomous region, or municipality directly under the Central Government. The appraisal conclusion at the provincial level shall be final.

Article 36 — Where a worker is diagnosed with an occupational disease and the employer has not participated in work-related injury insurance in accordance with the law, the medical and living security for the worker suffering from the occupational disease shall be borne by the employer. Where the employer has participated in work-related injury insurance in accordance with the law, the relevant expenses shall be paid in accordance with the relevant provisions of work-related injury insurance.

Article 37 — Employers shall timely arrange for the diagnosis and treatment, rehabilitation, and regular examinations of workers suffering from occupational diseases. For workers suffering from occupational diseases who are no longer suitable to continue engaging in the original work, the employer shall transfer them from their original posts and make appropriate arrangements for them. Employers shall give appropriate job allowances to workers engaged in operations with occupational disease hazards.

Article 38 — Where a worker suffering from an occupational disease changes his or her employer in accordance with the law, the treatment enjoyed by the worker shall remain unchanged. Where an employer is divided, merged, dissolved, or declared bankrupt, it shall undergo health examinations for workers engaged in operations with occupational disease hazards and properly arrange for workers suffering from occupational diseases in accordance with the relevant provisions of the State.

Chapter V — Supervision

Article 39 — The health administrative departments of people's governments at or above the county level shall, in accordance with their duties, exercise supervision and inspection over the prevention and treatment of occupational diseases.

Article 40 — When performing their duties of supervision and inspection, the health administrative departments shall have the authority to adopt the following measures: (1) entering the unit being inspected and the site of the occupational disease hazard to learn the relevant situation, investigate and collect evidence; (2) consulting or copying documents and materials related to the violation of laws and regulations on the prevention and treatment of occupational diseases, and collecting samples; (3) ordering the unit being inspected to cease the violation of laws and regulations on the prevention and treatment of occupational diseases.

Article 41 — In the event of an occupational disease hazard accident or where there is evidence proving that the hazard may cause an occupational disease hazard accident, the health administrative department may adopt the following temporary control measures: (1) ordering the suspension of operations causing the occupational disease hazard accident; (2) sealing up materials and equipment causing the occupational disease hazard accident or that may cause the occupational disease hazard accident; and (3) organizing and controlling the site of the occupational disease hazard accident.

Chapter VI — Legal Liability

Article 42 — Where a construction unit violates the provisions of this Law by committing any of the following acts, the health administrative department shall order it to make corrections within a prescribed time limit and impose a fine of not less than RMB 100,000 yuan but not more than RMB 500,000 yuan; if the circumstances are serious, it shall order the suspension of the construction causing the occupational disease hazard: (1) failing to conduct a pre-assessment of occupational disease hazards in accordance with the provisions, or

starting construction without the approval of the health administrative department for the pre-assessment report on occupational disease hazards; or (2) failing to pass the control effect evaluation of the protective facilities for occupational disease hazards in accordance with the provisions, or putting the construction project into production and use without the approval of the health administrative department.

Article 43 — Where an employer commits any of the following acts, the health administrative department shall order it to make corrections within a prescribed time limit and may impose a fine of not less than RMB 50,000 yuan but not more than RMB 200,000 yuan; if the circumstances are serious, it shall order the cessation of the operations causing the occupational disease hazard, or request the relevant people's government to order the closure of the business in accordance with the authority prescribed by the State Council: (1) failing to set up or designate an occupational health management institution or organization in accordance with the provisions, or failing to be staffed with occupational health management personnel; (2) failing to formulate plans and implementation programs for the prevention and treatment of occupational diseases; (3) failing to establish and improve the occupational health management system and operating procedures; or (4) engaging in other acts that violate the occupational health management regulations.

Article 44 — Where an employer violates the provisions of this Law and any of the following circumstances causes serious damage to the health of a worker, the employer shall be ordered to cease the operations causing the occupational disease hazard, or request the relevant people's government to order the closure of the business in accordance with the authority prescribed by the State Council, and a fine of not less than RMB 100,000 yuan but not more than RMB 500,000 yuan shall be imposed: (1) concealing occupational disease hazards from the worker; (2) failing to provide effective protective facilities for occupational disease hazards; (3) failing to provide workers with personal protective equipment for occupational diseases; (4) failing to conduct occupational health examinations for workers in accordance with the provisions; (5) the occupational disease hazard factors in the workplace exceed the national occupational health standards; or (6) failing to arrange for the diagnosis and treatment of workers suffering from occupational diseases.

Article 45 — The decisions on administrative penalties imposed in accordance with this Law shall be made by the health administrative departments. Where an administrative penalty decision is made to close down the business, the health administrative department shall request the relevant people's government to make the decision in accordance with the authority prescribed by the State Council. Where a party is dissatisfied with an administrative penalty decision, it may apply for administrative reconsideration or bring an administrative lawsuit in accordance with the law.

Chapter VII — Supplementary Provisions

Article 46 — For the purposes of this Law, the meanings of the following terms are: (1) "occupational disease hazard" means various hazards arising from occupational activities that may cause occupational diseases; (2) "occupational disease hazard factors" means various harmful factors arising from occupational activities, including chemical, physical, biological factors, and factors causing other occupational injuries present in the workplace or generated in the course of other occupational activities; and (3) "occupational health examination" means medical examinations conducted for the purpose of protecting the health of workers, including pre-employment, during employment, and upon leaving employment examinations.

Article 47 — This Law shall apply to the prevention and treatment of occupational diseases arising from the occupational activities carried out within the territory of China by Hong Kong, Macao, and Taiwan investors.

Article 48 — This Law shall come into force on May 1, 2002.

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