Law on Diplomatic Personnel Stationed Abroad of the PRC

Dan Young Business Consultancy — www.danyoungcpa.com

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Chapter I — General Provisions

Article 1 — This Law is enacted in accordance with the Constitution and the Civil Servants Law for the purposes of building a high-calibre contingent of diplomatic personnel stationed abroad, ensuring that diplomatic missions stationed abroad perform their duties in accordance with law, regulating the administration of diplomatic personnel stationed abroad, and safeguarding the lawful rights and interests of diplomatic personnel stationed abroad.

Article 2 — For the purposes of this Law, "diplomatic personnel stationed abroad" means persons who engage in diplomatic, consular and other work in diplomatic missions of the People's Republic of China stationed abroad, occupy administrative establishments stationed abroad, and hold diplomatic ranks.

For the purposes of this Law, "diplomatic missions stationed abroad" means the embassies and consulates established by the People's Republic of China in foreign countries, as well as the missions and other representative offices accredited to intergovernmental international organizations such as the United Nations.

The obligations, rights and administration of diplomatic personnel stationed abroad shall be governed by this Law. Matters not provided for in this Law shall be governed by the provisions of the Civil Servants Law.

Article 3 — Diplomatic personnel stationed abroad shall perform their duties in accordance with law and shall be protected by law.

Article 4 — The Ministry of Foreign Affairs shall exercise unified leadership over the work of diplomatic missions stationed abroad and shall, in conjunction with other dispatching departments, administer diplomatic personnel stationed abroad.

Chapter II — Duties, Conditions, Obligations and Rights

Article 5 — Diplomatic personnel stationed abroad shall, in accordance with their posts and the division of work, perform the following duties:

(1) safeguarding the sovereignty, security, honour and interests of the State;

(2) implementing the State's foreign policies and guidelines;

(3) making diplomatic representations on behalf of the State;

(4) developing relations between China and the receiving States, participating in the activities of international organizations, and promoting bilateral and multilateral friendly exchanges and cooperation;

(5) safeguarding the lawful rights and interests of Chinese citizens and legal persons abroad;

(6) reporting on the situation in the receiving States and on relevant regions and the international situation;

(7) introducing China's circumstances and its domestic and foreign policies, and enhancing the understanding of China by the receiving States and the world; and

(8) performing other diplomatic or consular duties.

An Ambassador Extraordinary and Plenipotentiary is the representative of the People's Republic of China in the receiving State.

Article 6 — Diplomatic personnel stationed abroad shall meet the following conditions:

(1) holding the nationality of the People's Republic of China;

(2) having attained the age of 23;

(3) upholding the Constitution of the People's Republic of China;

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(4) possessing good political quality and moral character;

(5) possessing the professional knowledge, work capability and language skills required for the work;

(6) possessing the physical conditions, psychological qualities and adaptability required for long-term residence abroad; and

(7) meeting other conditions prescribed by law.

Article 7 — A person shall not be appointed as diplomatic personnel stationed abroad under any of the following circumstances:

(1) having been subjected to criminal punishment for a crime;

(2) having been removed from public office;

(3) having been dismissed by a State organ;

(4) holding a foreign long-term or permanent residence permit;

(5) having a spouse who holds a foreign nationality or a foreign long-term or permanent residence permit; or

(6) other circumstances under which the person may not be appointed as diplomatic personnel stationed abroad.

Article 8 — Diplomatic personnel stationed abroad shall perform the following obligations:

(1) being loyal to the motherland and the people and safeguarding the dignity of the State;

(2) being loyal to the Constitution and laws of the People's Republic of China and respecting the laws and customs of the receiving State;

(3) being devoted to their duties, working diligently and fulfilling all work tasks;

(4) obeying the assignment of the dispatching department and observing the rules and work discipline of diplomatic missions stationed abroad;

(5) strictly keeping State secrets and work secrets;

(6) not resigning during the period of service abroad;

(7) reporting major personal matters to the diplomatic mission stationed abroad and the dispatching department in accordance with regulations; and

(8) performing other obligations prescribed by law.

Article 9 — Diplomatic personnel stationed abroad shall enjoy the following rights:

(1) obtaining the working conditions necessary for performing their duties;

(2) obtaining salaries, welfare and insurance benefits commensurate with long-term work and life abroad;

(3) not being dismissed during the period of service abroad;

(4) receiving training before dispatch and during the period of service abroad; and

(5) other rights prescribed by law.

Article 10 — In accordance with the international treaties concluded or acceded to by the People's Republic of China, diplomatic personnel stationed abroad shall enjoy the corresponding privileges and immunities during their period of service abroad.

Diplomatic personnel stationed abroad shall not abuse privileges and immunities, and shall not waive privileges and immunities without approval.

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Chapter III — Posts and Diplomatic Ranks

Article 11 — The posts of diplomatic personnel stationed abroad are divided into diplomatic posts and consular posts.

Diplomatic posts include: Ambassador Extraordinary and Plenipotentiary, Representative, Deputy Representative, Minister, Minister-Counsellor, Counsellor, First Secretary, Second Secretary, Third Secretary and Attaché.

Consular posts include: Consul-General, Deputy Consul-General, Consul, Vice-Consul and Consular Attaché.

Article 12 — A system of diplomatic ranks shall be applied to diplomatic personnel stationed abroad.

There shall be seven diplomatic ranks: the rank of Ambassador, the rank of Minister, the rank of Counsellor, the rank of First Secretary, the rank of Second Secretary, the rank of Third Secretary and the rank of Attaché.

The diplomatic rank of diplomatic personnel stationed abroad shall be determined in accordance with the post they hold in the diplomatic mission stationed abroad, their civil servant grade and the needs of diplomatic work.

Article 13 — The basic correspondence between diplomatic posts and diplomatic ranks shall be as follows:

(1) Ambassador Extraordinary and Plenipotentiary: rank of Ambassador;

(2) Representative and Deputy Representative: rank of Ambassador, rank of Minister or rank of Counsellor;

(3) Minister and Minister-Counsellor: rank of Minister;

(4) Counsellor: rank of Counsellor;

(5) First Secretary: rank of First Secretary;

(6) Second Secretary: rank of Second Secretary;

(7) Third Secretary: rank of Third Secretary; and

(8) Attaché: rank of Attaché.

Article 14 — The basic correspondence between consular posts and diplomatic ranks shall be as follows:

(1) Consul-General: rank of Ambassador, rank of Minister or rank of Counsellor;

(2) Deputy Consul-General: rank of Counsellor;

(3) Consul: rank of Counsellor, rank of First Secretary or rank of Second Secretary;

(4) Vice-Consul: rank of Third Secretary or rank of Attaché; and

(5) Consular Attaché: rank of Attaché.

Article 15 — The correspondence between the posts and diplomatic ranks of diplomatic personnel stationed abroad and the grades of civil servants shall be prescribed separately.

Article 16 — The posts of diplomatic personnel stationed abroad shall be decided in accordance with the following authority:

(1) the Ambassador Extraordinary and Plenipotentiary, and the Representative and Deputy Representative who serve as Ambassador Extraordinary and Plenipotentiary, shall be decided by the Standing Committee of the National People's Congress;

(2) Representatives and Deputy Representatives other than those referred to in the preceding item shall be decided by the State Council;

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(3) Consuls-General shall be decided by the Ministry of Foreign Affairs; and

(4) the posts of Ministers, Ministers-Counsellor, Counsellors, Deputy Consuls-General and other diplomatic personnel stationed abroad shall be decided by the Ministry of Foreign Affairs or other dispatching departments; among them, posts at or below the level of Third Secretary and Vice-Consul shall, during the period of service abroad, be decided by the diplomatic mission stationed abroad.

Article 17 — Diplomatic ranks shall be approved and conferred in accordance with the following authority:

(1) the rank of Ambassador shall be approved and conferred by the Premier of the State Council;

(2) the rank of Minister and the rank of Counsellor shall be approved by the Ministry of Foreign Affairs or other dispatching departments and conferred by the Minister of Foreign Affairs;

(3) the rank of First Secretary and the rank of Second Secretary shall be approved and conferred by the dispatching department at the time of dispatch, and shall be approved and conferred by the dispatching department in accordance with the opinions of the diplomatic mission stationed abroad during the period of service abroad; and

(4) the rank of Third Secretary and the rank of Attaché shall be approved and conferred by the dispatching department at the time of dispatch, and shall be approved and conferred by the diplomatic mission stationed abroad during the period of service abroad.

Article 18 — Promotion of diplomatic personnel stationed abroad to the posts of Third Secretary or Vice-Consul and the corresponding ranks shall be made step by step, in accordance with the prescribed promotion conditions and time limits and the authority provided in Articles 16 and 17 of this Law respectively; where a person fails to meet the promotion conditions upon assessment, the promotion shall be deferred upon approval by the dispatching department in accordance with the opinions of the diplomatic mission stationed abroad.

Promotion of diplomatic personnel stationed abroad to the posts of Second Secretary, First Secretary, Counsellor, Minister-Counsellor or Minister, or to the posts of Consul or Deputy Consul-General, and the corresponding ranks, shall be made step by step on the basis of merit, in accordance with the promotion conditions and time limits, the promotion opinions submitted by the diplomatic mission stationed abroad, and the authority provided in Articles 16 and 17 of this Law respectively.

The conditions and time limits for the promotion of diplomatic personnel stationed abroad in posts and ranks shall be prescribed separately.

Article 19 — The posts and ranks of diplomatic personnel stationed abroad shall not be promoted while they are subject to disciplinary sanctions.

Article 20 — Where diplomatic personnel stationed abroad are given the sanction of demotion or removal from office, their diplomatic rank shall be reduced in accordance with regulations. The reduction of rank shall not apply to the rank of Attaché.

Where diplomatic personnel stationed abroad leave their post and return to China, their diplomatic rank shall correspondingly terminate. Where it is genuinely necessary for diplomatic work, the rank may be retained. The specific measures shall be prescribed separately by the Ministry of Foreign Affairs in conjunction with the relevant departments of the State Council.

Chapter IV — Heads of Missions

Article 21 — The head of mission is the administrative head of a diplomatic mission stationed abroad. The Ambassador Extraordinary and Plenipotentiary is the head of an embassy. The Representative is the head of a mission accredited to an intergovernmental international organization such as the United Nations. The Consul-General is the head of a consulate-general. The Consul is the head of a consulate.

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A system of responsibility of the head of mission shall be applied to diplomatic missions stationed abroad. The head of mission shall exercise unified leadership over the various work of the diplomatic mission stationed abroad.

Article 22 — Where the post of head of mission is vacant or the head of mission is unable to perform duties for any reason, the designated person shall act as head of mission and perform the duties thereof.

Article 23 — The head of mission shall submit written reports on taking office and on departure to the dispatching department.

The head of mission shall return to China on schedule to report on work.

Chapter V — Dispatch, Recall and Transfer

Article 24 — The Ambassador Extraordinary and Plenipotentiary, and the Representative and Deputy Representative who serve as Ambassador Extraordinary and Plenipotentiary, shall be dispatched and recalled by the President of the People's Republic of China in accordance with decisions of the Standing Committee of the National People's Congress.

Representatives and Deputy Representatives other than those referred to in the preceding paragraph shall be dispatched and transferred by the State Council or the dispatching department.

Other diplomatic personnel stationed abroad shall be dispatched and transferred by the Ministry of Foreign Affairs or other dispatching departments.

Article 25 — A term system shall be applied to diplomatic personnel stationed abroad. Based on the needs of work and upon approval by the dispatching department, the term of office of diplomatic personnel stationed abroad may be appropriately shortened or extended.

Article 26 — Diplomatic personnel stationed abroad shall be transferred back in advance under any of the following circumstances:

(1) having other work arrangements;

(2) being unable to perform duties;

(3) having violated the law or seriously violated discipline;

(4) having a spouse who has acquired a foreign nationality or a foreign long-term or permanent residence permit; or

(5) other circumstances under which it is inappropriate to continue working in the diplomatic mission stationed abroad.

Article 27 — The State may, as needed, urgently recall, transfer back or evacuate some or all of the personnel of the relevant diplomatic missions stationed abroad.

Chapter VI — Assessment, Training and Exchange

Article 28 — The assessment of diplomatic personnel stationed abroad shall be divided into routine assessment and regular assessment, and shall be organized and carried out by the diplomatic mission stationed abroad or the dispatching department in accordance with State regulations.

The assessment of diplomatic personnel stationed abroad shall be based on the duties and work tasks they undertake, shall comprehensively assess their morality, ability, diligence, performance and integrity, and shall focus on actual work performance.

The results of assessment shall serve as the basis for adjusting the posts, ranks, grades and salaries of diplomatic personnel stationed abroad and for rewarding and training them.

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Article 29 — Before dispatch and during the period of service abroad, diplomatic personnel stationed abroad shall receive induction and professional training in accordance with the requirements of their work duties.

Article 30 — Diplomatic personnel stationed abroad shall be exchanged between diplomatic missions stationed abroad; based on the needs of work, they may also be exchanged between dispatching departments or other organs.

Article 31 — The training records and exchange experience of diplomatic personnel stationed abroad shall be included in the assessment.

Chapter VII — Rewards and Punishments

Article 32 — Diplomatic missions stationed abroad or diplomatic personnel stationed abroad shall be rewarded in accordance with law under any of the following circumstances:

(1) having made major contributions to safeguarding the sovereignty, security, honour and interests of the State;

(2) having made outstanding contributions to safeguarding the personal and property safety or other lawful rights and interests of Chinese citizens and legal persons abroad;

(3) having made major contributions in responding to major emergencies;

(4) having performed outstandingly in particularly harsh environments such as war and conflict;

(5) having made outstanding contributions to protecting State secrets;

(6) having observed discipline, been honest in performing public duties, maintained upright conduct, handled affairs fairly and served as an outstanding role model;

(7) having been devoted to their duties and achieved outstanding work performance; or

(8) having other outstanding performance that warrants a reward.

Article 33 — Diplomatic personnel stationed abroad who commit any of the following acts shall be given corresponding sanctions in accordance with law; where a crime is constituted, criminal liability shall be pursued in accordance with law:

(1) harming the sovereignty, security, honour and interests of the State;

(2) leaving the diplomatic mission stationed abroad without authorization;

(3) disclosing State secrets or work secrets;

(4) taking advantage of their position to seek personal gain for themselves or others;

(5) engaging in or participating in profit-making activities, or concurrently holding posts in enterprises or other profit-making organizations;

(6) neglecting their duties and delaying work;

(7) disobeying assignment and refusing to proceed to the post to which they are assigned; or

(8) committing other illegal or disciplinary violations.

Article 34 — The Ministry of Foreign Affairs or other dispatching departments shall, in accordance with the authority and procedures prescribed by law, reward diplomatic missions stationed abroad and reward or discipline diplomatic personnel stationed abroad.

Chapter VIII — Salaries and Welfare

Article 35 — A salary system abroad that combines post, rank and grade shall be applied to diplomatic personnel stationed abroad.

Article 36 — The State shall establish a salary adjustment mechanism for diplomatic personnel stationed abroad and shall adjust their salaries and living benefits in a timely manner.

Article 37 — Diplomatic personnel stationed abroad shall enjoy allowances and subsidies in accordance with State regulations.

Article 38 — The State shall provide necessary medical care and safety measures for diplomatic personnel stationed abroad, and shall provide necessary personal accident insurance in accordance with the relevant regulations.

Article 39 — Diplomatic personnel stationed abroad shall enjoy paid annual leave and leave at the end of term as prescribed by the State.

Chapter IX — Spouses and Children

Article 40 — Before going through the formalities for marriage, diplomatic personnel stationed abroad shall truthfully report to the dispatching department the identity and other circumstances of the intended spouse in accordance with regulations.

Diplomatic personnel stationed abroad shall promptly report divorce to the dispatching department.

Article 41 — The accompanying service of a spouse of diplomatic personnel stationed abroad shall be subject to approval by the dispatching department.

Where the term of diplomatic personnel stationed abroad ends or they are transferred back in advance, the accompanying spouse shall conclude the accompanying service at the same time.

Article 42 — During the period of accompanying service, the spouse of diplomatic personnel stationed abroad shall enjoy the prescribed leave benefits in accordance with the post and rank of the diplomatic personnel, the length of service and the living conditions in the receiving State.

Article 43 — Where the spouse of diplomatic personnel stationed abroad is a staff member of a State organ or public institution, a person of a wholly State-owned enterprise, wholly State-owned company or State-capital-controlled company, or an active-duty member of the armed forces, the work arrangements during the period of accompanying service and after returning to China upon conclusion of the accompanying service shall be handled in accordance with State regulations; the original employer shall not dismiss or discharge the spouse on account of the accompanying service, or collect compensation, management fees or other fees.

Article 44 — Where the spouse of diplomatic personnel stationed abroad does not accompany them, the spouse may, upon approval by the dispatching department, visit the diplomatic mission stationed abroad and shall enjoy the corresponding family visit leave, travel expenses and subsidies in accordance with regulations.

Article 45 — The minor children of diplomatic personnel stationed abroad may, upon approval by the dispatching department, reside with them in or visit the diplomatic mission stationed abroad.

The State shall adopt various measures to safeguard the right of the minor children of diplomatic personnel stationed abroad to receive education in accordance with law.

Article 46 — The spouses and children of diplomatic personnel stationed abroad who accompany, reside with or visit them shall observe the rules of the diplomatic mission stationed abroad and respect the laws and customs of the receiving State.

Chapter X — Supplementary Provisions

Article 47 — Military attachés of diplomatic missions stationed abroad shall be administered with reference to this Law, and the specific measures shall be formulated by the Central Military Commission.

Article 48 — This Law shall come into force on January 1, 2010.

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