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

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Chapter I — General Provisions

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

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development.

Article 2 — This Law applies to the prevention and control of occupational diseases within the territory of the People's Republic of China. For the purposes of this Law, occupational diseases means diseases contracted by workers of enterprises, public institutions, individual economic organizations, and other employing entities as a result of exposure to dusts, radioactive substances, and other toxic or hazardous substances and factors during their occupational activities. The classification and catalogue 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 control of occupational diseases shall be conducted in accordance with the principle of giving priority to prevention and combining prevention with control. The employing entity shall create a working environment and conditions that meet the national occupational health standards and health requirements, and adopt measures to ensure that workers receive occupational health protection.

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 meet the national occupational health standards and health requirements, and take measures to ensure that workers receive occupational health protection. Trade unions shall oversee the prevention and control of occupational diseases and safeguard the lawful rights and interests of workers in accordance with the law. When formulating or amending rules and regulations on the prevention and control of occupational diseases, employers shall hear the opinions of trade unions or employee representatives.

Article 5 — Employers shall establish and improve a responsibility system for the prevention and control of occupational diseases, strengthen the management of the prevention and control of occupational diseases, improve the level of prevention and control of occupational diseases, and bear responsibility for the occupational disease hazards generated by their own entities.

Article 6 — The principal responsible person of an employer shall be fully responsible for the prevention and control of occupational diseases in the entity. Employers shall participate in work-related injury insurance in accordance with the law. The health administrative department and the labor and social security administrative department under the State Council shall, in accordance with the division of responsibilities prescribed by the State, oversee and administer the prevention and control of occupational diseases nationwide. Relevant departments under the State Council shall, within their respective functions and responsibilities, be responsible for the relevant supervision and administration of the prevention and control of occupational diseases.

Chapter II — Prevention

Article 7 — Employers shall comply with laws, regulations, and standards on the prevention and control of occupational diseases and prevent the occurrence of occupational diseases at the source.

Article 8 — The State shall implement a system of occupational health supervision over construction projects that may cause occupational disease hazards. For construction projects such as new construction, expansion, renovation, and technical transformation that may cause occupational disease hazards, the employer shall submit an application for occupational hazard pre-evaluation to the health administrative department. The health administrative department shall make a review decision and notify the employer in writing. For construction projects that fail to pass the review, the relevant departments shall not approve the construction or grant a construction permit.

Article 9 — The protective facilities for occupational diseases of a construction project shall be designed, constructed, and put into operation simultaneously with the main body of the project. Upon completion of a construction project, the employer shall conduct an evaluation of the control effect of occupational disease hazards. Where the protective facilities for occupational diseases pass the acceptance inspection conducted

by the health administrative department, they may be put into operation.

Article 10 — Employers shall adopt the following measures for the prevention and control of occupational diseases: (1) establishing 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 control of occupational diseases in the entity; (2) formulating plans and implementation schemes for the prevention and control of occupational diseases; (3) establishing and improving occupational health management systems and operating procedures; (4) establishing and improving occupational health files and worker health monitoring files; (5) establishing and improving a monitoring and evaluation system for occupational disease hazard factors in the workplace; and (6) establishing and improving an emergency response plan for occupational disease hazard accidents.

Article 11 — Employers shall adopt effective protective facilities for occupational diseases and provide workers with occupational disease protective equipment. The occupational disease protective equipment provided to workers shall meet the requirements for the prevention and control of occupational diseases. Employers shall guide workers in the correct use of occupational disease protective equipment.

Article 12 — Employers shall give priority to adopting new technologies, new processes, new materials, and new equipment that are conducive to the prevention and control of occupational diseases and the protection of workers' health, and gradually replace those technologies, processes, materials, and equipment that cause occupational disease hazards.

Article 13 — Employers that produce, deal in, import, or use equipment or materials that may cause occupational disease hazards during use shall provide Chinese-language instructions, which shall specify the performance of the equipment, possible occupational disease hazards, important matters for safe operation and maintenance, occupational disease protection, and emergency response measures. The equipment or materials shall be accompanied by warning signs and Chinese-language warning statements in conspicuous positions.

Chapter III — Protection and Management During Employment

Article 14 — Employers shall adopt the following management measures for the prevention and control 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; (2) formulating plans and implementation schemes for the prevention and control of occupational diseases; (3) establishing and improving occupational health management systems and operating procedures; (4) establishing and improving occupational health files and worker health monitoring files; (5) establishing and improving a monitoring and evaluation system for occupational disease hazard factors in the workplace; and (6) establishing and improving an emergency response plan for occupational disease hazard accidents.

Article 15 — Employers shall ensure that the concentration or intensity of occupational disease hazard factors in the workplace meets the national occupational health standards. Employers shall periodically test and evaluate the occupational disease hazard factors in the workplace. The results of the testing and evaluation shall be recorded in the occupational health files of the entity and shall be disclosed to workers on a regular basis.

Article 16 — Employers shall conduct occupational health check-ups for workers before they start work, during their employment, and upon their departure from work, and shall truthfully inform the workers of the results of the check-ups. The expenses for occupational health check-ups shall be borne by the employer. An employer shall not arrange for a worker who has not undergone a pre-employment occupational health check-up to engage in work involving exposure to occupational disease hazards. An employer shall not arrange for a worker with an occupational contraindication to engage in work for which the worker has the contraindication. An employer shall not arrange for a worker who has not undergone an occupational health

check-up upon departure from work to be released from the employment relationship.

Article 17 — Employers shall establish occupational health monitoring files for workers and keep them properly for a specified period. The occupational health monitoring files shall include the worker's occupational history, history of exposure to occupational disease hazards, results of occupational health check-ups, diagnosis and treatment of occupational diseases, and other relevant personal health information. When a worker leaves the employer, the employer shall provide the worker with a copy of the worker's occupational health monitoring files truthfully and free of charge, and affix the employer's seal to the copy.

Article 18 — In the event of an acute occupational disease hazard accident, the employer shall immediately adopt emergency rescue and control measures, and shall promptly report the matter to the local health administrative department and other relevant departments. The health administrative department shall, in conjunction with the relevant departments, promptly organize an investigation into the accident and deal with it in accordance with the law.

Chapter IV — Diagnosis and Protection of Patients

Article 19 — Medical and health institutions engaging in the diagnosis of occupational diseases shall obtain a Practicing License for Medical Institutions and shall have been approved by the health administrative department of the people's government at or above the provincial level. The health administrative department shall announce to the public the list of medical and health institutions that have been approved to engage in the diagnosis of occupational diseases.

Article 20 — Workers may undergo the diagnosis of occupational diseases at the medical and health institutions engaging in the diagnosis of occupational diseases that are lawfully approved at the place where the employer is located, where the worker's household is registered, or where the worker habitually resides. Medical and health institutions engaging in the diagnosis of occupational diseases shall not refuse a worker's request for diagnosis of an occupational disease.

Article 21 — The diagnosis of occupational diseases shall be based on the diagnostic criteria for occupational diseases and shall be made by three or more licensed physicians engaging in the diagnosis of occupational diseases who form a panel to conduct the diagnosis collectively. The panel making the diagnosis of an occupational disease shall issue a certificate of diagnosis of occupational disease. The certificate of diagnosis of occupational disease shall be signed by the physicians participating in the diagnosis and affixed with the seal of the medical and health institution to confirm the diagnosis.

Article 22 — Where an employer fails to provide information on the monitoring of occupational disease hazard factors in the workplace, or the results of occupational health check-ups, or other information as required, the medical and health institution engaging in the diagnosis of occupational diseases may, as necessary for the diagnosis, request the health administrative department to urge the employer to provide such information. In the course of the diagnosis of an occupational disease, the medical and health institution engaging in the diagnosis of occupational diseases may request the work safety administrative department to investigate and provide information on the occupational disease hazard factors in the workplace.

Article 23 — Where a worker is diagnosed with an occupational disease, the employer shall, in addition to ensuring that the worker enjoys the treatment under work-related injury insurance in accordance with the law, also provide the worker with appropriate job placement or other treatment in accordance with the provisions of relevant laws and administrative regulations. An employer shall not terminate the labor contract with a worker who has not undergone an occupational health check-up before the worker's departure from work. It shall be prohibited to arrange for workers suffering from occupational diseases who are prohibited from engaging in the work they previously performed to continue doing such work. Where an employer fails

to participate in work-related injury insurance in accordance with the law, the medical and living security for workers suffering from occupational diseases shall be borne by the employer.

Article 24 — In addition to enjoying work-related injury insurance in accordance with the law, workers suffering from occupational diseases who are entitled to compensation in accordance with the law shall have the right to claim compensation from the employer. Where a worker is diagnosed with an occupational disease but the employer does not participate in work-related injury insurance in accordance with the law, the worker's medical and living security shall be borne by the employer. Where an employer no longer exists after division or merger, the original employer's obligations in relation to the prevention and control of occupational diseases shall be borne by the successor entity.

Chapter V — Supervision and Inspection

Article 25 — The health administrative department shall, in accordance with the law, supervise and inspect the employers' compliance with the laws, regulations, and standards on the prevention and control of occupational diseases. The health administrative department shall perform its supervisory and inspection duties in accordance with the law and shall have the authority to adopt the following measures: (1) entering the entity under inspection and the site of the occupational disease hazard to learn about the relevant situation, conduct investigations, and collect evidence; (2) consulting or copying materials and collecting samples related to the violation of the laws and regulations on the prevention and control of occupational diseases; and (3) ordering the entity or individual violating the laws and regulations on the prevention and control of occupational diseases to cease the illegal act.

Article 26 — In the event of an occupational disease hazard accident, the health administrative department shall, in conjunction with the relevant departments, promptly organize an investigation into the accident and deal with it in accordance with the law. The investigation shall ascertain the cause, nature, and liability for the accident, propose rectification measures, and submit an accident investigation report.

Chapter VI — Legal Liability

Article 27 — Where an employer commits any of the following acts, the health administrative department shall order it to make corrections within a prescribed time limit, give a warning, and may impose a fine: (1) failing to submit an application for occupational hazard pre-evaluation or failing to undergo review by the health administrative department as required, and starting construction without authorization; (2) failing to ensure that the protective facilities for occupational diseases are designed, constructed, and put into operation simultaneously with the main body of the project; (3) failing to conduct an evaluation of the control effect of occupational disease hazards as required, or failing to undergo acceptance inspection by the health administrative department for the protective facilities for occupational diseases, and putting them into operation without authorization; or (4) other acts in violation of this Law.

Article 28 — Where an employer commits any of the following acts, the health administrative department shall order it to make corrections within a prescribed time limit; if it fails to make corrections within the prescribed time limit, a fine shall be imposed; if the circumstances are serious, an order shall be issued to cease operations that cause occupational disease hazards: (1) failing to adopt the management measures for the prevention and control of occupational diseases as required; (2) failing to disclose information on the monitoring and evaluation of occupational disease hazard factors in the workplace; (3) failing to conduct occupational health check-ups for workers before they start work, during their employment, and upon their departure from work as required; or (4) failing to establish occupational health monitoring files for workers as required.

Article 29 — Where an employer arranges for a worker suffering from an occupational disease or with an occupational contraindication to engage in work prohibited by regulations, the health administrative department shall order the employer to make corrections within a prescribed time limit and impose a fine.

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Chapter VII — Supplementary Provisions

Article 30 — The meanings of the following terms used in this Law are: "occupational disease hazards" means various hazards that may cause workers to contract occupational diseases during their occupational activities; "occupational contraindication" means an individual health condition of a worker in which, due to special physiological or pathological conditions, the worker is more susceptible to occupational disease hazards, or is more likely to suffer from an occupational disease, or may aggravate an existing disease or induce a disease that may endanger the life and health of others or the worker's own life and health.

Article 31 — This Law shall enter into force on May 1, 2002.

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