

# Provisions on Collective Contracts of the PRC

Dan Young Business Consultancy — [www.danyoungcpa.com](http://www.danyoungcpa.com)

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

## Contents

|                                                                            |   |
|----------------------------------------------------------------------------|---|
| Table of Contents . . . . .                                                | 1 |
| Chapter I — General Provisions . . . . .                                   | 1 |
| Chapter II — Content of Collective Negotiation . . . . .                   | 2 |
| Chapter III — Collective Negotiation Representatives . . . . .             | 2 |
| Chapter IV — Collective Negotiation Procedures . . . . .                   | 3 |
| Chapter V — Conclusion and Effectiveness of Collective Contracts . . . . . | 3 |
| Chapter VI — Modification, Rescission and Termination . . . . .            | 4 |
| Chapter VII — Mediation of Collective Contract Disputes . . . . .          | 4 |
| Chapter VIII — Legal Liability . . . . .                                   | 4 |
| Chapter IX — Supplementary Provisions . . . . .                            | 5 |

Promulgated by Order No. 22 of the Ministry of Labor and Social Security of the People's Republic of China on January 20, 2004  
Effective: May 1, 2004

## Table of Contents

- Chapter I — General Provisions
- Chapter II — Content of Collective Negotiation
- Chapter III — Collective Negotiation Representatives
- Chapter IV — Collective Negotiation Procedures
- Chapter V — Conclusion and Effectiveness of Collective Contracts
- Chapter VI — Modification, Rescission and Termination
- Chapter VII — Mediation of Collective Contract Disputes
- Chapter VIII — Legal Liability
- Chapter IX — Supplementary Provisions

## Chapter I — General Provisions

Article 1 — These Provisions are formulated in accordance with the Labor Law of the People's Republic of China, the Trade Union Law of the People's Republic of China, and other relevant laws and regulations for

the purposes of regulating collective negotiation and the conclusion and performance of collective contracts, and safeguarding the lawful rights and interests of workers and employers.

Article 2 — These Provisions shall apply to collective negotiation and the conclusion and performance of collective contracts between employers and their employees within the territory of the People's Republic of China.

Article 3 — For the purposes of these Provisions, "collective contract" means a written agreement concluded between an employer and its employees in accordance with laws, regulations, and rules through collective negotiation on matters such as labor remuneration, working hours, rest and leave, occupational safety and health, and social insurance and welfare benefits. A special collective contract means a written agreement concluded between an employer and its employees in accordance with laws, regulations, and rules through collective negotiation on a specific matter.

Article 4 — The conclusion of a collective contract shall comply with the provisions of laws, regulations, and rules and the relevant State provisions, and shall adhere to the principles of mutual respect, equality, consultation, honesty and good faith, and fairness and cooperation.

A collective contract concluded in accordance with the law shall be binding on both the employer and its employees. The standards of working conditions, labor remuneration, and other such standards stipulated in the employment contract concluded between an employer and an individual employee shall not be lower than those stipulated in the collective contract.

## **Chapter II — Content of Collective Negotiation**

Article 5 — The parties to collective negotiation may negotiate on any of the following matters and conclude a collective contract:

- (1) labor remuneration;
- (2) working hours;
- (3) rest and leave;
- (4) occupational safety and health;
- (5) supplementary insurance and welfare benefits;
- (6) special protection for female employees and juvenile workers;
- (7) vocational skills training;
- (8) labor contract administration;
- (9) rewards and punishments;
- (10) redundancy procedures and conditions;
- (11) the term of the collective contract;
- (12) the procedures for modification, rescission, and termination of the collective contract;
- (13) the rights and obligations of the parties in performing the collective contract;
- (14) the methods for resolving disputes occurring during the performance of the collective contract; and
- (15) the liabilities for breach of the collective contract.

## **Chapter III — Collective Negotiation Representatives**

Article 6 — The employee representatives for collective negotiation shall be elected by the trade union of the entity. Where there is no trade union, they shall be democratically elected by the employees and shall be

subject to confirmation by more than half of all employees. The chief representative of the employee side shall generally be the chairperson of the trade union, or as otherwise agreed by the employee representatives in writing.

Article 7 — The employer representatives for collective negotiation shall be designated by the legal representative of the employer or by other relevant persons in charge of the employer. The chief representative of the employer side shall be designated by the legal representative of the employer or by other relevant persons in charge of the employer in writing.

Article 8 — The number of representatives for collective negotiation shall be equal on each side, with each side having not fewer than three representatives, and one chief representative shall be determined for each side. The number of employee representatives for collective negotiation within an enterprise shall not be less than that of the employer representatives.

Article 9 — During the term of a collective contract, the employer shall not unilaterally modify the employment conditions of an employee representative for collective negotiation unless the representative has committed gross negligence or other acts that seriously violate the labor discipline or the employer's rules and regulations, or the representative voluntarily proposes to resign from his or her post as an employee representative. During the term of a collective contract, the employer shall not dissolve the employment contract with an employee representative for collective negotiation unless otherwise provided for by laws and regulations.

## **Chapter IV — Collective Negotiation Procedures**

Article 10 — Either the employee side or the employer side may submit a written request for collective negotiation. Where the request is submitted by one party, the other party shall respond within 20 days from the date of receiving the request. The parties shall not refuse collective negotiation without justifiable reason.

Article 11 — Prior to collective negotiation, the parties shall carry out the following preparatory work:

- (1) determining the chief representative and other representatives for collective negotiation;
- (2) collecting and understanding the information and materials relevant to the negotiation;
- (3) drafting the negotiation proposal; and
- (4) determining the topic, time, and venue of the negotiation.

Article 12 — During collective negotiation, the representatives for collective negotiation shall truthfully provide the information and materials relating to the collective negotiation, and shall respect each other and negotiate on an equal footing.

Article 13 — The parties to collective negotiation may employ experts, scholars, lawyers, and other external professionals to participate in the collective negotiation. The parties shall be responsible for the expenses incurred in employing such professionals.

Article 14 — Collective negotiation shall be chaired by the chief representatives of the two parties in turn. Minutes of the collective negotiation shall be prepared by the representatives of the two parties together, and shall be signed or sealed by all representatives attending the negotiation upon confirmation.

## **Chapter V — Conclusion and Effectiveness of Collective Contracts**

Article 15 — A draft collective contract or a draft special collective contract shall be submitted to the employees' representative assembly or the general meeting of all employees for discussion and adoption. Where the draft collective contract is adopted at the employees' representative assembly, it shall be adopted with the affirmative vote of more than half of all employee representatives; where it is adopted at the general meeting of all employees, it shall be adopted with the affirmative vote of more than half of all employees.

Article 16 — A collective contract or a special collective contract shall be signed by the chief representatives of both the employee side and the employer side.

Article 17 — Within ten days from the date of signing a collective contract or a special collective contract, the employer shall submit the text of the contract and the relevant materials to the labor security administrative department. The labor security administrative department shall complete the review within 15 days from the date of receiving the text of the contract. Where the labor security administrative department raises no objection within 15 days from the date of receiving the text of the contract, the collective contract or the special collective contract shall become effective automatically.

Article 18 — A collective contract or a special collective contract shall become effective upon the expiration of the review period provided for in Article 17 of these Provisions, or upon the date of a review opinion issued by the labor security administrative department confirming that there are no objections. The parties to the collective contract shall promptly announce the effective collective contract or special collective contract to all employees.

## **Chapter VI — Modification, Rescission and Termination**

Article 19 — Both parties may modify or rescind a collective contract or a special collective contract through consultation. Under any of the following circumstances, either party may request modification or rescission of the collective contract or special collective contract:

- (1) the laws, regulations, rules, or State provisions on which the contract is based have been modified or abolished;
- (2) the objective circumstances on which the conclusion of the collective contract was based have undergone a material change, making the contract impossible to perform; or
- (3) other circumstances that make modification or rescission of the collective contract necessary.

Article 20 — A collective contract may be terminated upon the expiration of its term or upon the occurrence of the conditions for termination as agreed by both parties. The term of a collective contract shall be one to three years.

## **Chapter VII — Mediation of Collective Contract Disputes**

Article 21 — Disputes arising from collective negotiation shall be handled in accordance with the provisions of laws and regulations. Where the parties fail to reach an agreement through consultation, either party or both parties may apply to the labor security administrative department for mediation. The labor security administrative department shall organize the relevant parties to conduct mediation within 30 days from the date of receiving the application.

Article 22 — Where a dispute arises from the performance of a collective contract between the parties, and the parties fail to resolve the dispute through consultation, either party may apply to the labor dispute arbitration committee for arbitration in accordance with the law. Where either party is dissatisfied with the arbitration award, it may institute a lawsuit in a people's court in accordance with the law.

## **Chapter VIII — Legal Liability**

Article 23 — Where either party to a collective contract breaches the contract, it shall bear liability for breach of contract in accordance with the law.

Article 24 — Where an employer violates the provisions of these Provisions by refusing to conduct collective negotiation without justifiable reason, the labor security administrative department shall order it to make corrections within a prescribed time limit; and where it fails to make corrections within the prescribed time limit, a fine may be imposed.

Article 25 — Where, during collective negotiation, either party engages in any of the following acts, the labor security administrative department shall order it to make corrections and may impose a fine of not less than RMB 2,000 yuan but not more than RMB 20,000 yuan:

- (1) obstructing the other party's representatives from performing their duties in accordance with the law;
- (2) threatening, bribing, or retaliating against the representatives of the other party; or
- (3) disrupting social order in the course of collective negotiation.

## Chapter IX — Supplementary Provisions

Article 26 — Where an employer implements a labor contract system and has a trade union organization, the employer and the trade union may carry out collective negotiation on matters such as labor remuneration, working hours, rest and leave, occupational safety and health, and social insurance and welfare benefits, and conclude a collective contract. Where there is no trade union, the employee representatives shall carry out collective negotiation with the employer.

Article 27 — The trade union at a higher level shall guide and assist the trade union of the entity in conducting collective negotiation and concluding collective contracts in accordance with the law.

Article 28 — These Provisions shall come into force on May 1, 2004. The Provisions on Collective Contracts promulgated by the former Ministry of Labor on December 5, 1994, shall be repealed simultaneously.

Disclaimer: This English translation is provided for informational and reference purposes only. While every effort has been made to ensure accuracy, this is an unofficial translation and shall not be relied upon as a legally binding document. For legal purposes, please refer to the original Chinese text promulgated by the Ministry of Labor and Social Security of the People's Republic of China. Dan Young Business Consultancy makes no warranty, express or implied, as to the accuracy, completeness, or fitness for any particular purpose of this translation. Users are advised to consult qualified legal professionals for interpretation of the original legislation.