

Regulation on Labor Security Supervision of the People’s Republic of China

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

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Adopted at the 68th Executive Meeting of the State Council on October 26, 2004, promulgated by Decree No. 423 of the State Council of the People’s Republic of China on November 1, 2004, effective as of December 1, 2004.

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Chapter I — General Provisions

Article 1 — This Regulation is formulated for the purposes of implementing the labor security system and strengthening labor security supervision and administration.

Article 2 — Labor security supervision shall apply to the following entities:

1. Enterprises and individually-owned businesses (hereinafter referred to as “employers”); 2. Employment service agencies, vocational skills training institutions and vocational skills assessment and appraisal institutions.

The labor security supervision of state organs, public institutions and social organizations shall be implemented by the labor security administrative departments in accordance with this Regulation.

Article 3 — The labor security administrative department of the State Council shall be in charge of labor security supervision nationwide. The labor security administrative departments of local people’s governments at or above the county level shall be in charge of labor security supervision within their respective administrative regions.

Article 4 — Trade unions shall safeguard the lawful rights and interests of workers in accordance with the law and shall supervise employers' compliance with labor security laws, regulations and rules.

Article 5 — Employers shall consciously comply with labor security laws, regulations and rules and accept and cooperate with labor security supervision.

Chapter II — Duties of Labor Security Supervision

Article 6 — Labor security administrative departments shall exercise the following labor security supervision duties:

1. Supervising employers' formulation of internal labor security rules and regulations; 2. Supervising employers' conclusion of labor contracts with workers; 3. Supervising employers' compliance with the provisions on the prohibition of child labor; 4. Supervising employers' compliance with the provisions on special labor protection for female employees and underage workers; 5. Supervising employers' compliance with the provisions on working hours, rest and vacations; 6. Supervising employers' payment of wages to workers and compliance with the provisions on minimum wage standards; 7. Supervising employers' participation in various social insurances and payment of social insurance fees; 8. Supervising employment service agencies, vocational skills training institutions and vocational skills assessment and appraisal institutions' compliance with the relevant provisions of the State; 9. Other labor security supervision matters provided by laws and regulations.

Chapter III — Implementation of Labor Security Supervision

Article 7 — Labor security supervision shall be conducted in the forms of daily inspections, review of written materials submitted as required, special inspections and reporting and complaint-specific inspections.

Article 8 — When labor security administrative departments conduct labor security supervision, they shall have the authority to take the following measures:

1. Entering the employer's premises for inspection; 2. Accessing and copying materials related to the matter under investigation; 3. Requiring the employer to provide documents and materials related to the matter under investigation and to explain and provide evidence; 4. Commissioning an accounting firm to audit the employer's wage payment and social insurance fee payment; 5. Other measures provided by laws and regulations.

Article 9 — When conducting labor security supervision, labor security supervisors shall present their certificates, exercise their powers impartially and in a civilized manner, and protect the lawful rights and interests of the parties concerned.

Article 10 — Labor security administrative departments shall establish a reporting and complaint system. Reports and complaints that fall within the scope of their functions and duties shall be accepted and investigated in accordance with the law.

Article 11 — When investigating a case of violation of labor security laws, regulations or rules, the labor security administrative department shall complete the investigation within 60 working days from the date the case is filed. Where the circumstances are complex and an extension is necessary, the time limit may be extended by 30 working days with the approval of the person in charge of the labor security administrative department.

Chapter IV — Legal Liability

Article 12 — Where an employer violates labor security laws, regulations or rules by failing to conclude a labor contract with a worker, failing to pay wages in full, or failing to participate in social insurance and pay social insurance fees, the labor security administrative department shall order it to make corrections within a

specified time limit and may impose a fine.

Article 13 — Where an employer employs child labor in violation of the provisions, the labor security administrative department shall order it to make corrections and impose a fine. Where the circumstances are serious, the business license shall be revoked by the administrative department for industry and commerce.

Article 14 — Where an employer arranges for a female employee or underage worker to engage in work prohibited by the State, the labor security administrative department shall order it to make corrections and impose a fine.

Article 15 — Where an employer extends working hours in violation of the provisions, the labor security administrative department shall give a warning, order it to make corrections within a specified time limit, and may impose a fine.

Article 16 — Where an employer defaults on a worker's wages or defaults on social insurance fees, the labor security administrative department shall order it to make corrections within a specified time limit and may impose a fine.

Article 17 — Where an employer, by fraudulent means, obtains social insurance benefits or defrauds social insurance fund expenditures, the labor security administrative department shall order it to return the amount and impose a fine.

Article 18 — Where an employment service agency, vocational skills training institution or vocational skills assessment and appraisal institution violates the relevant provisions of the State, the labor security administrative department shall order correction and may impose a fine.

Article 19 — Where an employer refuses to accept labor security supervision or obstructs labor security supervisors from performing their duties in accordance with the law, the labor security administrative department shall order correction and may impose a fine.

Article 20 — Where labor security supervisors abuse their powers, neglect their duties or engage in favoritism, they shall be subject to administrative sanctions; where the circumstances constitute a crime, criminal liability shall be pursued in accordance with the law.

Chapter V — Supplementary Provisions

Article 21 — Any organization or individual shall have the right to report violations of labor security laws, regulations or rules to the labor security administrative department. Where a worker believes that his lawful rights and interests have been infringed upon, he shall have the right to complain to the labor security administrative department.

Article 22 — The specific measures for the implementation of this Regulation shall be formulated by the labor security administrative department of the State Council.

Article 23 — This Regulation shall come into force on December 1, 2004.

This translation is provided for informational purposes only. For legal matters, please consult the original Chinese text or seek professional legal advice. For assistance with labor compliance and regulatory supervision in China, please contact Dan Young Business Consultancy.