

Regulation on Work-Related Injury Insurance of the People's Republic of China (2010 Revision)

Dan Young Business Consultancy — www.danyoungcpa.com

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

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Adopted at the 5th Executive Meeting of the State Council on April 16, 2003, promulgated by Decree No. 375 of the State Council of the People's Republic of China on April 27, 2003, and revised in accordance with the Decision of the State Council on Amending the Regulation on Work-Related Injury Insurance on December 8, 2010.

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Chapter I — General Provisions

Article 1 — This Regulation is formulated in accordance with the Social Insurance Law of the People's Republic of China for the purposes of ensuring that workers who suffer accidental injuries or contract occupational diseases in the course of work receive medical treatment and economic compensation, promoting work injury prevention and vocational rehabilitation, and dispersing the risk of work-related injuries

of employers.

Article 2 — Enterprises, public institutions, social organizations, private non-enterprise entities, foundations, law firms, accounting firms and other organizations, as well as individually-owned businesses with employees (hereinafter referred to as “employers”) within the territory of the People’s Republic of China shall participate in work-related injury insurance and pay work-related injury insurance premiums for all their employees or workers in accordance with the provisions of this Regulation.

Employees and workers of the employers specified in the preceding paragraph shall have the right to enjoy work-related injury insurance benefits in accordance with this Regulation.

Article 3 — The rate of work-related injury insurance premiums shall be determined in accordance with the principle of setting rates based on expenditure and balancing revenue and expenditure.

The State shall determine differentiated industry rates based on the level of work-related injury risk in different industries, and determine rate brackets within each industry based on factors such as the use of work-related injury insurance funds and the incidence of work-related injuries.

Article 4 — Employers shall accurately declare the number of their employees and their total wages, pay work-related injury insurance premiums on time, and publicize the details of premium payments within their units.

Where the total wages of employees or the number of insured persons of an employer changes, the employer shall report the changes to the social insurance agency within 30 days.

Article 5 — The social insurance administrative department of the State Council shall be responsible for work-related injury insurance work nationwide.

The social insurance administrative departments of local people’s governments at or above the county level shall be responsible for work-related injury insurance work within their respective administrative regions.

Social insurance agencies shall specifically undertake work-related injury insurance affairs.

Article 6 — When formulating work-related injury insurance policies and standards, the social insurance administrative department and other relevant departments shall seek the opinions of trade unions and employer representatives.

Chapter II — Work-Related Injury Insurance Fund

Article 7 — The work-related injury insurance fund shall consist of work-related injury insurance premiums paid by employers, interest on the work-related injury insurance fund, and other funds incorporated into the work-related injury insurance fund in accordance with the law.

Article 8 — Work-related injury insurance premiums shall be paid by employers based on the product of the total wages of their employees and the contribution rate determined by the social insurance agency.

Article 9 — For industries with a relatively low level of work-related injury risk, a benchmark industry contribution rate may be determined, and several rate brackets may be set within that rate. For industries with a moderate or relatively high level of work-related injury risk, the benchmark contribution rate shall be determined, with several rate brackets being set within the benchmark rate, and a floating rate mechanism may be implemented. The specific rate brackets and floating rate measures shall be formulated by the social insurance administrative department of the State Council.

Article 10 — Work-related injury insurance premiums payable by employers shall be collected by social insurance premium collection institutions.

Article 11 — The work-related injury insurance fund shall gradually be subject to provincial pooling.

Article 12 — The work-related injury insurance fund shall be deposited in a special social security fund financial account and shall be used for the payment of work-related injury insurance benefits, work capacity assessment, publicity and training on work injury prevention, and other expenses prescribed by laws and regulations.

No unit or individual may use the work-related injury insurance fund for investment and operation, construction or renovation of office premises, payment of bonuses, or misappropriate it for other purposes.

Article 13 — A reserve fund for work-related injury insurance shall be set aside at the rate of a certain percentage of the work-related injury insurance fund collected in the current year, to be used for the payment of work-related injury insurance benefits in the event of major accidents in the overall planning region. Where the reserve fund is insufficient for payment, the people's government of the overall planning region shall advance the funds.

Chapter III — Recognition of Work-Related Injuries

Article 14 — An employee shall be recognized as having suffered a work-related injury under any of the following circumstances:

1. Suffering an accidental injury during working hours and at the workplace due to work-related reasons; 2. Suffering an accidental injury while preparing for or concluding work at the workplace before or after working hours, where the injury is related to the preparatory or concluding work; 3. Suffering accidental injury by violence or other unexpected events during working hours and at the workplace while performing work duties; 4. Contracting an occupational disease; 5. Suffering an injury or being missing in an accident while away from the workplace on work-related business; 6. Suffering an injury in a motor vehicle accident or urban rail transit, passenger ferry or train accident for which the employee is not primarily responsible while commuting to or from work; 7. Other circumstances that should be recognized as work-related injuries according to laws and administrative regulations.

Article 15 — An employee shall be deemed as having suffered a work-related injury under any of the following circumstances:

1. Suffering a sudden illness and dying during working hours and at the workplace, or dying within 48 hours after emergency treatment fails; 2. Suffering an injury while performing acts to protect the public interest or rescue and relief activities such as emergency rescue and disaster relief; 3. Where an employee who originally served in the military and suffered an injury due to war or in the line of duty, and has obtained a disabled revolutionary soldier certificate, suffers a recurrence of the old injury after working for the employer.

Where an employee falls under the circumstances specified in Items (1) or (2) of the preceding paragraph, he shall enjoy work-related injury insurance benefits; where an employee falls under the circumstances specified in Item (3), he shall enjoy work-related injury insurance benefits excluding the lump-sum disability subsidy.

Article 16 — An employee's injury suffered at work shall not be recognized as a work-related injury or deemed as a work-related injury under any of the following circumstances:

1. Intentional crime; 2. Intoxication or drug use; 3. Self-inflicted injury or suicide.

Article 17 — Where an employee suffers an accidental injury or is diagnosed or identified as having an occupational disease in accordance with the Law on the Prevention and Control of Occupational Diseases, the employer to which the employee belongs shall apply for recognition of a work-related injury to the social insurance administrative department of the overall planning region within 30 days from the date of occurrence of the accidental injury or the date of diagnosis or identification of the occupational disease. Under special circumstances, the time limit may be appropriately extended with the consent of the social insurance administrative department.

Where an employer fails to file an application in accordance with the preceding paragraph, the injured employee or his close relatives or the trade union may directly file an application for recognition of a work-related injury to the social insurance administrative department of the overall planning region where the employer is located within one year from the date of occurrence of the accidental injury or the date of diagnosis or identification of the occupational disease.

Article 18 — The following materials shall be submitted when applying for recognition of a work-related injury:

1. An application form for recognition of a work-related injury; 2. Proof of the existence of a labor relationship (including a de facto labor relationship) with the employer; 3. A medical diagnosis certificate or occupational disease diagnosis certificate (or occupational disease diagnosis appraisal certificate).

Article 19 — Upon receipt of an application for recognition of a work-related injury, the social insurance administrative department shall examine the application; where the materials are incomplete, it shall notify the applicant of all materials that need to be supplemented at one time.

Article 20 — The social insurance administrative department shall issue a decision on the recognition of a work-related injury within 60 days from the date of receipt of the application, and shall notify the applicant and the employer in writing.

Chapter IV — Work Capacity Assessment

Article 21 — Where an employee suffers a work-related injury and has a disability that may affect his work capacity after his condition is relatively stable, he shall undergo a work capacity assessment.

Article 22 — Work capacity assessment means the assessment and determination of the level of impairment of work capacity caused by the work-related injury. Work capacity impairment is divided into ten levels, with Level 1 being the most severe and Level 10 being the least severe.

Article 23 — The employer, the injured employee or his close relatives may apply to the work capacity assessment committee of the city divided into districts for a work capacity assessment.

Article 24 — Work capacity assessment committees shall be composed of representatives of the social insurance administrative department, health administrative department, trade unions, social insurance agencies and employer representatives.

Article 25 — The work capacity assessment committee shall issue a work capacity assessment conclusion within 60 days from the date of receipt of the application, which may be extended by 30 days where necessary.

Article 26 — Where an employing unit or individual is dissatisfied with the work capacity assessment conclusion, it may apply to the work capacity assessment committee of the province, autonomous region or municipality directly under the Central Government for a re-assessment within 15 days from the date of receipt of the assessment conclusion.

Article 27 — After one year from the date of issuance of the work capacity assessment conclusion, where the injured employee or his close relatives, the employer to which the employee belongs or the social insurance agency considers that the disability condition has changed, they may apply for a re-examination and assessment of work capacity.

Chapter V — Work-Related Injury Insurance Benefits

Article 28 — Where an employee is recognized as having suffered a work-related injury and has work capacity impairment after assessment, he shall enjoy work-related injury insurance benefits.

Article 29 — The medical treatment of injured employees shall be provided by medical institutions that have entered into service agreements with social insurance agencies.

Article 30 — The expenses for the treatment of work-related injuries that comply with the work-related injury insurance diagnosis and treatment item catalogue, drug catalogue and hospitalization service standards shall be paid from the work-related injury insurance fund.

Article 31 — Where a social insurance agency determines that an injured employee requires assistive devices such as artificial limbs and wheelchairs based on a confirmation opinion of the work capacity assessment committee, the required expenses shall be paid from the work-related injury insurance fund.

Article 32 — During the period of suspension from work with pay for the treatment of a work-related injury, the original wages and welfare benefits of the employee shall remain unchanged and shall be paid by the employer on a monthly basis.

Article 33 — Where an injured employee has been assessed for work capacity and confirmed by the work capacity assessment committee to require nursing care, nursing care expenses shall be paid from the work-related injury insurance fund on a monthly basis.

Article 34 — Where an injured employee is assessed as having a disability of Level 1 to Level 4, the labor relationship shall be retained, the employee shall withdraw from the work position, and shall enjoy the following benefits:

1. A lump-sum disability subsidy shall be paid from the work-related injury insurance fund according to the disability level; 2. A disability allowance shall be paid from the work-related injury insurance fund on a monthly basis.

Article 35 — Where an injured employee is assessed as having a disability of Level 5 or Level 6, he shall enjoy the following benefits:

1. A lump-sum disability subsidy shall be paid from the work-related injury insurance fund according to the disability level; 2. The labor relationship with the employer shall be retained, and the employer shall arrange appropriate work; where it is difficult to arrange work, the employer shall pay a disability allowance on a monthly basis.

Article 36 — Where an injured employee is assessed as having a disability of Level 7 to Level 10, he shall enjoy the following benefits:

1. A lump-sum disability subsidy shall be paid from the work-related injury insurance fund according to the disability level; 2. Where the labor contract expires and is terminated, or the employee proposes to rescind the labor contract, the work-related injury insurance fund shall pay a lump-sum medical subsidy for work-related injuries, and the employer shall pay a lump-sum disability employment subsidy.

Article 37 — Where an injured employee dies from a work-related injury, his close relatives shall receive from the work-related injury insurance fund a funeral subsidy, dependents' allowances and a lump-sum work-related death subsidy in accordance with the following provisions.

Article 38 — Where the employer fails to pay work-related injury insurance premiums in accordance with the law, the employer shall pay the work-related injury insurance benefits that should have been paid from the work-related injury insurance fund.

Article 39 — The standards for work-related injury insurance benefits shall be adjusted in a timely manner by the social insurance administrative department of the State Council in conjunction with the financial department of the State Council.

Chapter VI — Supervision and Administration

Article 40 — Social insurance agencies shall specifically undertake work-related injury insurance affairs, perform the following duties, and be responsible for their management and services in accordance with regulations.

Article 41 — When undertaking work-related injury insurance affairs, social insurance agencies may collect examination fees, contract service fees, etc. from employers as appropriate.

Article 42 — The financial department and audit institution shall supervise the revenue and expenditure and management of the work-related injury insurance fund in accordance with the law.

Article 43 — Trade unions shall safeguard the lawful rights and interests of injured employees in accordance with the law and shall supervise the work-related injury insurance work of employers.

Article 44 — Where an employee and his relatives or the employer disagree with the decision of the social insurance agency on the verification of work-related injury insurance benefits, they may apply for administrative reconsideration or file an administrative lawsuit in accordance with the law.

Chapter VII — Legal Liability

Article 45 — Where an employer fails to participate in work-related injury insurance in accordance with the provisions, the social insurance administrative department shall order it to make corrections within a specified time limit.

Article 46 — Where an employer fails to truthfully declare the number of its employees and total wages, the social insurance administrative department shall order it to make corrections and may impose a fine.

Article 47 — Where an employing unit, an injured employee or his close relatives, by fraud or forgery of certification materials or other means, defrauds work-related injury insurance benefits, the social insurance administrative department shall order the return and impose a fine.

Article 48 — Where a medical institution or assistive device configuration institution provides false certification materials, the social insurance administrative department shall order correction and may impose a fine.

Chapter VIII — Supplementary Provisions

Article 49 — Where an employee of a state organ or an institution managed by reference to the civil servant system suffers a work-related injury, the matter shall be handled in accordance with the provisions of the State Council.

Article 50 — Matters not covered by this Regulation shall be handled in accordance with the provisions of relevant laws and administrative regulations.

Article 51 — The work-related injury insurance benefits, work capacity assessment standards, and the procedures and management measures therefor shall be formulated by the social insurance administrative department of the State Council in conjunction with other relevant departments.

Article 52 — This Regulation shall come into force on January 1, 2004. This Regulation shall apply to employees who suffered work-related injuries before the implementation of this Regulation but have not yet been assessed for work capacity.

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 work injury insurance, employer obligations and HR compliance in China, please contact Dan Young Business Consultancy.