Regulations on Labor Security Supervision of the PRC

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

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Chapter I — General Provisions

Article 1: These Regulations are formulated in accordance with the Labor Law of the People's Republic of China and relevant laws for the purpose of regulating labor security supervision, safeguarding the lawful rights and interests of workers, and promoting harmonious and stable labor relations.

Article 2: These Regulations shall apply to the labor security supervision conducted by the labor security administrative authorities of the people's governments at or above the county level over enterprises, individually-owned businesses, and private non-enterprise entities. The labor security supervision over employment agencies, vocational skills training institutions, and vocational skills appraisal institutions shall be governed by these Regulations.

Article 3: The labor security administrative authority of the State Council shall be responsible for labor security supervision nationwide. The labor security administrative authorities of local people's governments at or above the county level shall be responsible for labor security supervision within their respective administrative areas.

Article 4: When conducting labor security supervision, the labor security administrative authorities shall follow the principles of fairness, openness, and efficiency, combining education with punishment, and shall accept social supervision.

Article 5: Local people's governments at or above the county level shall strengthen their leadership over labor security supervision. Departments such as public security, industry and commerce, finance, taxation, and production safety supervision and administration shall support and assist labor security supervision

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within the scope of their respective duties.

Article 6: Trade unions shall safeguard the lawful rights and interests of workers in accordance with the law and shall supervise the compliance of employers with labor security laws, regulations, and rules. No organization or individual may retaliate against whistleblowers who report violations of labor security laws, regulations, or rules. The labor security administrative authorities shall keep the identity of whistleblowers confidential.

Chapter II — Duties of Labor Security Supervision

Article 7: Labor security supervision shall ensure that employers comply with labor security laws, regulations, and rules, including supervision over the following matters: (1) internal labor security rules and regulations formulated by the employer; (2) execution of employment contracts between the employer and workers; (3) the employer's compliance with regulations prohibiting the use of child labor; (4) the employer's compliance with special labor protection provisions for female workers and juvenile workers; (5) the employer's compliance with regulations on working hours, rest, and leave; (6) the employer's payment of wages and compliance with minimum wage standards; (7) the employer's participation in and payment of social insurance premiums; (8) the operations of employment agencies, vocational skills training institutions, and vocational skills appraisal institutions; and (9) other matters prescribed by laws and regulations.

Article 8: Labor security supervision shall adopt routine patrol inspections, review of written materials submitted by employers, acceptance of reports and complaints, special inspections, and other methods.

Article 9: Where an employer has any of the following circumstances, the labor security administrative authority shall include it on a key supervision list: (1) having a record of major violations of labor security laws, regulations, or rules; (2) having triggered mass incidents due to labor security violations; (3) failing to rectify violations within the prescribed time limit; or (4) other circumstances prescribed by laws and regulations.

Article 10: The labor security administrative authority shall establish and improve a system for reporting and complaining about violations of labor security laws, regulations, or rules. It shall publicly announce complaint hotline numbers and complaint addresses.

Chapter III — Implementation of Labor Security Supervision

Article 11: When conducting labor security supervision, the labor security administrative authority shall assign at least two inspectors and produce valid enforcement credentials.

Article 12: Labor security inspectors shall recuse themselves from cases in which they have a direct interest.

Article 13: Labor security supervision conducted by labor security inspectors shall not be obstructed by any organization or individual. Employers shall cooperate with labor security inspectors and truthfully provide relevant documents and materials.

Article 14: When conducting labor security supervision, labor security inspectors shall have the authority to take the following measures: (1) enter the workplace of the employer for inspection; (2) inquire of relevant persons about matters under investigation; (3) review or request the employer to provide documents and materials related to the inspection matters and may make copies of such documents and materials; (4) question witnesses; (5) conduct on-site audio and video recordings where necessary; and (6) other measures prescribed by laws and regulations.

Article 15: When necessary, the labor security administrative authority may serve a Notice of Labor Security Supervision Inquiry on the employer, requiring it to provide relevant documents and materials within the prescribed time limit and to appear to explain relevant matters.

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Article 16: Where an employer has committed an act violating labor security laws, regulations, or rules, the labor security administrative authority shall handle the matter in accordance with the following procedures: (1) where the violation is confirmed upon investigation, issue an Order for Correction, requiring the employer to cease the violation and make corrections within a prescribed time limit; (2) where the employer refuses to make corrections or the circumstances are serious, impose administrative penalties in accordance with the law; and (3) where the employer's violation causes damage to workers and the employer fails to compensate, order the employer to make compensation.

Article 17: Where an employer has committed a violation of labor security laws, regulations, or rules, and the violation is minor and has been rectified, the labor security administrative authority may handle the matter through admonishment or warning.

Article 18: Where the labor security administrative authority discovers during supervision that a case involves a criminal offense, it shall transfer the case to the judicial authorities in accordance with the law.

Chapter IV — Legal Liability

Article 19: Where an employer, in violation of the provisions of labor security laws, regulations, or rules, fails to conclude a written employment contract with its employees, refuses to pay wages or overtime wages, or pays wages below the local minimum wage standard, the labor security administrative authority shall order it to make corrections within a prescribed time limit and may impose a fine in accordance with the law.

Article 20: Where an employer violates the provisions on working hours, rest, and leave, the labor security administrative authority shall order it to make corrections and may impose a fine of not less than 100 yuan but not more than 500 yuan per affected worker.

Article 21: Where an employer illegally uses child labor, the labor security administrative authority shall order it to make corrections and impose a fine of not less than 5,000 yuan per child laborer per month; where the circumstances are serious, the business license shall be revoked by the administrative authority for industry and commerce.

Article 22: Where an employer violates special labor protection provisions for female workers or juvenile workers, the labor security administrative authority shall order it to make corrections and impose a fine of not less than 1,000 yuan but not more than 5,000 yuan per affected worker.

Article 23: Where an employer fails to participate in social insurance or fails to pay social insurance premiums in full and on time, the labor security administrative authority and the social insurance premium collection authority shall handle the matter in accordance with relevant State regulations.

Article 24: Where an employment agency violates State regulations by providing employment agency services without authorization, the labor security administrative authority shall order it to cease operations, confiscate its illegal gains, and impose a fine of not less than 10,000 yuan but not more than 50,000 yuan.

Article 25: Where a vocational skills training institution or vocational skills appraisal institution violates State regulations by operating without authorization, the labor security administrative authority shall order it to cease operations and impose a fine.

Article 26: Where an employer commits any of the following acts, the labor security administrative authority shall order it to make corrections and impose a fine of not less than 2,000 yuan but not more than 20,000 yuan: (1) refusing to accept labor security supervision without justifiable reason; (2) failing to submit or truthfully submit relevant documents and materials as required; (3) refusing to implement the Order for Correction; or (4) obstructing labor security inspectors from performing their duties.

Article 27: Where an employer retaliates against a whistleblower or complainant, the labor security administrative authority shall order it to make corrections; where the case constitutes a violation of public security administration, penalties shall be imposed by the public security organ in accordance with the law;

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where the case constitutes a crime, criminal liability shall be pursued.

Chapter V — Supplementary Provisions

Article 28: The term “employer” as used in these Regulations refers to enterprises, individually-owned businesses, private non-enterprise entities, state organs, public institutions, social organizations, and other organizations that have established employment relationships with workers.

Article 29: These Regulations shall enter into force as of December 1, 2004.

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