Regulations on Unemployment Insurance of the PRC

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Chapter I — General Provisions

Article 1 — These Regulations are enacted to ensure the basic livelihood of the unemployed during the period of unemployment, promote their re-employment, and regulate unemployment insurance work.

Article 2 — State-owned enterprises, urban collective enterprises, foreign-invested enterprises, urban private enterprises, and other urban enterprises within the territory of the PRC (hereinafter referred to as "enterprises") and their employees shall participate in unemployment insurance and pay unemployment insurance premiums in accordance with the provisions of these Regulations. Public institutions and their employees shall participate in unemployment insurance and pay unemployment insurance premiums in accordance with the provisions of these Regulations. Other urban enterprises and their employees as well as private non-enterprise units and their employees, social organizations and their full-time staff members, and individual industrial and commercial households with hired employees and their hired employees shall participate in unemployment insurance, and the specific measures shall be prescribed by the people's

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governments of the provinces, autonomous regions, and municipalities directly under the Central Government in accordance with the relevant provisions of the State.

Article 3 — The labor and social security administration department of the State Council shall be responsible for the national unemployment insurance work. The labor and social security administration departments of the local people's governments at or above the county level shall be responsible for the unemployment insurance work within their respective administrative areas. Social insurance agencies established by the labor and social security administration departments shall undertake the specific unemployment insurance work. Unemployment insurance premiums shall be collected by the relevant departments in accordance with the relevant provisions of the State.

Article 4 — Unemployment insurance premiums shall be collected, managed, and used in accordance with the relevant provisions of the State. No local people's government, department, entity, or individual shall reduce or exempt unemployment insurance premiums.

Article 5 — The unemployment insurance fund shall be used for the following expenditures: (1) unemployment insurance benefits; (2) medical subsidies received during the period of receiving unemployment insurance benefits; (3) funeral subsidies for the unemployed who die during the period of receiving unemployment insurance benefits and pensions for their supported spouses and immediate family members; (4) vocational training subsidies and job placement subsidies for the unemployed during the period of receiving unemployment insurance benefits; (5) other expenses related to unemployment insurance as prescribed by the State Council or approved by the local people's governments. The standards for the subsidies and subsidies mentioned in items (2), (3), and (4) shall be implemented in accordance with the provisions of the people's governments of the provinces, autonomous regions, and municipalities directly under the Central Government. Unemployment insurance funds must be deposited in the special financial account for social security funds managed by the financial departments, and the balance of the two accounts, income and expenditure, shall be accounted for separately and managed by the social insurance agencies.

Article 6 — The unemployment insurance fund shall be subject to overall planning at the level of municipalities directly under the Central Government and cities divided into districts, and the specific measures shall be prescribed by the people's governments of the relevant provinces and autonomous regions. The financial department and the auditing authority shall supervise the income and expenditure and management of the unemployment insurance fund in accordance with law.

Chapter II — Unemployment Insurance Fund

Article 7 — The unemployment insurance fund shall consist of the following: (1) unemployment insurance premiums paid by urban enterprises, public institutions, and their employees; (2) interest on the unemployment insurance fund; (3) financial subsidies; (4) other funds that shall be included in the unemployment insurance fund in accordance with law.

Article 8 — The standard for the payment of unemployment insurance premiums by urban enterprises and public institutions shall be 2 percent of their total wages. The standard for the payment of unemployment insurance premiums by employees of urban enterprises and public institutions shall be 1 percent of their own wages. The standard for the payment of unemployment insurance premiums by farmers employed under contract by urban enterprises and public institutions shall not be paid by such employees themselves. The people's governments of provinces, autonomous regions, and municipalities directly under the Central Government may, in light of the actual conditions of their respective administrative areas, appropriately adjust the rates of unemployment insurance premiums and report the adjustments to the State Council for filing.

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Article 9 — Urban enterprises and public institutions shall, when the employer's total wages are increased, report the increase to the social insurance agency in a timely manner, pay unemployment insurance premiums on time and in full, and have their employees withhold and pay the premiums withheld. Urban enterprises and public institutions shall submit to the social insurance agency on a monthly basis the list of employees from whom unemployment insurance premiums are withheld and paid and the amount of such premiums. The social insurance agency shall establish records of the payment of unemployment insurance premiums for the employees.

Article 10 — The unemployment insurance premiums paid by urban enterprises and public institutions shall be charged to labor insurance premiums as an expense; the unemployment insurance premiums paid by employees shall be withheld from their wages by the employer.

Article 11 — The unemployment insurance fund of the province or autonomous region may, in accordance with the provisions of the province or autonomous region, use the unemployment insurance adjustment fund.

Article 12 — After the unemployment insurance fund is used for the expenditures specified in items (1), (2), and (3) of Article 6, the province or autonomous region may allocate a certain proportion from the fund as a local adjustment fund. The specific proportion and measures for the use of the adjustment fund shall be prescribed by the people's governments of the relevant provinces or autonomous regions.

Chapter III — Unemployment Insurance Benefits

Article 13 — An unemployed person who meets the following conditions may receive unemployment insurance benefits: (1) having participated in unemployment insurance in accordance with regulations, and the employer and the employee have paid premiums in full for at least one year; (2) having had the employment relationship terminated not due to his or her own will; (3) having registered as unemployed and having the desire to seek employment. Where an unemployed person meets the conditions for receiving unemployment insurance benefits, he or she shall receive unemployment insurance benefits in accordance with the provisions of these Regulations.

Article 14 — An unemployed person shall not continue to receive unemployment insurance benefits under any of the following circumstances: (1) re-employment; (2) serving in the military; (3) having moved out of the country; (4) enjoying basic old-age insurance benefits; (5) having been sentenced to imprisonment or reeducation through labor; (6) refusing to accept the job introduction by the relevant department or institution without justifiable reasons; (7) other circumstances as prescribed by laws or administrative regulations.

Article 15 — An unemployed person shall, within seven days from the date of termination or dissolution of the employment relationship, report to the social insurance agency designated by the local labor and social security administration department for unemployment registration. The unemployment insurance benefits shall be calculated from the date of unemployment registration. Unemployment insurance benefits shall be paid by the social insurance agency on a monthly basis. The voucher on the basis of which the social insurance agency issues unemployment insurance benefits to the unemployed person shall be issued by the social insurance agency designated by the local labor and social security administration department on a monthly basis.

Article 16 — Where an urban enterprise or public institution shall promptly provide the unemployed person with a certificate of termination or dissolution of the employment relationship, inform him or her of the right to receive unemployment insurance benefits in accordance with regulations, and submit the list of the unemployed to the social insurance agency for the record within seven days from the date of termination or dissolution of the employment relationship.

Article 17 — The period for an unemployed person to receive unemployment insurance benefits shall be determined based on the length of time that the unemployed person and his or her employer have paid premiums before unemployment: (1) where the employer and the employee have paid premiums for at least

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one year but less than five years, the maximum period for receiving unemployment insurance benefits shall be 12 months; (2) where the employer and the employee have paid premiums for at least five years but less than 10 years, the maximum period for receiving unemployment insurance benefits shall be 18 months; (3) where the employer and the employee have paid premiums for 10 years or more, the maximum period for receiving unemployment insurance benefits shall be 24 months. Where an unemployed person becomes unemployed again after re-employment, the period for receiving unemployment insurance benefits may be combined with the period for which he or she should have received but has not yet received unemployment insurance benefits at the time of the previous unemployment, but the maximum combined period shall not exceed 24 months.

Article 18 — The standard for unemployment insurance benefits shall be determined by the people's governments of the provinces, autonomous regions, and municipalities directly under the Central Government at a level lower than the local minimum wage standard and higher than the local minimum subsistence guarantee standard for urban residents.

Article 19 — An unemployed person shall receive medical subsidies in accordance with the relevant provisions during the period of receiving unemployment insurance benefits.

Article 20 — Where an unemployed person dies during the period of receiving unemployment insurance benefits, his or her dependents may receive a lump-sum funeral subsidy and a pension. The standards shall be implemented in accordance with the relevant provisions on the death of on-the-job employees.

Article 21 — An unemployed person may enjoy the treatment of unemployment insurance while receiving unemployment insurance benefits, and shall not participate in unemployment insurance or pay unemployment insurance premiums.

Article 22 — Where an unemployed person moves across a pooling area, the transfer procedures for unemployment insurance relations shall be handled in accordance with the provisions of the State. Where an enterprise or public institution moves across a pooling area as a whole, the transfer procedures for the unemployment insurance relations of the employees who move with the enterprise shall be handled. Where the employees of an employing entity move across a pooling area, the transfer procedures for unemployment insurance relations shall be handled in accordance with the provisions of the State for the transfer of employees.

Article 23 — The unemployment insurance benefits payable to an unemployed person shall be paid from the unemployment insurance fund. The specific standards shall be implemented in accordance with the provisions of the people's governments of the provinces, autonomous regions, and municipalities directly under the Central Government.

Chapter IV — Administration and Supervision

Article 24 — The labor and social security administration departments shall manage the unemployment insurance work and perform the following duties: (1) implementing laws, regulations, and rules on unemployment insurance; (2) guiding the work of social insurance agencies; (3) supervising and inspecting the collection of unemployment insurance premiums and the payment of unemployment insurance benefits.

Article 25 — The social insurance agencies shall undertake the specific unemployment insurance work and perform the following duties: (1) responsible for the registration, investigation, statistics, and other work of the unemployed; (2) responsible for the management of unemployment insurance funds in accordance with regulations; (3) verifying unemployment insurance benefits in accordance with regulations and issuing the certificate for receiving unemployment insurance benefits to the unemployed person on which he or she may collect unemployment insurance benefits and other unemployment insurance benefits from a designated bank or other financial institution; (4) allocating funds for vocational training and job placement subsidies for the unemployed; (5) providing consulting services on unemployment insurance free of charge for the

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unemployed and urban enterprises and public institutions; (6) other duties as prescribed by the State.

Article 26 — The social insurance agencies shall announce the collection and use of unemployment insurance premiums to the public on a regular basis. The social insurance agencies shall report the collection and use of unemployment insurance premiums to the social insurance fund supervision committee and accept supervision. The financial department and the auditing authority shall supervise the income and expenditure and management of the unemployment insurance fund in accordance with law.

Article 27 — The social insurance agencies shall establish and preserve unemployment insurance files, truthfully record in the documents the participation of employees in unemployment insurance and the payment of unemployment insurance premiums and the circumstances of the unemployed receiving unemployment insurance benefits, and properly preserve the relevant records of registration, declaration, and payment and settlement.

Article 28 — No unit or individual may misappropriate the unemployment insurance fund. Where the social insurance agency misappropriates the unemployment insurance fund, the labor and social security administration department shall recover the misappropriated fund and impose a fine on the directly responsible person in charge and other directly responsible persons in accordance with law; where the circumstances are serious and constitute a crime, criminal liability shall be investigated in accordance with law.

Chapter V — Penalty Provisions

Article 29 — Where an employing entity fails to participate in unemployment insurance in accordance with regulations or fails to pay unemployment insurance premiums in full and on time, the labor and social security administration department shall order it to make corrections within a specified time limit; where it fails to make corrections within the time limit, a fine of not more than two times the amount of the unpaid or underpaid premium shall be imposed.

Article 30 — Where an employing entity causes the unemployed person to be unable to enjoy unemployment insurance benefits in accordance with regulations due to its failure to participate in unemployment insurance as required or to pay premiums on time and in full, the employing entity shall compensate the unemployed person for the losses incurred.

Article 31 — Where a person obtains unemployment insurance benefits or other unemployment insurance benefits by fraudulent means, the social insurance agency shall order the return of the benefits; where the circumstances are serious, the labor and social security administration department shall impose a fine of not less than one time and not more than three times the amount defrauded.

Article 32 — Where a functionary of a social insurance agency violates the regulations by failing to pay unemployment insurance benefits or other unemployment insurance benefits to the unemployed person, the labor and social security administration department shall order it to make corrections; where the circumstances are serious, the directly responsible person in charge and other directly responsible persons shall be given administrative sanctions in accordance with law.

Article 33 — Where a functionary of a labor and social security administration department or a social insurance agency abuses his or her power, engages in malpractices for personal gain, or neglects his or her duties, causing losses to the unemployment insurance fund, the labor and social security administration department shall recover the lost fund; where the circumstances are serious and constitute a crime, criminal liability shall be investigated in accordance with law; where a crime is not constituted, an administrative sanction shall be given in accordance with law.

Article 34 — Where any entity or individual misappropriates the unemployment insurance fund, the misappropriated fund shall be recovered; if there are illegal gains, the illegal gains shall be confiscated and

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the misappropriated fund shall be incorporated into the unemployment insurance fund; where the circumstances are serious and constitute a crime, criminal liability shall be investigated in accordance with law; where a crime is not constituted, the directly responsible person in charge and other directly responsible persons shall be given administrative sanctions in accordance with law.

Chapter VI — Supplementary Provisions

Article 35 — The people's governments of provinces, autonomous regions, and municipalities directly under the Central Government may, in accordance with the actual local conditions, decide that these Regulations shall apply to the social organizations and their full-time staff members, private non-enterprise units and their employees, and individual industrial and commercial households with hired employees and their hired employees within their respective administrative areas.

Article 36 — These Regulations shall come into force on the date of promulgation. The Regulations on Unemployment Insurance for Employees of State-Owned Enterprises promulgated by the State Council on April 12, 1993 shall be repealed on the same date.

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