Regulations on Work-Related Injury Insurance of the PRC – Full English Translation (2010 Amendment)

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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 for the purposes of ensuring that workers who suffer from work-related injuries or occupational diseases can obtain medical treatment and economic compensation, promoting the prevention of work-related injuries and vocational rehabilitation, and dispersing the risk of work-related injuries for employers.

Article 2. All enterprises, public institutions, social organizations, private non-enterprise units, foundations, law firms, accounting firms and other organizations, and individual industrial and commercial households with employees 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 workers or employees in accordance

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with these Regulations. Workers and employees of the organizations and individual industrial and commercial households specified in the preceding paragraph shall have the right to enjoy the benefits of work-related injury insurance in accordance with these Regulations.

Article 3. The rate of work-related injury insurance premiums shall be determined on the basis of the principle of fixed revenue to meet fixed expenditure and a balance between revenue and expenditure.

Article 4. Employers shall publicize the relevant provisions on participation in work-related injury insurance within their units. Where a work-related injury accident occurs to a worker of an employer, the employer shall take measures to ensure that the injured worker receives timely rescue and treatment. Employers and workers shall abide by the relevant laws and regulations on work safety and occupational disease prevention and control, implement safety and health regulations and standards, prevent work-related injury accidents, and avoid and reduce occupational disease hazards.

Article 5. The social insurance administrative department under the State Council shall be responsible for the administration of work-related injury insurance nationwide. The social insurance administrative departments of the local people's governments at or above the county level shall be responsible for the administration of work-related injury insurance within their respective administrative areas. Other relevant departments of the State Council and trade union organizations shall, in accordance with the provisions of these Regulations, be responsible for the relevant work-related injury insurance work within their respective scopes of responsibility.

Article 6. When formulating policies and standards for work-related injury insurance, the social insurance administrative departments and other relevant departments shall solicit the opinions of trade union organizations and representatives of employers. Trade unions shall safeguard the lawful rights and interests of injured workers and supervise the work-related injury insurance work of employers in accordance with the law.

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 legally credited to the work-related injury insurance fund.

Article 8. The rate of work-related injury insurance premiums shall be determined based on the principle of differentiation by industry and floating within an industry. The differential premium rate and the measures for floating within an industry for each industry shall be formulated by the social insurance administrative department under the State Council and implemented upon approval by the State Council.

Article 9. The social insurance administrative department under the State Council shall regularly keep abreast of the income and expenditure of the work-related injury insurance funds in the overall planning areas nationwide, propose in a timely manner a plan for adjusting the differentiated premium rates and intra-industry floating rates, and implement the plan upon approval by the State Council.

Article 10. Employers shall pay work-related injury insurance premiums on time. Individual workers shall not pay work-related injury insurance premiums. The amount of work-related injury insurance premiums payable by an employer shall be the product of the total wages of its workers multiplied by the employer's contribution rate.

Article 11. Work-related injury insurance funds shall be subject to overall planning at the level of a municipality divided into districts. The funds shall be gradually transitioned to provincial-level overall planning. For overall planning areas that span administrative regions or involve special industries, the social insurance administrative department under the State Council shall make provisions. Work-related injury insurance funds shall be deposited into a special financial account for social insurance funds and shall be

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used exclusively for the purposes prescribed in these Regulations. No unit or individual may misappropriate such funds for any other purpose.

Article 12. The specific proportion of the work-related injury insurance fund to be used as a work-related injury prevention fund, publicity and training fund, and other expenses approved by the State Council shall be prescribed by the State Council. No unit or individual may use the work-related injury insurance fund for investment, operation, construction, or alteration of office premises, granting of bonuses, or misappropriate it for other purposes.

Article 13. A reserve fund for work-related injury insurance shall be established at the level of a municipality divided into districts and gradually at the provincial level. The reserve fund shall be drawn based on a certain percentage of the work-related injury insurance fund collected in the current year in the overall planning area. If the work-related injury insurance fund in the overall planning area is insufficient to pay, the reserve fund shall be used to make up the shortfall. The specific proportion and method of use of the reserve fund shall be prescribed by the people's government of the province, autonomous region, or municipality directly under the Central Government.

Chapter III — Determination of Work-Related Injury

Article 14. A worker shall be determined to have suffered a work-related injury under any of the following circumstances: (1) being injured in a work-related accident during working hours and at the workplace; (2) being injured in an accident while engaging in work-related preparatory or finishing work before or after working hours at the workplace; (3) being injured by violence or other accidental injury during working hours and at the workplace while performing work duties; (4) contracting an occupational disease; (5) being injured or having whereabouts unknown in an accident during a business trip; (6) being injured in a traffic accident or a city rail transit, passenger ferry or train accident for which the worker is not primarily responsible while commuting between home and work on a reasonable route; or (7) other circumstances that shall be determined as work-related injuries according to laws and administrative regulations.

Article 15. A worker shall be deemed to have suffered a work-related injury under any of the following circumstances: (1) dying of sudden illness during working hours and at the workplace, or dying within 48 hours after emergency treatment has failed; (2) being injured in activities of safeguarding national interests or public interests, such as disaster relief; or (3) a worker who previously served in the armed forces and became disabled due to war or duty-related injuries, and has obtained a revolutionary disabled serviceman certificate, where the old injury relapses after the worker joins an employer. Where a worker falls under the circumstances in items (1) or (2) of the preceding paragraph, he or she shall enjoy the benefits of work-related injury insurance in accordance with these Regulations. Where a worker falls under the circumstances in item (3) of the preceding paragraph, he or she shall enjoy the benefits of work-related injury insurance other than the lump-sum disability subsidy in accordance with these Regulations.

Article 16. A worker shall not be determined to have suffered a work-related injury or been deemed to have suffered a work-related injury if the worker falls under any of the following circumstances: (1) intentional crime; (2) being drunk or taking drugs; or (3) self-inflicted injury or suicide.

Article 17. Where a worker is injured in an accident or diagnosed with an occupational disease in accordance with the Law on the Prevention and Control of Occupational Diseases, the employer concerned shall, within 30 days from the date of occurrence of the accident injury or the date of diagnosis or determination of the occupational disease, file an application with the social insurance administrative department for determination of work-related injury. Under special circumstances, the time limit may be appropriately extended with the consent of the social insurance administrative department. Where the employer fails to file an application in accordance with the provisions of the preceding paragraph, the injured worker or his close relatives or the trade union may, within one year from the date of occurrence of the accident injury or the date of diagnosis or determination of the occupational disease, directly file an application with the social

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insurance administrative department at the place where the employer is located.

Article 18. An application for the determination of a work-related injury shall be accompanied by the following materials: (1) the application form for determination of the work-related injury, which shall set forth the basic information including the time, place and cause of the accident, and the extent of injury; and (2) materials evidencing the existence of an employment relationship with the employer, including a labor contract or other evidence. If the applicant does not provide complete materials, the social insurance administrative department shall, in a one-time written notification, inform the applicant of all materials that need to be supplemented. After the applicant has supplemented the materials as notified, the social insurance administrative department shall accept the application.

Article 19. After accepting an application for determination of a work-related injury, the social insurance administrative department may, based on the needs of examination and verification, conduct investigation and verification of the accident injury. The employer, workers, trade union organizations, medical institutions and relevant departments shall provide assistance. Where the employer fails to file an application in accordance with the provisions of Article 17 of these Regulations, the social insurance administrative department may directly investigate and verify the relevant circumstances. Where a worker or his close relative claims that the worker has suffered a work-related injury but the employer denies it, the employer shall bear the burden of proof.

Article 20. The social insurance administrative department shall make a decision on the determination of a work-related injury within 60 days from the date of accepting the application for determination of the work-related injury, and notify the applicant of the decision in writing. For applications with clear facts and unambiguous rights and obligations, the decision shall be made within 15 days. Where a decision on the determination of a work-related injury requires the basis of a conclusion from a judicial authority or the relevant administrative department, the time limit for making the decision on determination of the work-related injury shall be suspended pending the issuance of such conclusion. Where the staff of the social insurance administrative department has an interest in the applicant for the determination of a work-related injury, they shall recuse themselves.

Chapter IV — Appraisal of Work Capacity

Article 21. Where a worker suffers a work-related injury and has a disability that is relatively stable after treatment and affects his or her work capacity, an appraisal of work capacity shall be conducted. Work capacity appraisal refers to the assessment and determination of the degree of functional impairment and the degree of impairment of self-care ability resulting from the work-related injury by the work capacity appraisal committee.

Article 22. Work capacity appraisal standards shall be formulated by the social insurance administrative department under the State Council jointly with the health administrative department and other relevant departments under the State Council. The degree of functional impairment arising from a work-related injury shall be divided into ten disability grades, with Grade 1 being the most severe and Grade 10 the least severe. The degree of impairment of self-care ability shall be divided into three grades: inability to care for oneself at all, inability to care for oneself in most aspects of daily life, and partial inability to care for oneself in some aspects of daily life.

Article 23. When a work capacity appraisal is required, the employer, the injured worker, or his close relatives shall submit an application to the work capacity appraisal committee at the level of a municipality divided into districts, and provide the relevant materials.

Article 24. The work capacity appraisal committee of a province, autonomous region, or municipality directly under the Central Government and the work capacity appraisal committee of a municipality divided into districts shall be composed of representatives from the social insurance administrative department, the

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health administrative department, the trade union organization, the social insurance agency, and the employer of the province, autonomous region, municipality directly under the Central Government, or the municipality divided into districts. The work capacity appraisal committee shall establish a database of medical and health experts. The experts included in the database shall have senior professional and technical qualifications in the relevant fields, possess good professional ethics, and master the relevant knowledge of work capacity appraisal.

Article 25. The work capacity appraisal committee of a municipality divided into districts shall, after receiving an application for work capacity appraisal, randomly select three or five relevant experts from its database of medical and health experts to form an expert panel, which shall provide a medical appraisal opinion. Based on the medical appraisal opinion of the expert panel, the work capacity appraisal committee of the municipality divided into districts shall make a conclusion on the work capacity appraisal. When necessary, the work capacity appraisal committee may engage qualified medical institutions to assist in diagnosis.

Article 26. Where the applicant for appraisal disagrees with the conclusion of the work capacity appraisal committee of the municipality divided into districts, the applicant may, within 15 days from the date of receipt of the conclusion, apply to the work capacity appraisal committee of the province, autonomous region, or municipality directly under the Central Government for a second appraisal. The conclusion reached by the work capacity appraisal committee of the province, autonomous region, or municipality directly under the Central Government shall be final.

Article 27. The work capacity appraisal committee shall make a conclusion on the work capacity appraisal within 60 days from the date of receipt of the application, or within 30 days if necessary, which may be extended for an additional 30 days. The conclusion on the work capacity appraisal shall be served on the applicant and the unit concerned in a timely manner.

Article 28. Where, after one year has elapsed from the date of the conclusion on the work capacity appraisal, the injured worker or his close relatives, the employer, or the social insurance agency considers that the disability condition has changed, an application may be made for review and appraisal of the work capacity.

Article 29. The appraisal fee for work capacity appraisal shall be paid from the work-related injury insurance fund if a work-related injury is determined; otherwise, it shall be borne by the applicant.

Chapter V — Work-Related Injury Insurance Benefits

Article 30. Workers who suffer work-related injuries shall receive medical treatment at designated medical institutions under contracts for services. Where emergency treatment is required, the worker may first receive treatment at the nearest medical institution. The expenses for treatment of work-related injuries that are in compliance with the catalogue of work-related injury insurance medical treatment items, the catalogue of work-related injury insurance medicines and the work-related injury insurance hospitalization service standards shall be paid from the work-related injury insurance fund. The catalogues of work-related injury insurance medical treatment items, work-related injury insurance medicines, and work-related injury insurance hospitalization service standards shall be formulated by the social insurance administrative department under the State Council jointly with the health administrative department, the food and drug supervision and administration department, and other relevant departments under the State Council. Where a worker who suffers a work-related injury is hospitalized for treatment of the work-related injury, the food allowance subsidy shall be paid by the employer according to the standard prescribed by the local people's government. Where, upon certification by a medical institution and approval by the social insurance agency, an injured worker needs to travel to a place outside the overall planning area for medical treatment, the required transportation, accommodation and meal expenses shall be paid by the employer based on the standards prescribed by the local people's government. Workers who suffer work-related injuries and whose treatment of the work-related injury does not fall within the scope of the work-related injury insurance diagnosis and treatment catalogue shall not be paid from the work-related injury insurance fund. Where a

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worker injured at work also receives treatment for a disease unrelated to the work-related injury, he or she shall not enjoy medical treatment benefits for the work-related injury, and shall be subject to the basic medical insurance measures.

Article 31. Where a dispute arises between an employer and a worker over the payment of work-related injury insurance benefits, the parties shall resolve the dispute through consultation. If consultation fails, they may apply for mediation or arbitration or bring an action in court in accordance with the relevant provisions on the settlement of labor disputes.

Article 32. Where a worker who suffers a work-related injury needs to be fitted with an assistive device such as a wheelchair, prosthesis, orthosis, or hearing aid as a result of his or her routine living or employment needs, and the need is confirmed by the work capacity appraisal committee, the required expenses shall be paid from the work-related injury insurance fund in accordance with the standards prescribed by the state.

Article 33. Where a worker suffers an accidental injury at work or contracts an occupational disease and needs to suspend work for medical treatment, the employer shall pay his wages and benefits as usual during the period of suspension of work with pay (ting gong liu xin qi). The period of suspension of work with pay shall generally not exceed 12 months. Where the injury is serious or the circumstances are special, the period may be appropriately extended upon confirmation by a municipal labor ability appraisal committee, but the extension shall not exceed 12 months. After the work capacity of an injured worker is appraised and graded, the original benefits shall be discontinued and the worker shall enjoy disability benefits in accordance with the relevant provisions of this Chapter. If an injured worker still needs treatment after the period of suspension of work with pay has expired, he or she shall continue to enjoy medical treatment benefits for work-related injuries. Where an injured worker who is unable to care for himself or herself needs nursing care during the period of suspension of work with pay, the employer shall be responsible for such care.

Article 34. Where an injured worker has been assessed for his or her work capacity and confirmed by the work capacity appraisal committee as needing nursing care, the nursing care fee shall be paid from the work-related injury insurance fund on a monthly basis. The nursing care fee shall be paid based on the degree of inability to care for oneself: 50%, 40% or 30% of the average monthly wages of workers in the overall planning area in the previous year, respectively, for complete inability to care for oneself, inability to care for oneself in most aspects of daily life, and partial inability to care for oneself in some aspects of daily life.

Article 35. Where a worker suffers a work-related injury and his or her injury-disability is appraised as being at Grade 1 through Grade 4, he or she shall retain his or her employment relationship and withdraw from his or her post, and shall enjoy the following benefits: (1) a lump-sum disability subsidy shall be paid from the work-related injury insurance fund based on the disability grade, with the standard being: 27 months, 25 months, 23 months or 21 months of the worker’s own wages for Grade 1, Grade 2, Grade 3 or Grade 4 disability, respectively; (2) a monthly disability allowance shall be paid from the work-related injury insurance fund, with the standard being: 90%, 85%, 80% or 75% of the worker’s own wages for Grade 1, Grade 2, Grade 3 or Grade 4 disability, respectively. If the actual amount of the disability allowance is lower than the local minimum wage standard, the work-related injury insurance fund shall make up the difference; (3) after the injured worker reaches retirement age and goes through the retirement formalities, the disability allowance shall be discontinued and he or she shall enjoy the basic old-age insurance benefits in accordance with the relevant provisions of the state. If the basic old-age insurance benefits are lower than the disability allowance, the work-related injury insurance fund shall make up the difference. For workers whose injury-disability is appraised as being at Grade 1 through Grade 4, the employer and the worker themselves shall pay basic medical insurance premiums based on the disability allowance.

Article 36. Where a worker suffers a work-related injury and his or her injury-disability is appraised as being at Grade 5 or Grade 6, he or she shall enjoy the following benefits: (1) a lump-sum disability subsidy shall be

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paid from the work-related injury insurance fund based on the disability grade, with the standard being: 18 months or 16 months of the worker's own wages for Grade 5 or Grade 6 disability, respectively; (2) the employment relationship with the employer shall be retained, and the employer shall arrange appropriate work for the worker. If it is difficult to arrange work, the employer shall pay a monthly disability allowance, with the standard being: 70% or 60% of the worker's own wages for Grade 5 or Grade 6 disability, respectively, and the employer shall pay all social insurance premiums payable for the worker in accordance with the relevant provisions. If the actual amount of the disability allowance is lower than the local minimum wage standard, the employer shall make up the difference. Upon the worker's own request, the worker may terminate or dissolve the employment relationship with the employer, in which case the employer shall pay a lump-sum disability employment subsidy. The specific standards shall be prescribed by the people's government of the province, autonomous region, or municipality directly under the Central Government.

Article 37. Where a worker suffers a work-related injury and his or her injury-disability is appraised as being at Grade 7 through Grade 10, he or she shall enjoy the following benefits: (1) a lump-sum disability subsidy shall be paid from the work-related injury insurance fund based on the disability grade, with the standard being: 13 months, 11 months, 9 months or 7 months of the worker's own wages for Grade 7, Grade 8, Grade 9 or Grade 10 disability, respectively; (2) where the labor contract or employment contract is terminated upon expiry or the worker himself proposes to terminate the labor contract or employment contract, a lump-sum medical subsidy for work-related injury shall be paid by the work-related injury insurance fund, and a lump-sum disability employment subsidy shall be paid by the employer. The specific standards for the lump-sum medical subsidy for work-related injury and the lump-sum disability employment subsidy shall be prescribed by the people's government of the province, autonomous region, or municipality directly under the Central Government.

Article 38. Where a worker who suffers a work-related injury relapses from a work-related injury and needs treatment after the work capacity appraisal conclusion is confirmed, he or she shall enjoy the benefits prescribed in Articles 30, 32, and 33 of these Regulations.

Article 39. Where a worker dies on the job, his close relatives shall receive from the work-related injury insurance fund a funeral subsidy, a dependent relatives' pension and a lump-sum work-related death subsidy in accordance with the following provisions: (1) The funeral subsidy shall be six times the average monthly wages of workers in the overall planning area in the previous year. (2) The dependent relatives' pension shall be paid at a certain proportion of the wages of the worker himself to the relatives of the deceased worker who were mainly dependent on the deceased worker for their source of livelihood and were unable to work. The standard shall be: 40% per month for the spouse, 30% per month for each other relative, and an additional 10% per month for each elderly person living alone or orphan based on the above standard. The sum of the dependent relatives' pensions approved for each dependent relative shall not be higher than the wages of the deceased worker during his lifetime. The specific scope of dependent relatives shall be prescribed by the social insurance administrative department under the State Council. (3) The lump-sum work-related death subsidy shall be 20 times the national per capita disposable income of urban residents in the previous year. Where a disabled worker dies during the period of suspension of work with pay as a result of the work-related injury, his close relatives shall enjoy the benefits prescribed in paragraph 1 of this Article. Where a disabled worker at Grade 1 through Grade 4 dies after the period of suspension of work with pay expires, his or her close relatives may enjoy the benefits prescribed in items (1) and (2) of paragraph 1 of this Article.

Article 40. Where the benefits of work-related injury insurance that shall be paid from the work-related injury insurance fund in accordance with the provisions of these Regulations are suspended as a result of the worker's loss of the qualification to enjoy the benefits, the corresponding benefits shall be adjusted by the social insurance administrative department; where the circumstances change, the benefits shall be resumed.

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Article 41. Where a worker suffers a work-related injury as a result of a work-related accident while traveling on assignment, and the civil compensation has already been obtained, the payment from the work-related injury insurance fund shall not be duplicated with the civil compensation, but the work-related injury insurance benefits shall be paid on a compensatory basis.

Article 42. Where a worker injured at work falls under any of the following circumstances, the enjoyment of work-related injury insurance benefits shall be discontinued: (1) loss of the conditions for enjoying the benefits; (2) refusal to accept work capacity appraisal; or (3) refusal to receive treatment.

Article 43. Where an employer is divided, merged or transferred, the successor entity shall assume the liability for work-related injury insurance of the original employer. Where an employer contracts out its operations, the work-related injury insurance liability shall be borne by the entity with which the worker has an employment relationship. Where a worker suffers a work-related injury while engaging in contracted business for another enterprise, the enterprise that contracted out the business shall bear the work-related injury insurance liability. Where a worker is dispatched to work overseas by the employer and suffers a work-related injury while overseas, the work-related injury insurance liability shall be handled in accordance with the provisions on work abroad. The specific measures shall be formulated by the social insurance administrative department under the State Council.

Article 44. Where a worker is dispatched by the employer to work outside the overall planning area, the work-related injury insurance relationship shall be handled in accordance with the relevant provisions of the state on work-related injury insurance for cross-regional workers.

Article 45. The amount of work-related injury insurance benefits shall be calculated based on the wages of the worker himself. Where the wages of the worker himself are lower than 60% of the average wages of workers in the overall planning area, the calculation shall be based on 60% of the average wages of workers in the overall planning area. Where the wages of the worker himself are higher than 300% of the average wages of workers in the overall planning area, the calculation shall be based on 300% of the average wages of workers in the overall planning area.

Chapter VI — Supervision and Administration

Article 46. The social insurance administrative departments shall supervise and inspect the work-related injury insurance work of employers and social insurance agencies in accordance with the law. Where an employer commits any illegal act, it shall be ordered to make corrections and shall be dealt with in accordance with the law.

Article 47. The social insurance administrative departments shall formulate unified work-related injury insurance business management standards and procedures and regulate the work of social insurance agencies.

Article 48. Social insurance agencies shall establish, improve and maintain work-related injury insurance business files and improve management and service levels.

Article 49. Social insurance agencies shall conduct verification of work-related injury insurance premium payments and work-related injury occurrences of employers on a regular or irregular basis. During verification, social insurance agencies may record, audio-record, video-record and make copies of materials related to work-related injury insurance premium payments and work-related injury occurrences, and the units and individuals under investigation shall provide truthful and relevant materials.

Article 50. Where a social insurance agency discovers in the course of verification that an employer has failed to truthfully declare the work-related injury insurance premium base or number of insured persons in accordance with the law, it shall order the employer to make a supplementary declaration or corrections. If the employer refuses to do so, the social insurance agency shall transfer the matter to the social insurance

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premium collection agency for handling in accordance with the law. Where a medical institution or an assistive device fitting institution providing work-related injury medical services fails to provide services in accordance with the relevant provisions, the social insurance agency may terminate the service agreement.

Article 51. The financial departments and audit institutions shall, in accordance with the law, supervise the income and expenditure and management of the work-related injury insurance fund.

Article 52. The social insurance administrative departments shall regularly publicize the income and expenditure of the work-related injury insurance fund in the overall planning area and accept social supervision.

Article 53. Trade union organizations shall safeguard the lawful rights and interests of injured workers in accordance with the law and supervise the work-related injury insurance work of employers. Trade union organizations shall have the right to participate in the investigation of work-related injury accidents and raise opinions and suggestions on the treatment and other issues of injured workers.

Article 54. Any organization or individual shall have the right to report or complain about violations of the work-related injury insurance regulations. The social insurance administrative departments shall promptly investigate and deal with the reported or complained violations in accordance with the law. Social insurance administrative departments, social insurance agencies and their staff shall keep confidential the information of whistleblowers.

Article 55. Where an injured worker, his close relatives or the employer disagrees with a decision of the social insurance administrative department on the determination of a work-related injury or the assessment of work-related injury insurance benefits, he may apply for administrative reconsideration or bring an administrative lawsuit in accordance with the law.

Chapter VII — Legal Liability

Article 56. Where any entity or individual misappropriates the work-related injury insurance fund, the misappropriated fund shall be recovered, the illegal gains shall be confiscated, and the entity or individual shall be given sanctions in accordance with the law. Where the case constitutes a crime, criminal liability shall be pursued in accordance with the law.

Article 57. Where a staff member of the social insurance administrative department commits any of the following acts, he or she shall be given an administrative sanction in accordance with the law; where the circumstances are serious and constitute a crime, criminal liability shall be pursued in accordance with the law: (1) accepting an application for determination of a work-related injury without justifiable reason; (2) failing to keep confidential the information of the parties involved in an investigation and verification of a work-related injury determination; or (3) taking advantage of his or her position to accept or solicit property from others or seek other illegitimate benefits.

Article 58. Where a social insurance agency commits any of the following acts, the social insurance administrative department shall order it to make corrections; the directly responsible person in charge and other directly responsible persons shall be given sanctions in accordance with the law; where the circumstances are serious and constitute a crime, criminal liability shall be pursued in accordance with the law: (1) failing to verify the payment of work-related injury insurance premiums in accordance with the provisions; (2) failing to examine and approve the payment of work-related injury insurance benefits in accordance with the provisions; or (3) failing to keep social insurance files intact or divulging information of employers or workers.

Article 59. Where a medical institution or an assistive device fitting institution providing work-related injury medical services provides false certification documents or defrauds work-related injury insurance fund expenditures, the social insurance administrative department shall order it to return the defrauded amount

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and impose a fine of not less than two times but not more than five times the defrauded amount. Where the circumstances are serious, the social insurance agency may terminate the service agreement with it. Where the directly responsible person in charge and other directly responsible persons are qualified for practice, their practicing certificates shall be revoked in accordance with the law.

Article 60. Where a work capacity appraisal committee or an expert participating in the appraisal commits any of the following acts, the social insurance administrative department shall order it to make corrections; the directly responsible person in charge and other directly responsible persons shall be given sanctions in accordance with the law: (1) providing false appraisal opinions; or (2) accepting property from the parties involved in the appraisal.

Article 61. Where an employer or an individual defrauds work-related injury insurance fund expenditures by fraud, forgery of certification materials or other means, the social insurance administrative department shall order it to return the defrauded amount and impose a fine of not less than two times but not more than five times the defrauded amount. Where the case constitutes a crime, criminal liability shall be pursued in accordance with the law.

Article 62. Where an employer that shall participate in work-related injury insurance in accordance with these Regulations fails to do so, the social insurance administrative department shall order it to participate within a specified time limit, make supplementary payment of the work-related injury insurance premiums payable, and impose a late payment surcharge of 0.05% per day from the date of default. If the employer fails to make the payment within the specified time limit, a fine of not less than one time but not more than three times the amount in arrears shall be imposed. For a worker of an employer that fails to participate in work-related injury insurance in accordance with these Regulations who suffers a work-related injury, the employer shall pay the work-related injury insurance benefits in accordance with the items and standards prescribed in these Regulations. Where an employer participates in work-related injury insurance and makes supplementary payment of the work-related injury insurance premiums and late payment surcharge payable, the work-related injury insurance fund and the employer shall each pay the newly incurred expenses for the work-related injury in accordance with the provisions of these Regulations.

Article 63. Where an employer fails to pay work-related injury insurance premiums in accordance with the law, or fails to truthfully declare the work-related injury insurance premium base or number of insured persons, the social insurance premium collection agency shall order it to make corrections. If the employer refuses to make corrections, the social insurance premium collection agency may apply to the relevant authority for seizure of property or apply to the people’s court for compulsory enforcement.

Chapter VIII — Supplementary Provisions

Article 64. For the purpose of these Regulations, the term “total wages” means the total amount of labor remuneration paid directly by an employer to all its workers. For the purpose of these Regulations, the term “wages of the worker himself” means the average monthly wages of the worker in the 12 months prior to the work-related injury.

Article 65. The work-related injury insurance benefits for civil servants and staff members of public institutions administered under the civil service system shall be implemented in accordance with the relevant provisions of the State Council.

Article 66. Where an unlicensed business entity or a business entity whose business license has been revoked according to the law causes bodily injury to a worker as a result of an accident or causes the worker to contract an occupational disease, the employer shall pay compensation to the worker. The compensation standard shall not be lower than the standard for work-related injury insurance benefits prescribed in these Regulations. Where a worker of an employer specified in the preceding paragraph suffers an accidental injury or contracts an occupational disease, or a child worker employed by the employer suffers an

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accidental injury or contracts an occupational disease, the employer shall pay compensation. Where the employer refuses to pay, the worker or his close relatives may apply for an advance payment from the work-related injury insurance fund, which shall be returned by the employer. If the employer fails to return the payment, the social insurance agency may recover it in accordance with the provisions of Article 63 of these Regulations. The specific measures shall be prescribed by the social insurance administrative department under the State Council.

Article 67. These Regulations shall take effect on January 1, 2004. The Trial Measures on Work-Related Injury Insurance for Enterprise Workers promulgated by the Ministry of Labor on August 12, 1996 shall be repealed simultaneously. Matters relating to work-related injuries that occurred before the implementation of these Regulations but have not been settled on the effective date of these Regulations shall be handled in accordance with the provisions of these Regulations.

Disclaimer:

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