Regulations on Work-Related Injury Insurance of the PRC

Dan Young Business Consultancy — www.danyoungcpa.com

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

Contents

Table of Contents 1

Chapter I — General Provisions 1

Chapter II — Work-Related Injury Insurance Fund 2

Chapter III — Recognition of Work-Related Injury 3

Chapter IV — Assessment of Capacity to Work 5

Chapter V — Work-Related Injury Insurance Benefits 6

Chapter VI — Supervision and Administration 9

Chapter VII — Legal Liability 10

Chapter VIII — Supplementary Provisions 11

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Table of Contents

- Chapter I — General Provisions
- Chapter II — Work-Related Injury Insurance Fund
- Chapter III — Recognition of Work-Related Injury
- Chapter IV — Assessment of Capacity to Work
- Chapter V — Work-Related Injury Insurance Benefits
- Chapter VI — Supervision and Administration
- Chapter VII — Legal Liability
- Chapter VIII — Supplementary Provisions

Chapter I — General Provisions

Article 1 — These Regulations are enacted in accordance with the Social Insurance Law of the PRC to provide security for workers who suffer accidental injuries at work or contract occupational diseases so that they may obtain medical treatment and economic compensation, promote the prevention of work-related injuries and occupational rehabilitation, and disperse the risk of work-related injury for employers.

Article 2 — All enterprises, public institutions, social organizations, private non-enterprise units, foundations, law firms, accounting firms, and other organizations, as well as individual industrial and commercial households with hired employees within the territory of the PRC (hereinafter referred to as "employers") shall participate in work-related injury insurance and pay work-related injury insurance premiums for all their employees or hired workers (hereinafter referred to as "employees") in accordance with the provisions of these Regulations. Employees of the entities listed in the preceding paragraph shall have the right to enjoy work-related injury insurance benefits in accordance with the provisions of these Regulations.

Article 3 — The collection of work-related injury insurance premiums shall be handled in accordance with the provisions of the Social Insurance Law on the collection of social insurance premiums.

Article 4 — Employers shall post in a conspicuous place in their premises the particulars of their participation in work-related injury insurance. Employers and employees shall comply with the laws and regulations on work safety and the prevention and control of occupational diseases, implement safety and health regulations and standards, prevent work-related injury accidents, and avoid and reduce occupational disease hazards. When a work-related injury occurs to an employee, the employer shall take measures to enable the injured employee to receive timely medical treatment.

Article 5 — The social insurance administration department of the State Council shall be responsible for the administration of work-related injury insurance nationwide. The social insurance administration 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. Social insurance agencies established by the social insurance administration departments (hereinafter referred to as "agencies") shall undertake the specific matters of work-related injury insurance.

Article 6 — When formulating policies and standards for work-related injury insurance, the social insurance administration departments and other relevant departments shall solicit 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 that shall be included in the work-related injury insurance fund in accordance with law.

Article 8 — The rate of work-related injury insurance premiums shall be determined based on the principle of basing expenditures on revenues and maintaining a balance between revenues and expenditures. The State shall determine differential premium rates for different industries based on the different degrees of risk of work-related injury in different industries, and shall determine several tiers of premium rates within each industry based on the circumstances such as the use of the work-related injury insurance fund and the incidence of work-related injuries. The measures for differential premium rates for different industries and tiers of premium rates within each industry shall be formulated by the social insurance administration department of the State Council and implemented after being submitted to and approved by the State Council.

Article 9 — The social insurance administration department of the State Council shall regularly keep abreast of the use of the work-related injury insurance fund and the incidence of work-related injuries across the country and in each pooling area, and shall, in a timely manner, propose plans for adjusting the differential premium rates for different industries and the tiers of premium rates within each industry. Such plans shall be

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submitted to and approved by the State Council for promulgation and implementation.

Article 10 — Employers shall pay work-related injury insurance premiums on time. Employees 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 the employees of the employer multiplied by the premium rate of the employer. For an employer that has difficulty in paying work-related injury insurance premiums at the premium rate applicable to its industry, the agency shall, upon application by the employer and in consideration of factors such as the use of the work-related injury insurance fund and the incidence of work-related injuries incurred by the employer, appropriately adjust the tier of the premium rate within the industry applicable to the employer.

Article 11 — The work-related injury insurance fund shall be gradually subject to provincial-level pooling. For the trans-provincial or trans-regional production safety accidents in industries with a relatively high degree of mobility, the specific measures for the participation of such industries in work-related injury insurance at a pooling level below the provincial level shall be separately formulated by the social insurance administration department of the State Council jointly with the relevant departments of the State Council.

Article 12 — The work-related injury insurance fund shall be deposited into the special social security fund financial account and shall be used for work-related injury insurance benefits, the assessment of capacity to work, publicity and training on the prevention of work-related injuries, and other expenses prescribed by laws and regulations for the work-related injury insurance fund. The allocation proportion of the expenses for the prevention of work-related injuries and the specific measures for the use and administration thereof shall be formulated by the social insurance administration department of the State Council jointly with the finance department, the health administration department, and the work safety supervision and administration department of the State Council. No entity or individual may use the work-related injury insurance fund for investment or operation, construct or reconstruct office premises, distribute bonuses, or divert it to any other use.

Article 13 — A work-related injury insurance reserve fund shall be established. Where the work-related injury insurance fund for a pooling area is insufficient to pay work-related injury insurance benefits, the insufficiency shall be made up by the reserve fund. The reserve fund shall be drawn from the work-related injury insurance fund of a pooling area at a certain ratio. If there is still a deficiency after the reserve fund is used to cover the insufficiency of the fund of the pooling area, the people's government of the pooling area shall make up the deficiency. The specific ratio for drawing the reserve fund and the measures for the use thereof shall be formulated by the people's government of each province, autonomous region, or municipality directly under the Central Government.

Chapter III — Recognition of Work-Related Injury

Article 14 — An employee shall be deemed 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 at the workplace before or after working hours; (3) being injured by violence or other accidental injury while performing work duties during working hours and at the workplace; (4) contracting an occupational disease; (5) being injured or having an accident go missing during a business trip for work purposes; (6) being injured in a motor vehicle accident or an 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 shall be deemed work-related injuries as prescribed by laws and administrative regulations.

Article 15 — An employee shall be treated as having suffered a work-related injury under any of the following circumstances: (1) dying from a sudden illness during working hours and at the workplace, or dying within 48 hours after emergency medical treatment fails; (2) being injured in an act to safeguard national interests or public interests, such as disaster relief; (3) an employee who previously served in the military and was

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disabled due to war or in the line of duty, and who has obtained the certificate of revolutionary disabled serviceman, and whose old injury recurs after being employed by the employer. An employee who falls under any of the circumstances specified in subparagraph (1) or (2) of the preceding paragraph shall enjoy work-related injury insurance benefits in accordance with the relevant provisions of these Regulations; an employee who falls under the circumstance specified in subparagraph (3) of the preceding paragraph shall enjoy work-related injury insurance benefits other than the lump-sum disability subsidy in accordance with the relevant provisions of these Regulations.

Article 16 — An employee shall not be deemed to have suffered a work-related injury or treated as having suffered a work-related injury if the employee falls under any of the following circumstances despite meeting the conditions specified in Articles 14 and 15 of these Regulations: (1) committing a crime intentionally; (2) being intoxicated or taking drugs; (3) self-mutilation or suicide.

Article 17 — Where an employee suffers an accidental injury at work or is diagnosed or identified as having contracted an occupational disease in accordance with the provisions of the Law on the Prevention and Control of Occupational Diseases, the employer concerned shall, within 30 days from the date the accidental injury occurs or the employee is diagnosed or identified as having contracted an occupational disease, file an application for recognition of the work-related injury with the social insurance administration department of the pooling area. Under special circumstances, the time limit for filing the application may be appropriately extended with the consent of the social insurance administration department. Where the employer fails to file an application for recognition of the work-related injury within the time limit specified in the preceding paragraph, the injured employee or his or her close relatives or the trade union organization may, within one year from the date the accidental injury occurs or the employee is diagnosed or identified as having contracted an occupational disease, directly file an application for recognition of the work-related injury with the social insurance administration department of the place where the employer is located. For matters for which an application for recognition of the work-related injury shall be filed with the social insurance administration department of the provincial level in accordance with the provisions of the first paragraph of this Article, the application shall be filed in accordance with the principle of territoriality with the social insurance administration department of the city divided into districts at the place where the employer is located. Where the employer fails to file an application for recognition of the work-related injury within the time limit specified in the first paragraph of this Article, the employer shall bear the relevant expenses such as medical treatment expenses for the work-related injury that comply with the provisions of these Regulations during the period from the date the accidental injury occurs or the employee is diagnosed or identified as having contracted an occupational disease to the date the application is accepted.

Article 18 — To file an application for recognition of a work-related injury, the following materials shall be submitted: (1) the application form for recognition of the work-related injury; (2) proof of the existence of an employment relationship (including de facto employment relationship) with the employer; (3) a diagnosis certificate of the medical condition or a certificate of diagnosis of the occupational disease (or a certificate of identification of the occupational disease). The application form for recognition of the work-related injury shall include basic information such as the time, place, and cause of the accident and the degree of injury to the employee. Where the materials required for recognition of the work-related injury submitted by the applicant are incomplete, the social insurance administration department shall notify in writing all the materials that need to be supplemented and corrected at one time. After the applicant has supplemented and corrected the materials as required in the written notice, the social insurance administration department shall accept the application.

Article 19 — After accepting an application for recognition of a work-related injury, the social insurance administration department may, based on the need for examination and verification, investigate and verify the accidental injury and handle it in accordance with law, and the employer, employees, trade union organizations, medical institutions, and relevant departments shall provide assistance. In the recognition of

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an occupational disease and diagnosis and identification of an occupational disease shall be carried out in accordance with the relevant provisions of the Law on the Prevention and Control of Occupational Diseases. Where a dispute arises because the employer and the employee have provided different evidence as to whether a work-related injury exists, the burden of proof shall be borne by the employer.

Article 20 — The social insurance administration department shall make a decision on the recognition of the work-related injury within 60 days from the date of accepting the application for recognition of the work-related injury, and shall notify in writing the employee who has applied for recognition of the work-related injury or his or her close relatives and the employee's employer. Where the social insurance administration department accepts an application for recognition of a work-related injury where the facts are clear and the rights and obligations are clear, it shall make a decision on the recognition of the work-related injury within 15 days. Where a decision on the recognition of the work-related injury requires the conclusion of a judicial authority or the relevant administrative authority as a basis, the time limit for making the decision on the recognition of the work-related injury shall be suspended during the period when the conclusion of the judicial authority or the relevant administrative authority has not yet been rendered. Where a staff member of the social insurance administration department has an interest in the applicant for recognition of the work-related injury, he or she shall withdraw.

Chapter IV — Assessment of Capacity to Work

Article 21 — Where an employee suffers a work-related injury and has a disability that affects his or her capacity to work after his or her condition has become relatively stable after treatment, an assessment of his or her capacity to work shall be conducted.

Article 22 — An assessment of capacity to work shall determine the level of dysfunction of the capacity to work and the level of impairment of the capacity for self-care. Dysfunction of the capacity to work shall be classified into 10 levels of disability, with Level 1 being the most severe and Level 10 being the mildest. Impairment of the capacity for self-care shall be classified into three levels: complete inability to care for oneself, inability to care for oneself for most of the activities of daily living, and inability to care for oneself for some of the activities of daily living. The standards for the assessment of capacity to work shall be formulated by the social insurance administration department of the State Council jointly with the health administration department and other relevant departments of the State Council.

Article 23 — An assessment of capacity to work shall be applied for by the employer, the injured employee, or his or her close relatives to the work capacity assessment committee of the city divided into districts, and shall provide the relevant materials on the recognition of the work-related injury and the medical treatment of the employee.

Article 24 — Work capacity assessment committees shall be established in each province, autonomous region, municipality directly under the Central Government, and city divided into districts. A work capacity assessment committee shall be composed of representatives from the social insurance administration department, the health administration department, the trade union organization, the agency, and the employer of the relevant province, autonomous region, municipality directly under the Central Government, or city divided into districts. The work capacity assessment committee shall establish a database of medical and health experts. The experts included in the database shall meet the following conditions: (1) having a senior professional technical title in medicine and health; (2) possessing good professional ethics; (3) having sound health and being able to undertake the assessment of capacity to work.

Article 25 — After receiving an application for assessment of capacity to work, the work capacity assessment committee of the city divided into districts shall randomly select three or five relevant experts from its database of medical and health experts to form an expert panel, and the expert panel shall provide an assessment opinion. Based on the assessment opinion of the expert panel, the work capacity assessment committee of the city divided into districts shall make a conclusion on the assessment of the capacity to work

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of the injured employee; when necessary, it may entrust a qualified medical institution to assist in the relevant diagnosis. The work capacity assessment committee of the city divided into districts shall make a conclusion on the assessment of the capacity to work within 60 days from the date of receiving the application for the assessment of capacity to work and, when necessary, the time limit for making the conclusion on the assessment of the capacity to work may be extended for 30 days. The conclusion on the assessment of the capacity to work shall be promptly served on the entity and individual applying for the assessment.

Article 26 — Where the employer or individual applying for the assessment is dissatisfied with the conclusion on the assessment of the capacity to work made by the work capacity assessment committee of the city divided into districts, it or he or she may, within 15 days from the date of receiving the conclusion on the assessment, apply to the work capacity assessment committee of the relevant province, autonomous region, or municipality directly under the Central Government for a new assessment. The conclusion on the assessment of the capacity to work made by the work capacity assessment committee of the province, autonomous region, or municipality directly under the Central Government shall be final.

Article 27 — The assessment of capacity to work shall be objective and fair. Members of a work capacity assessment committee and the experts participating in the assessment shall withdraw if they have an interest in the parties or the applicant.

Article 28 — Where one year has elapsed since the conclusion on the assessment of the capacity to work was made, and the injured employee or his or her close relatives, the employer, or the agency considers that the disability condition has changed, an application for re-examination and re-assessment of the capacity to work may be filed.

Article 29 — "Re-examination and re-assessment of the capacity to work" as used in these Regulations means the assessment of the capacity to work filed in accordance with the provisions of Article 28 of these Regulations after the conclusion on the assessment of the capacity to work has been made. The relevant provisions of Articles 23 through 27 shall apply to the procedures for re-examination and re-assessment.

Chapter V — Work-Related Injury Insurance Benefits

Article 30 — An employee who suffers a work-related injury shall receive medical treatment at a medical institution that has entered into a service agreement. In an emergency, the employee may first go to the nearest medical institution for emergency treatment. Expenses incurred for the treatment of a work-related injury that meet the items and standards of the work-related injury insurance diagnosis and treatment catalogue, the work-related injury insurance drug catalogue, and the work-related injury insurance hospitalization service standards shall be paid from the work-related injury insurance fund. The work-related injury insurance diagnosis and treatment catalogue, the work-related injury insurance drug catalogue, and the work-related injury insurance hospitalization service standards shall be formulated by the social insurance administration department of the State Council jointly with the health administration department, the food and drug administration department, and other relevant departments of the State Council. Meal subsidies for an employee hospitalized for the treatment of a work-related injury, as well as transportation, accommodation, and meal expenses required for an injured employee to seek medical treatment at a medical institution outside the pooling area upon certification by the medical institution and approval by the agency, shall be paid from the work-related injury insurance fund. The specific standards for such payments shall be prescribed by the people's government of the pooling area. An employee who suffers a work-related injury and is treated for a disease not caused by the work-related injury shall not enjoy medical treatment benefits for the work-related injury and shall be treated in accordance with the provisions on basic medical insurance. Where an injured employee receives occupational rehabilitation at a medical institution that has entered into a service agreement, the expenses incurred shall be paid from the work-related injury insurance fund in accordance with the relevant provisions.

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Article 31 — Where the social insurance administration department makes a decision on the recognition of a work-related injury and then an administrative reconsideration or administrative lawsuit occurs, the payment of the medical treatment expenses for the injured employee shall not be suspended during the period of administrative reconsideration or administrative lawsuit.

Article 32 — Where an injured employee needs to be fitted with an assistive device such as a wheelchair because of the necessities of daily life or employment, the expenses shall be paid from the work-related injury insurance fund in accordance with the standards prescribed by the State upon confirmation by the work capacity assessment committee.

Article 33 — Where an employee needs to suspend work to receive medical treatment for an accidental injury at work or an occupational disease, the employer shall continue to pay the employee's wages and benefits on a monthly basis at the same level as before the injury during the period of suspension from work with pay. The period of suspension from 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 with confirmation by the work capacity assessment committee of the city divided into districts, but the extension shall not exceed 12 months. After the injured employee is assessed for his or her capacity to work, he or she shall cease to enjoy the treatment of suspension from work with pay, and the relevant disability treatment shall be provided in accordance with the relevant provisions of this Chapter. If an injured employee needs nursing care during the period of suspension from work with pay after the assessment of the capacity to work, the nursing care shall be the responsibility of the employer.

Article 34 — Where an injured employee has been assessed for his or her capacity to work and confirmed by the work capacity assessment committee as needing nursing care in daily life, the nursing care expenses shall be paid from the work-related injury insurance fund on a monthly basis. Nursing care expenses shall be paid based on the three different levels of complete inability to care for oneself, inability to care for oneself for most of the activities of daily living, or inability to care for oneself for some of the activities of daily living, at 50 percent, 40 percent, or 30 percent of the average monthly wages of employees in the pooling area in the previous year, respectively.

Article 35 — Where an employee is assessed as having a disability of Level 1 to Level 4 due to a work-related injury, he or she shall retain his or her employment relationship and leave his or her position, 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 level of disability: 27 months of the employee's own wages for Level 1 disability, 25 months for Level 2 disability, 23 months for Level 3 disability, and 21 months for Level 4 disability; (2) a monthly disability allowance shall be paid from the work-related injury insurance fund: 90 percent of the employee's own wages for Level 1 disability, 85 percent for Level 2 disability, 80 percent for Level 3 disability, and 75 percent for Level 4 disability. Where the actual amount of the disability allowance is lower than the local minimum wage standard, the deficiency shall be made up by the work-related injury insurance fund; (3) after an injured employee reaches the retirement age and goes through the retirement procedures, the payment of the disability allowance shall cease and the employee shall enjoy the basic old-age insurance benefits in accordance with the relevant provisions of the State. Where the basic old-age insurance benefits are lower than the disability allowance, the deficiency shall be made up by the work-related injury insurance fund. For an employee who is assessed as having a disability of Level 1 to Level 4 due to a work-related injury, the employer and the employee shall pay basic medical insurance premiums based on the disability allowance.

Article 36 — Where an employee is assessed as having a disability of Level 5 or Level 6 due to a work-related injury, 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 level of disability: 18 months of the employee's own wages for Level 5 disability and 16 months for Level 6 disability; (2) the employment 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 monthly disability allowance: 70 percent of the employee's own wages for Level 5 disability and 60 percent for Level 6 disability, and the employer shall pay various social insurance premiums for the employee as required. Where the actual amount of the disability allowance is lower than the local minimum wage standard, the deficiency shall be made up by the employer. Upon the employee's own proposal, the employee may terminate or rescind the employment relationship with the employer, in which case a lump-sum work-related injury medical subsidy 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 work-related injury medical subsidy 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 37 — Where an employee is assessed as having a disability of Level 7 to Level 10 due to a work-related injury, 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 level of disability: 13 months of the employee's own wages for Level 7 disability, 11 months for Level 8 disability, 9 months for Level 9 disability, and 7 months for Level 10 disability; (2) where the employment contract expires and is terminated, or the employee proposes to rescind the employment contract, a lump-sum work-related injury medical subsidy 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 work-related injury medical subsidy 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 an injured employee has a recurrence of his or her work-related injury and it is confirmed that he or she needs treatment, he or she shall enjoy the benefits specified in Articles 30, 32, and 33 of these Regulations.

Article 39 — Where an employee dies as a result of a work-related injury, his or her close relatives shall receive a funeral subsidy, a dependent relative pension, and a lump-sum work-related death subsidy from the work-related injury insurance fund in accordance with the following provisions: (1) the funeral subsidy shall be six months of the average monthly wages of employees in the pooling area in the previous year; (2) the dependent relative pension shall be paid to the relatives who were mainly dependent on the source of livelihood provided by the deceased employee during his or her lifetime and were unable to work, at a certain proportion of the employee's own wages. The standard shall be: 40 percent per month for the spouse, 30 percent per month for each other relative, and an additional 10 percent for each elderly relative or orphan on a lump-sum basis based on the above standards. The total amount of the dependent relative pension approved shall not exceed the wages of the deceased employee during his or her lifetime. The specific scope of the dependent relatives shall be prescribed by the social insurance administration department of the State Council; (3) the standard for 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 employee dies due to the recurrence of a work-related injury during the period of suspension from work with pay, his or her close relatives shall enjoy the benefits specified in the first paragraph of this Article. Where an employee with a Level 1 to Level 4 disability dies of a disease not caused by work after the period of suspension from work with pay expires, his or her close relatives may enjoy the benefits specified in subparagraph (1) and subparagraph (2) of the first paragraph of this Article.

Article 40 — Work-related injury insurance benefits shall be adjusted in a timely manner when there is a change in the average wages of employees or the standard of living expenses. The measures for adjustment shall be formulated by the people's government of each province, autonomous region, or municipality directly under the Central Government.

Article 41 — Where an employee goes missing at work due to a work-related injury, the employer shall continue to pay the employee's wages for three months from the month in which the accident occurs and,

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from the fourth month, cease to pay wages, and the dependent relative pension shall be paid from the work-related injury insurance fund to the employee's close relatives on a monthly basis. Where life is difficult, a pre-payment of 50 percent of the lump-sum work-related death subsidy may be made. Where the employee is declared dead by a people's court, the matter shall be handled in accordance with the provisions of Article 39 of these Regulations.

Article 42 — The payment of work-related injury insurance benefits shall be suspended under any of the following circumstances: (1) the enjoyment of work-related injury insurance benefits is lost; (2) the assessment of the capacity to work is refused; (3) medical treatment is refused.

Article 43 — Where an employer is divided or merged, the successor entity shall assume the liability for work-related injury insurance of the original employer. Where an enterprise legal person goes through bankruptcy, it shall first pay, in the bankruptcy liquidation, the work-related injury insurance benefits that it is required to pay in accordance with law.

Article 44 — Where an employee is dispatched to work outside the country and it is not possible to participate in work-related injury insurance in the host country in accordance with the laws of the host country in which work is performed, the employee's domestic participation in work-related injury insurance shall not be suspended. The domestic work-related injury insurance benefits shall be continued.

Article 45 — The wages of an injured employee during the period of suspension from work with pay, the subsidy for living care for an employee with a Level 5 or Level 6 disability, and the expenses for the re-examination and assessment of the capacity to work as paid by the employer as required shall be disbursed by the employer.

Chapter VI — Supervision and Administration

Article 46 — The agencies shall handle the specific affairs of work-related injury insurance and perform the following duties: (1) collecting work-related injury insurance premiums in accordance with the provisions of the province, autonomous region, or municipality directly under the Central Government; (2) verifying the employer's total wages and the number of employees, registering work-related injuries, and keeping records of the employer's payment of work-related injury insurance premiums and the enjoyment of work-related injury insurance benefits; (3) conducting surveys and statistics on work-related injury insurance; (4) administering the expenditure of the work-related injury insurance fund in accordance with regulations and verifying and paying work-related injury insurance benefits; (5) providing consulting services on work-related injury insurance free of charge.

Article 47 — When the agencies enter into service agreements with medical institutions and assistive device fitting institutions and hereby settle relevant expenses, they shall hear the opinions of the injured employees, medical institutions, assistive device fitting institutions, trade union organizations, and other relevant parties. The agencies shall promptly settle the expenses that shall be paid by the work-related injury insurance fund, and shall publish the income and expenditure of the work-related injury insurance fund on a regular basis and notify the employers participating in work-related injury insurance of the details of the work-related injury insurance premiums paid by the employers.

Article 48 — The agencies shall, in accordance with the provisions of the State, provide employers with services such as examining and verifying social insurance premium payment bases, collecting insurance premiums, and keeping records of insurance benefits, and the employers shall cooperate. The relevant departments of trade unions and employers shall safeguard the lawful rights and interests of injured employees and supervise the employers' participation in work-related injury insurance and payment of premiums in accordance with law.

Article 49 — When the agencies regularly publish the income and expenditure of the work-related injury insurance fund and notify the employers of the details of the work-related injury insurance premiums paid by

them, the employers shall have the right to raise objections to the agencies. The agencies shall promptly verify and notify the employers of the results of the verification. Where an employer violates the law by underreporting or nonreporting social insurance premiums and refuses to make corrections, the social insurance administration department or tax authority shall impose an administrative penalty. Where an employer or an individual has an objection to a decision of the agency on the verification of work-related injury insurance benefits, it or he or she may apply for administrative reconsideration in accordance with law or bring an administrative lawsuit in accordance with law.

Article 50 — The social insurance administration departments shall perform their duties in accordance with law, strengthen the supervision and inspection of the work-related injury insurance rate-setting, the agencies' performance of their duties, and the use of the work-related injury insurance fund by the agencies. Where the agencies fail to perform their duties, the social insurance administration departments may, in accordance with the relevant provisions of the Social Insurance Law, hold the relevant personnel accountable.

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

Article 52 — Any organization or individual shall have the right to report or complain about any violation of laws and regulations relating to work-related injury insurance. The social insurance administration departments shall investigate and handle such matters in a timely manner in accordance with law and keep the whistleblower or complainant confidential.

Article 53 — Trade union organizations shall safeguard the lawful rights and interests of injured employees in accordance with law and supervise the employers' work-related injury insurance work.

Article 54 — Where an employee and an employer have a dispute over the treatment of work-related injury insurance, it shall be handled in accordance with the relevant provisions on the handling of labor disputes.

Article 55 — Under any of the following circumstances, an entity or individual may apply for administrative reconsideration in accordance with law or bring an administrative lawsuit in accordance with law: (1) an employee who has applied for recognition of a work-related injury or his or her close relatives or the employer are dissatisfied with the decision of the social insurance administration department not to accept the application for recognition of the work-related injury or the decision not to recognize the work-related injury; (2) the employer applying for the assessment is dissatisfied with the premium rate determined by the agency; (3) a medical institution or an assistive device fitting institution that has entered into a service agreement considers that the agency has failed to perform the relevant agreement or provisions; (4) an injured employee or his or her close relatives are dissatisfied with the verification of the work-related injury insurance benefits by the agency.

Chapter VII — Legal Liability

Article 56 — Where an entity or individual misappropriates work-related injury insurance funds and constitutes a crime, criminal liability shall be investigated in accordance with law; where a crime is not constituted, an administrative penalty shall be imposed in accordance with law or disciplinary action shall be taken. The funds misappropriated shall be recovered by the social insurance administration department and credited to the work-related injury insurance fund. Where losses are caused to the parties, the entity or individual shall bear compensation liability in accordance with law.

Article 57 — Where a staff member of a social insurance administration department commits any of the following acts, he or she shall be subject to disciplinary action in accordance with law; where the circumstances are serious and constitute a crime, criminal liability shall be investigated in accordance with law: (1) accepting an application for recognition of a work-related injury without legitimate reasons or causing the parties to suffer losses by engaging in fraud; (2) failing to properly safekeeping evidential materials proving a work-related injury, causing the relevant evidence to be lost; (3) collecting improper fees from the

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parties.

Article 58 — Where an agency fails to issue an invoice of social insurance premiums in accordance with regulations, or in the course of verifying, paying, and settling work-related injury insurance benefits, breaches its duty and engages in malpractices for personal gain, thus causing losses to the work-related injury insurance fund, the social insurance administration department shall order it to make corrections, and the directly responsible person in charge and other directly responsible persons shall be subject to disciplinary action in accordance with law. Where the circumstances are serious and constitute a crime, criminal liability shall be investigated in accordance with law. Where losses are caused to the parties, the agency shall bear compensation liability in accordance with law.

Article 59 — Where a medical institution, an assistive device fitting institution, or any other entity or individual obtains work-related injury insurance fund expenditures by fraud, forgery of certification materials, or other means, the social insurance administration department shall order it to return the funds, and shall impose a fine of not less than two times but not more than five times the amount defrauded; where the circumstances are serious and constitute a crime, criminal liability shall be investigated in accordance with law.

Article 60 — Where the expenses for the assessment of capacity to work shall be paid from the work-related injury insurance fund, the standards shall be prescribed by the people's government of the province, autonomous region, or municipality directly under the Central Government.

Article 61 — The social insurance administration department shall order a work capacity assessment committee to make corrections if it commits any of the following acts: (1) failing to specify in the assessment notice the materials that shall be supplemented by the parties; (2) failing to organize an assessment within the prescribed time limit; (3) failing to inform the parties of their right to apply for re-assessment and the time limit for doing so as required. Where losses are caused to the parties, the work capacity assessment committee shall bear compensation liability in accordance with law.

Article 62 — Where an employer that shall participate in work-related injury insurance in accordance with the provisions of these Regulations fails to do so, the social insurance administration department shall order it to participate within a specified time limit, make up the work-related injury insurance premiums that should have been paid, and impose a daily late fee of 0.05 percent of the amount in arrears starting from the date of default. If the employer fails to make the payment within the specified time limit, it shall be fined not less than one time but not more than three times the amount in arrears. Where an employee of an employer that fails to participate in work-related injury insurance in accordance with the provisions of these Regulations 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 the employer participates in work-related injury insurance and makes up the work-related injury insurance premiums and late fees that should have been paid, the work-related injury insurance fund and the employer shall pay the newly incurred expenses in accordance with the provisions of these Regulations.

Article 63 — Where an employer violates the provisions of Article 19 of these Regulations by refusing to assist in the investigation and verification of the social insurance administration department, the social insurance administration department shall order it to make corrections and impose a fine of not less than RMB 2,000 and not more than RMB 20,000.

Chapter VIII — Supplementary Provisions

Article 64 — "Total wages" as used in these Regulations means the total amount of labor remuneration paid directly by an employer to all employees of the employer. "Employee's own wages" as used in these Regulations means the average monthly wages paid by the employer to the injured employee in the 12 months before the employee was injured or contracted an occupational disease. Where the employee's own wages are higher than 300 percent of the average wages of employees in the pooling area, they shall be

Source: https://www.danyoungcpa.com/regulations-work-injury-insurance-prc-2010-revision/

calculated at 300 percent of the average wages of employees in the pooling area; where the employee's own wages are lower than 60 percent of the average wages of employees in the pooling area, they shall be calculated at 60 percent of the average wages of employees in the pooling area.

Article 65 — The work-related injury insurance for civil servants and staff members managed by reference to the Civil Servant Law shall be prescribed by the State Council separately. Public institutions, social organizations, private non-enterprise units, and other organizations shall participate in work-related injury insurance in accordance with law; their staff members and employees shall enjoy work-related injury insurance benefits in accordance with the provisions of these Regulations.

Article 66 — Where an unlicensed business entity or a business entity whose business license has been revoked in accordance with law causes an employee to suffer an accidental injury at work or an occupational disease, the business entity shall give the injured employee or the close relatives of the deceased employee a lump-sum compensation, and the amount of compensation shall not be less than the amount of work-related injury insurance benefits prescribed in these Regulations. An employee of an employer that illegally hires child labor and causes the child laborer to suffer an injury, disability, or death shall be compensated by the employer in a lump sum for the child laborer or the close relatives of the deceased child laborer. The amount of compensation shall not be less than the amount of work-related injury insurance benefits prescribed in these Regulations. The specific measures shall be formulated by the social insurance administration department of the State Council. Where the injured employee or the close relatives of the deceased employee disagree with the amount of compensation, and the dispute is a labor dispute, it shall be handled in accordance with the relevant provisions on the handling of labor disputes. Where a dispute arises between the injured employee or the close relatives of the deceased employee and the social insurance administration department over the amount of compensation, it shall be handled in accordance with the relevant provisions of these Regulations.

Article 67 — These Regulations shall come into force on January 1, 2004. The Trial Measures on Work-Related Injury Insurance for Enterprise Employees promulgated by the former Ministry of Labor on August 12, 1996 shall be repealed on the same date.

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