

Social Insurance Law of the People's Republic of China (2018 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 — This Law is enacted in accordance with the Constitution for the purposes of regulating social insurance relationships, safeguarding citizens' lawful rights and interests in participating in social insurance and enjoying social insurance benefits, enabling citizens to share in the fruits of development, and promoting social harmony and stability.

Article 2 — The State shall establish social insurance systems including basic pension insurance, basic medical insurance, work-related injury insurance, unemployment insurance and maternity insurance, to safeguard citizens' right to receive material assistance from the State and society in accordance with the law in the event of old age, illness, work-related injury, unemployment or childbirth.

Article 3 — The social insurance system shall adhere to the principles of broad coverage, basic protection, multi-level structures and sustainability, and the level of social insurance shall be commensurate with the level of economic and social development.

Article 4 — Employers and individuals within the territory of the People's Republic of China shall pay social insurance premiums in accordance with the law and shall have the right to inquire about their contribution records and personal rights and interests records, and to request social insurance agencies to provide social insurance consulting and other related services.

Individuals shall enjoy social insurance benefits in accordance with the law and shall have the right to supervise their employers' payment of contributions on their behalf.

Article 5 — People's governments at or above the county level shall incorporate social insurance undertakings into their national economic and social development plans.

The State shall raise social insurance funds through multiple channels. People's governments at or above the county level shall provide necessary financial support for social insurance undertakings.

The State shall support social insurance undertakings through preferential tax policies.

Article 6 — The State shall exercise strict supervision over social insurance funds.

The State Council and the people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall establish and improve social insurance fund supervision and administration systems to ensure the safe and effective operation of social insurance funds.

People's governments at or above the county level shall adopt measures to encourage and support participation by all sectors of society in the supervision of social insurance funds.

Article 7 — The social insurance administrative department of the State Council shall be responsible for social insurance administration work nationwide, and other relevant departments of the State Council shall be responsible for relevant social insurance work within their respective functions and duties.

The social insurance administrative departments of local people's governments at or above the county level shall be responsible for social insurance administration work within their respective administrative regions, and other relevant departments of local people's governments at or above the county level shall be responsible for relevant social insurance work within their respective functions and duties.

Article 8 — Social insurance agencies shall provide social insurance services and be responsible for social insurance registration, recording of personal rights and interests, payment of social insurance benefits and other work.

Article 9 — Trade unions shall safeguard the lawful rights and interests of workers in accordance with the law and shall have the right to participate in the study of major social insurance matters, participate in social insurance supervision committees, and supervise matters relating to workers' social insurance rights and interests.

Chapter II — Basic Pension Insurance

Article 10 — Employees shall participate in basic pension insurance, with basic pension insurance premiums to be paid jointly by the employer and the employee.

Self-employed individuals without employees, part-time workers not participating in basic pension insurance through an employer, and other flexibly employed persons may participate in basic pension insurance and shall pay basic pension insurance premiums individually.

The measures for pension insurance for civil servants and staff administered under the Civil Servant Law shall be prescribed by the State Council.

Article 11 — Basic pension insurance shall be implemented through a combination of social pooling and individual accounts.

Basic pension insurance funds shall consist of contributions from employers and individuals as well as government subsidies.

Article 12 — Employers shall pay basic pension insurance premiums at the rate prescribed by the State based on the total wages of their employees, to be credited to the basic pension insurance pooling fund.

Employees shall pay basic pension insurance premiums at the rate prescribed by the State based on their individual wages, to be credited to their individual accounts.

Self-employed individuals without employees, part-time workers not participating in basic pension insurance through an employer, and other flexibly employed persons who participate in basic pension insurance shall pay basic pension insurance premiums in accordance with State provisions, to be credited to the basic pension insurance pooling fund and individual accounts respectively.

Article 13 — For employees of State-owned enterprises and public institutions, the basic pension insurance premiums that should have been paid during the period deemed as contribution years before participation in basic pension insurance shall be borne by the government.

Where basic pension insurance funds are insufficient for payment, the government shall provide subsidies.

Article 14 — Individual accounts shall not be withdrawn in advance, the interest rate credited shall not be lower than the bank fixed deposit interest rate, and interest tax shall be exempted. Upon the death of an individual, the balance of the individual account may be inherited.

Article 15 — The basic pension shall consist of a pooling pension and an individual account pension.

The basic pension shall be determined based on factors such as the individual's cumulative contribution years, contribution wages, local average employee wages, individual account amount, and average life expectancy of the urban population.

Article 16 — Individuals participating in basic pension insurance who have made cumulative contributions for 15 years upon reaching the statutory retirement age shall receive a basic pension on a monthly basis.

Individuals participating in basic pension insurance who have made cumulative contributions for less than 15 years upon reaching the statutory retirement age may continue to pay contributions until they reach 15 years

and then receive a basic pension on a monthly basis, or may transfer to the new-type rural social pension insurance or urban resident social pension insurance and enjoy corresponding pension insurance benefits in accordance with State Council provisions.

Article 17 — Where an individual participating in basic pension insurance dies due to illness or non-work-related causes, his surviving dependents may receive funeral subsidies and dependents' allowances; where an individual becomes completely incapacitated due to illness or non-work-related disability before reaching the statutory retirement age, he may receive sickness or disability allowances. The required funds shall be paid from the basic pension insurance fund.

Article 18 — The State shall establish a mechanism for the regular adjustment of basic pensions. The level of basic pension insurance benefits shall be raised in a timely manner based on the growth of average employee wages and price increases.

Article 19 — Where an individual moves across pooling regions for employment, his basic pension insurance relationship shall be transferred with him, and the contribution years shall be calculated cumulatively. When the individual reaches the statutory retirement age, the basic pension shall be calculated in segments and paid on a unified basis. The specific measures shall be prescribed by the State Council.

Article 20 — The State shall establish and improve the new-type rural social pension insurance system.

The new-type rural social pension insurance shall be implemented through a combination of individual contributions, collective subsidies and government subsidies.

Article 21 — New-type rural social pension insurance benefits shall consist of a basic pension and an individual account pension.

Rural residents participating in the new-type rural social pension insurance who meet the conditions prescribed by the State shall receive new-type rural social pension insurance benefits on a monthly basis.

Article 22 — The State shall establish and improve the urban resident social pension insurance system.

The people's governments of provinces, autonomous regions and municipalities directly under the Central Government may, based on actual circumstances, implement the urban resident social pension insurance and the new-type rural social pension insurance on a consolidated basis.

Chapter III — Basic Medical Insurance

Article 23 — Employees shall participate in employee basic medical insurance, with basic medical insurance premiums to be paid jointly by the employer and the employee in accordance with State provisions.

Self-employed individuals without employees, part-time workers not participating in employee basic medical insurance through an employer, and other flexibly employed persons may participate in employee basic medical insurance and shall pay basic medical insurance premiums individually in accordance with State provisions.

Article 24 — The State shall establish and improve the new-type rural cooperative medical care system.

The measures for the administration of the new-type rural cooperative medical care shall be prescribed by the State Council.

Article 25 — The State shall establish and improve the urban resident basic medical insurance system.

Urban resident basic medical insurance shall be implemented through a combination of individual contributions and government subsidies.

The portion of contributions required from individuals receiving minimum living security, persons with disabilities who have lost the capacity to work, elderly persons aged 60 or above from low-income households, and minors shall be subsidized by the government.

Article 26 — The benefit standards for employee basic medical insurance, new-type rural cooperative medical care and urban resident basic medical insurance shall be implemented in accordance with State provisions.

Article 27 — Where an individual participating in employee basic medical insurance has made cumulative contributions for the period prescribed by the State upon reaching the statutory retirement age, he shall no longer pay basic medical insurance premiums after retirement and shall enjoy basic medical insurance benefits in accordance with State provisions; where the individual has not reached the period prescribed by the State, he may continue to pay contributions until he reaches the prescribed period.

Article 28 — Medical expenses that comply with the basic medical insurance drug catalogue, diagnosis and treatment items, medical service facility standards, and those for emergency treatment and rescue shall be paid from the basic medical insurance fund in accordance with State provisions.

Article 29 — The portion of medical expenses of insured persons that should be paid from the basic medical insurance fund shall be settled directly between the social insurance agency and medical institutions or pharmaceutical business entities.

The social insurance administrative department and the health administrative department shall establish a system for the settlement of medical expenses for medical treatment in different localities to facilitate insured persons' enjoyment of basic medical insurance benefits.

Article 30 — The following medical expenses shall not be included in the scope of payment from the basic medical insurance fund:

1. Those that should be paid from the work-related injury insurance fund; 2. Those that should be borne by a third party; 3. Those that should be borne by public health; 4. Those incurred for medical treatment abroad.

Where medical expenses should be borne by a third party in accordance with the law and the third party fails to pay or cannot be identified, the basic medical insurance fund shall make advance payment. After making advance payment, the basic medical insurance fund shall have the right to recover the amount from the third party.

Article 31 — Social insurance agencies may, based on the needs of management and services, enter into service agreements with medical institutions and pharmaceutical business entities to regulate medical service conduct.

Medical institutions shall provide reasonable and necessary medical services to insured persons.

Article 32 — Where an individual moves across pooling regions for employment, his basic medical insurance relationship shall be transferred with him, and the contribution years shall be calculated cumulatively.

Chapter IV — Work-Related Injury Insurance

Article 33 — Employees shall participate in work-related injury insurance, with work-related injury insurance premiums to be paid by the employer, and employees shall not pay work-related injury insurance premiums.

Article 34 — The State shall determine differentiated industry rates based on the level of work-related injury risk in different industries, and shall determine rate brackets within each industry based on factors such as the use of work-related injury insurance funds and the incidence of work-related injuries. The differentiated industry rates and rate brackets within industries shall be formulated by the social insurance administrative department of the State Council and implemented upon approval and publication by the State Council.

Social insurance agencies shall determine the contribution rate for employers based on factors such as the employer's use of work-related injury insurance funds, the incidence of work-related injuries and the rate bracket of the industry to which the employer belongs.

Article 35 — Employers shall pay work-related injury insurance premiums based on the total wages of their employees and at the rate determined by the social insurance agency.

Article 36 — Employees who suffer accidental injuries or contract occupational diseases due to work and whose injuries are recognized as work-related shall enjoy work-related injury insurance benefits; among them, those who have lost the capacity to work as assessed through work capacity assessment shall enjoy disability benefits.

Work-related injury recognition and work capacity assessment shall be simple, convenient and expeditious.

Article 37 — Where an employee suffers injury or death at work due to any of the following circumstances, it shall not be recognized as a work-related injury:

1. Intentional crime; 2. Intoxication or drug use; 3. Self-inflicted injury or suicide; 4. Other circumstances prescribed by laws or administrative regulations.

Article 38 — The following expenses incurred due to work-related injuries shall be paid from the work-related injury insurance fund in accordance with State provisions:

1. Medical expenses and rehabilitation expenses for the treatment of work-related injuries; 2. Inpatient food subsidies; 3. Transportation, accommodation and food expenses for medical treatment outside the pooling region; 4. Expenses for the installation and configuration of disability assistive devices; 5. Nursing care expenses for those unable to care for themselves, as confirmed by the work capacity assessment committee; 6. Lump-sum disability subsidies and monthly disability allowances for employees with Level 1 to Level 4 disabilities; 7. Lump-sum medical subsidies payable upon termination or rescission of the labor contract; 8. Funeral subsidies, dependents' allowances and work-related death subsidies received by the surviving dependents in the event of work-related death; 9. Work capacity assessment expenses.

Article 39 — The following expenses incurred due to work-related injuries shall be paid by the employer in accordance with State provisions:

1. Wages and welfare benefits during the period of treatment for work-related injuries; 2. Monthly disability allowances for employees with Level 5 or Level 6 disabilities; 3. Lump-sum disability employment subsidies payable upon termination or rescission of the labor contract.

Article 40 — Where an injured employee meets the conditions for receiving a basic pension, the disability allowance shall cease and the employee shall enjoy basic pension insurance benefits. Where the basic pension insurance benefits are lower than the disability allowance, the shortfall shall be made up from the work-related injury insurance fund.

Article 41 — Where an employee's employer has not paid work-related injury insurance premiums in accordance with the law and a work-related injury accident occurs, the employer shall pay the work-related injury insurance benefits. Where the employer fails to pay, advance payment shall be made from the work-related injury insurance fund.

Work-related injury insurance benefits paid in advance from the work-related injury insurance fund shall be repaid by the employer. Where the employer fails to repay, the social insurance agency may recover the amount in accordance with Article 63 of this Law.

Article 42 — Where a work-related injury is caused by a third party and the third party fails to pay the work-related injury medical expenses or cannot be identified, advance payment shall be made from the work-related injury insurance fund. After making advance payment, the work-related injury insurance fund shall have the right to recover the amount from the third party.

Chapter V — Unemployment Insurance

Article 44 — Employees shall participate in unemployment insurance, with unemployment insurance premiums to be paid jointly by the employer and the employee in accordance with State provisions.

Article 45 — Unemployed persons who meet the following conditions shall receive unemployment insurance benefits from the unemployment insurance fund:

1. The employer and the individual have paid unemployment insurance premiums for one year or more before becoming unemployed; 2. Employment was interrupted not due to the individual's own will; 3. The individual has registered as unemployed and has a job-seeking requirement.

Article 46 — Where the cumulative contribution period of the employer and the unemployed person before unemployment is one year or more but less than five years, the maximum period for receiving unemployment insurance benefits shall be 12 months; where the cumulative contribution period is five years or more but less than ten years, the maximum period shall be 18 months; where the cumulative contribution period is ten years or more, the maximum period shall be 24 months. Upon re-employment and subsequent unemployment, the contribution period shall be recalculated, and the period for receiving unemployment insurance benefits shall be combined with the period for which unemployment insurance benefits should have been received but were not received during the previous unemployment, provided that the combined period shall not exceed 24 months.

Article 47 — The standard of unemployment insurance benefits shall be determined by the people's governments of provinces, autonomous regions and municipalities directly under the Central Government and shall not be lower than the urban resident minimum living security standard.

Article 48 — Unemployed persons shall participate in employee basic medical insurance during the period of receiving unemployment insurance benefits and shall enjoy basic medical insurance benefits.

The basic medical insurance premiums payable by unemployed persons shall be paid from the unemployment insurance fund, and the individuals shall not pay basic medical insurance premiums.

Article 49 — Where an unemployed person dies during the period of receiving unemployment insurance benefits, a lump-sum funeral subsidy and dependents' allowances shall be paid to his surviving dependents by reference to the local provisions on the death of employees in active service. The required funds shall be paid from the unemployment insurance fund.

Where an individual's death simultaneously meets the conditions for receiving a basic pension insurance funeral subsidy, work-related injury insurance funeral subsidy and unemployment insurance funeral subsidy, his surviving dependents may only choose to receive one of them.

Article 50 — Employers shall promptly issue a certificate of termination or rescission of the labor relationship to unemployed persons and shall notify the social insurance agency of the list of unemployed persons within 15 days from the date of termination or rescission of the labor relationship.

Unemployed persons shall, with the certificate of termination or rescission of the labor relationship issued by their employer, promptly register as unemployed with the designated public employment service institution.

Unemployed persons shall, with their unemployment registration certificate and identity document, complete the procedures for receiving unemployment insurance benefits with the social insurance agency. The period for receiving unemployment insurance benefits shall be calculated from the date of unemployment registration.

Article 51 — Unemployed persons shall cease to receive unemployment insurance benefits and shall concurrently cease to enjoy other unemployment insurance benefits under any of the following circumstances during the period of receiving unemployment insurance benefits:

1. Re-employment; 2. Enlistment for military service; 3. Emigration abroad; 4. Enjoyment of basic pension insurance benefits; 5. Refusal, without justifiable reason, to accept appropriate work or training introduced by

the department or institution designated by the local people's government.

Article 52 — Where an employee moves across pooling regions for employment, his unemployment insurance relationship shall be transferred with him, and the contribution years shall be calculated cumulatively.

Chapter VI — Maternity Insurance

Article 53 — Employees shall participate in maternity insurance, with maternity insurance premiums to be paid by the employer in accordance with State provisions, and employees shall not pay maternity insurance premiums.

Article 54 — Where an employer has paid maternity insurance premiums, its employees shall enjoy maternity insurance benefits; the unemployed spouses of employees shall enjoy maternity medical expense benefits in accordance with State provisions. The required funds shall be paid from the maternity insurance fund.

Maternity insurance benefits shall include maternity medical expenses and maternity allowances.

Article 55 — Maternity medical expenses shall include the following:

1. Medical expenses for childbirth; 2. Medical expenses for family planning procedures; 3. Other project expenses prescribed by laws and regulations.

Article 56 — Employees may enjoy maternity allowances in accordance with State provisions under any of the following circumstances:

1. Female employees taking maternity leave for childbirth; 2. Taking leave for family planning procedures; 3. Other circumstances prescribed by laws and regulations.

Maternity allowances shall be calculated and paid based on the average monthly wage of the employees of the employer in the preceding year.

Chapter VII — Social Insurance Premium Collection

Article 57 — An employer shall, within 30 days from the date of its establishment, apply to the local social insurance agency for social insurance registration by presenting its business license, registration certificate or entity seal. The social insurance agency shall examine and verify the application within 15 days from the date of receipt and issue a social insurance registration certificate.

Where the social insurance registration particulars of an employer change or the employer is terminated in accordance with the law, the employer shall, within 30 days from the date of the change or termination, complete the procedures for the change or cancellation of social insurance registration with the social insurance agency.

Market regulatory departments, civil affairs departments and institutional organization management authorities shall promptly notify social insurance agencies of the establishment and termination of employers, and public security authorities shall promptly notify social insurance agencies of the birth, death, and household registration, transfer and cancellation of individuals.

Article 58 — An employer shall, within 30 days from the date on which a worker commences work, apply to the social insurance agency for social insurance registration for the worker. Where social insurance registration has not been completed, the social insurance agency shall assess the social insurance premiums payable by the employer.

Self-employed individuals without employees, part-time workers not participating in social insurance through an employer, and other flexibly employed persons who voluntarily participate in social insurance shall apply to the social insurance agency for social insurance registration.

The State shall establish a unified national individual social security number. The individual social security number shall be the citizen's identity number.

Article 59 — People's governments at or above the county level shall strengthen the collection of social insurance premiums.

Social insurance premiums shall be collected on a unified basis, and the implementation steps and specific measures shall be prescribed by the State Council.

Article 60 — Employers shall declare on their own, pay social insurance premiums in full and on time, and shall not defer, reduce or waive payment except for statutory reasons such as force majeure. The social insurance premiums payable by employees shall be withheld and paid by the employer on their behalf, and the employer shall inform the employees of the details of the payment of social insurance premiums on a monthly basis.

Self-employed individuals without employees, part-time workers not participating in social insurance through an employer, and other flexibly employed persons may pay social insurance premiums directly to the social insurance premium collection institution.

Article 61 — Social insurance premium collection institutions shall collect social insurance premiums in full and on time in accordance with the law and shall periodically inform employers and individuals of the status of premium payments.

Article 62 — Where an employer fails to declare the amount of social insurance premiums payable as required, the amount payable shall be determined at 110 percent of the employer's contribution amount for the preceding month; after the employer completes the supplementary declaration procedures, the social insurance premium collection institution shall settle the accounts in accordance with the provisions.

Article 63 — Where an employer fails to pay social insurance premiums in full and on time, the social insurance premium collection institution shall order the employer to pay or make up the shortfall within a prescribed time limit.

Where the employer still fails to pay or make up the shortfall after the prescribed time limit, the social insurance premium collection institution may inquire about its deposit accounts with banks and other financial institutions, and may apply to the relevant administrative department at or above the county level for a decision to transfer social insurance premiums, and notify the employer's bank or other financial institution in writing to transfer the social insurance premiums. Where the balance in the employer's account is less than the social insurance premiums payable, the social insurance premium collection institution may require the employer to provide a guarantee and enter into a deferred payment agreement.

Where the employer fails to pay social insurance premiums in full and fails to provide a guarantee, the social insurance premium collection institution may apply to a people's court for the seizure, attachment or auction of property equivalent in value to the social insurance premiums payable, and use the auction proceeds to offset the social insurance premiums.

Chapter VIII — Social Insurance Funds

Article 64 — Social insurance funds shall include basic pension insurance funds, basic medical insurance funds, work-related injury insurance funds, unemployment insurance funds and maternity insurance funds. Separate accounts shall be established for each type of social insurance fund based on the type of social insurance, and separate accounting shall be conducted in accordance with the State's unified accounting system.

Social insurance funds shall be used exclusively for their designated purposes, and no organization or individual shall encroach upon or misappropriate them.

Basic pension insurance funds shall gradually be subject to national pooling, and other social insurance funds shall gradually be subject to provincial pooling. The specific schedule and steps shall be prescribed by the State Council.

Article 65 — Social insurance funds shall achieve balance between revenue and expenditure through budgets.

People's governments at or above the county level shall provide subsidies when social insurance funds are insufficient for payment.

Article 66 — Budgets for social insurance funds shall be established according to the level of pooling. Social insurance fund budgets shall be prepared separately for each social insurance program.

Article 67 — The preparation, examination and approval of draft budgets and final accounts for social insurance funds shall be carried out in accordance with the provisions of laws and the State Council.

Article 68 — Social insurance funds shall be deposited in special financial accounts, and the specific management measures shall be prescribed by the State Council.

Article 69 — Social insurance funds shall, on the premise of ensuring safety, be invested and operated in accordance with State Council provisions to preserve and increase their value.

Social insurance funds shall not be invested or operated in violation of regulations, shall not be used to balance other government budgets, shall not be used for the construction or renovation of office premises or for the payment of personnel expenses, operating expenses or management expenses, and shall not be misappropriated for other purposes in violation of laws or administrative regulations.

Article 70 — Social insurance agencies shall periodically disclose to the public the status of participation in social insurance and the revenue, expenditure, balance and earnings of social insurance funds.

Article 71 — The State shall establish a national social security fund, which shall consist of funds allocated from the central fiscal budget and funds raised through other means approved by the State Council, and shall be used for the supplementation and regulation of social security expenditure. The national social security fund shall be managed and operated by the national social security fund management and operating institution, which shall preserve and increase its value on the premise of ensuring safety.

The national social security fund shall periodically disclose its revenue and expenditure, management, and investment and operation to the public. The financial department, social insurance administrative department and audit institution of the State Council shall supervise the revenue and expenditure, management, and investment and operation of the national social security fund.

Chapter IX — Social Insurance Administration

Article 72 — Social insurance agencies shall be established in pooling regions. Social insurance agencies may, based on work needs and with the approval of the local social insurance administrative department and institutional organization management authority, establish branch institutions and service outlets within their pooling regions.

The personnel expenses and basic operating and management expenses incurred by social insurance agencies in administering social insurance shall be guaranteed by the finance department at the same level in accordance with State provisions.

Article 73 — Social insurance agencies shall establish and improve operational, financial, security and risk management systems.

Social insurance agencies shall pay social insurance benefits in full and on time.

Article 74 — Social insurance agencies shall obtain the data required for social insurance work through operational handling, statistics and surveys, and relevant entities and individuals shall provide such data in a timely and truthful manner.

Social insurance agencies shall promptly establish files for employers, completely and accurately record social insurance data such as the personnel participating in social insurance and contributions, and properly preserve the original vouchers for registration and declaration and the accounting vouchers for payment and settlement.

Social insurance agencies shall promptly, completely and accurately record the individual contributions of insured persons and the contributions paid by their employers on their behalf, as well as records of personal rights and interests such as the enjoyment of social insurance benefits, and shall periodically send individual rights and interests record statements to the insured persons free of charge.

Employers and individuals may, free of charge, inquire about and verify their contribution and benefit records with social insurance agencies and request social insurance agencies to provide social insurance consulting and other related services.

Article 75 — The national social insurance information system shall be jointly constructed by people's governments at or above the county level according to the State's unified plan and the principle of graded responsibility.

Chapter X — Social Insurance Supervision

Article 76 — The standing committees of people's congresses at various levels shall hear and deliberate the special work reports of the people's governments at the corresponding levels on the revenue and expenditure, management, investment and operation, and supervision and inspection of social insurance funds, organize law enforcement inspections of the implementation of this Law, and exercise their supervision powers in accordance with the law.

Article 77 — The social insurance administrative departments of people's governments at or above the county level shall strengthen the supervision and inspection of employers' and individuals' compliance with social insurance laws and regulations.

When social insurance administrative departments conduct supervision and inspection, the employers and individuals under inspection shall truthfully provide materials relating to social insurance and shall not refuse inspection or make false reports or conceal information.

Article 78 — Financial departments and audit institutions shall, in accordance with their respective functions and duties, supervise the revenue and expenditure, management, and investment and operation of social insurance funds.

Article 79 — Social insurance administrative departments shall supervise and inspect the revenue and expenditure, management, and investment and operation of social insurance funds. Where problems are discovered, they shall propose rectification suggestions, make handling decisions in accordance with the law, or make handling suggestions to relevant administrative departments. The results of social insurance fund inspections shall be periodically disclosed to the public.

When social insurance administrative departments conduct supervision and inspection of social insurance funds, they shall have the authority to adopt the following measures:

1. Inspect, record and copy materials relating to the revenue and expenditure, management, and investment and operation of social insurance funds, and seal materials that may be transferred, concealed or destroyed;
2. Inquire of entities and individuals relating to the investigation matters and require them to provide explanations and relevant evidentiary materials on issues relating to the investigation matters;
3. Stop and order rectification of acts of concealing, transferring, encroaching upon or misappropriating social insurance

funds.

Article 80 — The people's government of a pooling region shall establish a social insurance supervision committee composed of employer representatives, insured person representatives, trade union representatives, experts and others, to apprehend and analyze the revenue and expenditure, management, and investment and operation of social insurance funds, put forward advisory opinions and suggestions on social insurance work, and exercise social supervision.

Social insurance agencies shall periodically report to the social insurance supervision committee on the revenue and expenditure, management, and investment and operation of social insurance funds. The social insurance supervision committee may engage accounting firms to conduct annual audits and special audits of the revenue and expenditure, management, and investment and operation of social insurance funds. The audit results shall be disclosed to the public.

Where the social insurance supervision committee discovers problems in the revenue and expenditure, management, and investment and operation of social insurance funds, it shall have the right to propose rectification suggestions; where it discovers illegal acts by social insurance agencies and their personnel, it shall have the right to make suggestions to relevant departments for handling in accordance with the law.

Article 81 — Social insurance administrative departments and other relevant administrative departments, social insurance agencies, social insurance premium collection institutions and their personnel shall keep employers' and individuals' information confidential in accordance with the law and shall not disclose it in any form.

Article 82 — Any organization or individual shall have the right to report or complain about acts in violation of social insurance laws and regulations.

Social insurance administrative departments, health administrative departments, social insurance agencies, social insurance premium collection institutions, financial departments and audit institutions shall handle reports and complaints falling within the scope of their respective functions and duties in accordance with the law; where a report or complaint does not fall within the scope of their functions and duties, they shall notify the department or institution with jurisdiction in writing and transfer the matter to it for handling. The department or institution with jurisdiction shall handle the matter in a timely manner and shall not refuse or delay.

Article 83 — Where an employer or individual considers that an act of a social insurance premium collection institution has infringed upon its or his lawful rights and interests, it or he may apply for administrative reconsideration or file an administrative lawsuit in accordance with the law.

Where an employer or individual considers that a social insurance agency has failed to handle social insurance registration, assess social insurance premiums, pay social insurance benefits, handle social insurance transfer and continuation procedures, or has infringed upon other social insurance rights and interests, it or he may apply for administrative reconsideration or file an administrative lawsuit in accordance with the law.

Where a social insurance dispute arises between an individual and his employer, the individual may apply for mediation, arbitration or file a lawsuit in accordance with the law. Where an employer infringes upon an individual's social insurance rights and interests, the individual may also request the social insurance administrative department or social insurance premium collection institution to handle the matter in accordance with the law.

Chapter XI — Legal Liability

Article 84 — Where an employer fails to complete social insurance registration, the social insurance administrative department shall order rectification within a prescribed time limit; where rectification is not

made within the prescribed time limit, a fine of not less than one time but not more than three times the amount of social insurance premiums payable shall be imposed on the employer, and a fine of not less than RMB 500 but not more than RMB 3,000 shall be imposed on the directly responsible person in charge and other directly responsible persons.

Article 85 — Where an employer refuses to issue a certificate of termination or rescission of the labor relationship, the matter shall be handled in accordance with the Labor Contract Law of the People's Republic of China.

Article 86 — Where an employer fails to pay social insurance premiums in full and on time, the social insurance premium collection institution shall order the employer to pay or make up the shortfall within a prescribed time limit and shall impose a late payment surcharge at the rate of 0.05 percent per day from the date of default; where the employer still fails to pay after the prescribed time limit, the relevant administrative department shall impose a fine of not less than one time but not more than three times the amount in default.

Article 87 — Where social insurance agencies or social insurance service institutions such as medical institutions and pharmaceutical business entities obtain social insurance fund expenditures by fraudulent means, such as fraud, forgery of evidentiary materials or other means, the social insurance administrative department shall order the return of the social insurance funds fraudulently obtained and impose a fine of not less than two times but not more than five times the amount fraudulently obtained; where the entity is a social insurance service institution, the service agreement shall be rescinded; where the directly responsible person in charge and other directly responsible persons hold professional qualifications, their professional qualifications shall be revoked in accordance with the law.

Article 88 — Where a person obtains social insurance benefits by fraudulent means, such as fraud, forgery of evidentiary materials or other means, the social insurance administrative department shall order the return of the social insurance funds fraudulently obtained and impose a fine of not less than two times but not more than five times the amount fraudulently obtained.

Article 89 — Where a social insurance agency or its personnel commit any of the following acts, the social insurance administrative department shall order rectification; where losses are caused to the social insurance fund, employer or individual, liability for compensation shall be borne in accordance with the law; the directly responsible person in charge and other directly responsible persons shall be subject to sanctions in accordance with the law:

1. Failing to perform the statutory social insurance duties; 2. Failing to deposit social insurance funds in special financial accounts; 3. Deducting or refusing to pay social insurance benefits on time; 4. Losing or tampering with social insurance data and personal rights and interests records such as contribution records and benefit records; 5. Committing other acts in violation of social insurance laws and regulations.

Article 90 — Where a social insurance premium collection institution arbitrarily changes the social insurance premium contribution base or rate, resulting in the under-collection or over-collection of social insurance premiums, the relevant administrative department shall order it to recover the social insurance premiums payable or refund the social insurance premiums not payable; the directly responsible person in charge and other directly responsible persons shall be subject to sanctions in accordance with the law.

Article 91 — Where, in violation of this Law, a party conceals, transfers, encroaches upon or misappropriates social insurance funds or invests and operates them in violation of regulations, the social insurance administrative department, financial department and audit institution shall order the recovery of the funds; where there are illegal proceeds, the illegal proceeds shall be confiscated; the directly responsible person in charge and other directly responsible persons shall be subject to sanctions in accordance with the law.

Article 92 — Where social insurance administrative departments and other relevant administrative departments, social insurance agencies, social insurance premium collection institutions and their personnel

disclose employers' or individuals' information, the directly responsible person in charge and other directly responsible persons shall be subject to sanctions in accordance with the law; where losses are caused to employers or individuals, liability for compensation shall be borne.

Article 93 — Where State functionaries abuse their powers, neglect their duties or engage in malpractices for personal gain in social insurance administration and supervision work, they shall be subject to sanctions in accordance with the law.

Article 94 — Where an act in violation of this Law constitutes a crime, criminal liability shall be pursued in accordance with the law.

Chapter XII — Supplementary Provisions

Article 95 — Rural residents who migrate to cities for work shall participate in social insurance in accordance with the provisions of this Law.

Article 96 — Where collectively owned rural land is expropriated, social insurance premiums for land-expropriated farmers shall be fully arranged, and the land-expropriated farmers shall be included in the corresponding social insurance system in accordance with State Council provisions.

Article 97 — Foreign nationals employed within the territory of China shall participate in social insurance by reference to the provisions of this Law.

Article 98 — This Law shall come into force on July 1, 2011.

This translation is provided for informational purposes only. For legal matters, please consult the original Chinese text or seek professional legal advice. For assistance with social insurance compliance, employer obligations, and HR management in China, please contact Dan Young Business Consultancy.