Social Insurance Law of the PRC

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

Contents

Table of Contents 1

Chapter I — General Provisions 2

Chapter II — Basic Endowment Insurance 2

Chapter III — Basic Medical Insurance 4

Chapter IV — Work-Related Injury Insurance 5

Chapter V — Unemployment Insurance 5

Chapter VI — Maternity Insurance 6

Chapter VII — Social Insurance Funds 6

Chapter VIII — Supervision of Social Insurance 6

Chapter IX — Legal Liability 7

Chapter X — Supplementary Provisions 7

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Table of Contents

- Chapter I — General Provisions
- Chapter II — Basic Endowment Insurance
- Chapter III — Basic Medical Insurance
- Chapter IV — Work-Related Injury Insurance
- Chapter V — Unemployment Insurance
- Chapter VI — Maternity Insurance
- Chapter VII — Social Insurance Funds
- Chapter VIII — Supervision of Social Insurance
- Chapter IX — Legal Liability
- Chapter X — Supplementary Provisions

Chapter I — General Provisions

Article 1 — This Law is enacted for the purposes of regulating social insurance relations, safeguarding the lawful rights and interests of citizens participating in social insurance and enjoying social insurance benefits, enabling citizens to share in the fruits of development, promoting social harmony and stability, and in accordance with the Constitution.

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

Article 3 — The social insurance system shall adhere to the principles of broad coverage, basic protection, multi-level, 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 payment records and personal rights and interests records, and to request social insurance agencies to provide social insurance consultation and other related services. Individuals shall enjoy social insurance benefits in accordance with the law and shall have the right to supervise the payment of contributions by their own units.

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 the supervision and management system for social insurance funds 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 administrative departments of social insurance under the State Council shall be responsible for the administration of social insurance throughout the country, and other relevant departments under the State Council shall be responsible for the relevant social insurance work within the scope of their respective functions and duties. The administrative departments of social insurance of local people's governments at or above the county level shall be responsible for the administration of social insurance within their respective administrative regions, and other relevant departments of local people's governments at or above the county level shall be responsible for the relevant social insurance work within the scope of their respective functions and duties.

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

Article 9 — Trade unions shall safeguard the lawful rights and interests of employees in accordance with the law, and shall have the right to participate in the research on major social insurance matters and to examine items related to the social insurance rights and interests of employees.

Chapter II — Basic Endowment Insurance

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Article 10 — Employees shall participate in basic endowment insurance, and the basic endowment insurance premiums shall be jointly paid by the employer and the employee. Individual industrial and commercial households without employees, part-time workers who have not participated in basic endowment insurance through their employers, and other flexible employment personnel may participate in basic endowment insurance, and the basic endowment insurance premiums shall be paid by individuals. The measures for endowment insurance for civil servants and staff managed with reference to the Civil Servant Law shall be prescribed by the State Council.

Article 11 — Basic endowment insurance shall be a combination of social pooling and individual accounts. The basic endowment insurance fund shall consist of contributions from employers and individuals, as well as government subsidies.

Article 12 — An employer shall pay basic endowment insurance premiums according to the proportion of the total wages of its employees prescribed by the State, which shall be credited to the basic endowment insurance pooling fund. An employee shall pay basic endowment insurance premiums according to the proportion of his or her own wages prescribed by the State, which shall be credited to his or her individual account. For individual industrial and commercial households without employees, part-time workers who have not participated in basic endowment insurance through their employers, and other flexible employment personnel who participate in basic endowment insurance, the basic endowment insurance premiums shall be paid according to the provisions of the State and shall be credited to the basic endowment insurance pooling fund and individual accounts respectively.

Article 13 — Before employees of state-owned enterprises and public institutions participate in basic endowment insurance, the basic endowment insurance premiums payable for the period of deemed payment years shall be borne by the government. When the basic endowment insurance fund is insufficient to make payments, the government shall provide subsidies.

Article 14 — Individual accounts shall not be withdrawn in advance. The bookkeeping interest rate shall not be lower than the bank time deposit interest rate, and interest tax shall be exempted. Upon the death of an individual, the balance of his or her 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 years of contribution, contribution wages, the average wage of local employees, the amount in the individual account, and the average life expectancy of the urban population.

Article 16 — Individuals who have participated in basic endowment insurance and have made contributions for a cumulative period of 15 years when they reach the statutory retirement age shall receive basic pensions on a monthly basis. Individuals who have participated in basic endowment insurance and have made contributions for a cumulative period of less than 15 years when they reach the statutory retirement age may pay contributions until they have met the 15-year requirement and then receive basic pensions on a monthly basis; they may also transfer to the new rural social endowment insurance or the urban residents' social endowment insurance and enjoy the corresponding endowment insurance benefits in accordance with the provisions of the State Council.

Article 17 — Where individuals who participate in basic endowment insurance die due to illness or non-work-related causes, their surviving family members may receive funeral subsidies and condolence payments. Where they become completely disabled due to illness or non-work-related causes before reaching the statutory retirement age, they may receive sickness and disability allowances. The funds required shall be paid from the basic endowment insurance fund.

Article 18 — The State shall establish a normal adjustment mechanism for basic pensions. The level of basic pensions shall be raised in a timely manner according to the growth in average wages of employees and price increases.

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Article 19 — Where an individual transfers employment across the overall planning regions, his or her basic endowment insurance relationship shall be transferred with the individual, and the contribution years shall be calculated cumulatively. When the individual reaches the statutory retirement age, the basic pension shall be calculated in stages and paid uniformly. The specific measures shall be prescribed by the State Council.

Article 20 — The State shall establish and improve a new rural social endowment insurance system. The new rural social endowment insurance shall be a combination of individual contributions, collective subsidies, and government subsidies.

Article 21 — The new rural social endowment insurance benefits shall consist of a basic pension and an individual account pension. Rural residents who participate in the new rural social endowment insurance and meet the conditions prescribed by the State shall receive the new rural social endowment insurance benefits on a monthly basis.

Article 22 — The State shall establish and improve an urban residents' social endowment insurance system. The people's governments of provinces, autonomous regions, and municipalities directly under the Central Government may, based on actual conditions, combine the urban residents' social endowment insurance with the new rural social endowment insurance for implementation.

Chapter III — Basic Medical Insurance

Article 23 — Employees shall participate in the basic medical insurance for employees, and the basic medical insurance premiums shall be jointly paid by the employer and the employee in accordance with the provisions of the State. Individual industrial and commercial households without employees, part-time workers who have not participated in basic medical insurance through their employers, and other flexible employment personnel may participate in the basic medical insurance for employees, and the basic medical insurance premiums shall be paid by individuals in accordance with the provisions of the State.

Article 24 — The State shall establish and improve a new rural cooperative medical system. The measures for the administration of the new rural cooperative medical system shall be prescribed by the State Council.

Article 25 — The State shall establish and improve an urban residents' basic medical insurance system. Urban residents' basic medical insurance shall be a combination of individual contributions and government subsidies. For those enjoying the minimum subsistence guarantee, persons with disabilities who have lost the ability to work, and elderly persons and minors over the age of 60 from low-income families, the government shall subsidize the portion of their individual contributions as required.

Article 26 — The standards of basic medical insurance benefits for employees, the new rural cooperative medical benefits, and the urban residents' basic medical insurance benefits shall be implemented in accordance with the provisions of the State.

Article 27 — Individuals who have participated in basic medical insurance for employees and whose cumulative contributions have reached the number of years prescribed by the State when they reach the statutory retirement age shall no longer pay basic medical insurance premiums after retirement and shall enjoy basic medical insurance benefits in accordance with the provisions of the State. Those who have not yet met the number of years prescribed by the State may pay contributions until the number of years prescribed by the State is reached.

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

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

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departments of health shall establish a settlement system for medical expenses in other places to facilitate insured persons in enjoying basic medical insurance benefits.

Chapter IV — Work-Related Injury Insurance

Article 30 — Employees shall participate in work-related injury insurance, and the work-related injury insurance premiums shall be paid by the employer. Employees shall not pay work-related injury insurance premiums.

Article 31 — The State shall determine the differential contribution rates for different industries based on the degree of risk of work-related injuries in different industries, and shall determine a number of rate brackets within each industry based on the use of work-related injury insurance funds, the incidence of work-related injuries, and other circumstances. The differential contribution rates for different industries and the rate brackets within each industry shall be formulated by the administrative departments of social insurance under the State Council, and shall be announced and implemented after approval by the State Council.

Article 32 — An employer shall pay work-related injury insurance premiums according to the total wages of its employees and the contribution rate determined by the social insurance agency.

Article 33 — Where an employee suffers an accidental injury or contracts an occupational disease at work and is confirmed to have suffered a work-related injury after identification, he or she shall enjoy work-related injury insurance benefits. Where an employee loses the ability to work after the expiration of the medical treatment period for a work-related injury, he or she shall enjoy disability benefits in accordance with the provisions of the State.

Article 34 — The expenses such as medical expenses for treating work-related injuries, rehabilitation expenses for work-related injuries, food subsidies for hospitalization, transportation, accommodation, and food expenses for medical treatment outside the overall planning region, expenses for the purchase and configuration of disability aids, living care expenses, one-time disability subsidies, disability allowances for Grade 1 to 4 disabilities, monthly nursing expenses, one-time medical subsidies that shall be enjoyed upon the termination or dissolution of the labor contract, funeral subsidies, pensions for dependent relatives, and work-related death subsidies that are paid from the work-related injury insurance fund in accordance with the provisions of the State shall be paid from the work-related injury insurance fund.

Article 35 — Where an employer fails to pay work-related injury insurance premiums in accordance with the law and an employee suffers a work-related injury, the employer shall pay the work-related injury insurance benefits. Where the employer does not pay, the work-related injury insurance fund shall pay in advance. The work-related injury insurance benefits paid in advance by the work-related injury insurance fund shall be recovered from the employer.

Article 36 — Where an employee suffers a work-related injury due to a third party and the third party fails to pay the medical expenses for the work-related injury, or where the third party cannot be identified, the work-related injury insurance fund shall pay in advance. After the work-related injury insurance fund has paid in advance, it shall have the right to recover from the third party.

Chapter V — Unemployment Insurance

Article 37 — Employees shall participate in unemployment insurance, and the unemployment insurance premiums shall be jointly paid by the employer and the employee in accordance with the provisions of the State.

Article 38 — 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 at least one year before becoming unemployed; (2) the employment has been interrupted not based on the individual's own will; and (3) the individual has registered as

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unemployed and has a request to seek re-employment.

Article 39 — During the period of receiving unemployment insurance benefits, unemployed persons who participate in basic medical insurance for employees shall enjoy basic medical insurance benefits. The basic medical insurance premiums payable by unemployed persons shall be paid from the unemployment insurance fund, and individuals shall not pay basic medical insurance premiums.

Article 40 — Where an unemployed person dies during the period of receiving unemployment insurance benefits, his or her surviving family members shall receive a one-time funeral subsidy and condolence payments in accordance with the provisions. The funds required shall be paid from the unemployment insurance fund.

Chapter VI — Maternity Insurance

Article 41 — Employees shall participate in maternity insurance, and the maternity insurance premiums shall be paid by the employer in accordance with the provisions of the State. Employees shall not pay maternity insurance premiums.

Article 42 — Where an employer has paid maternity insurance premiums in accordance with the provisions, its employees shall enjoy maternity insurance benefits. The unemployed spouses of employees shall enjoy maternity medical expenses benefits in accordance with the provisions of the State. The funds required shall be paid from the maternity insurance fund. Maternity insurance benefits shall include maternity medical expenses and maternity allowances.

Article 43 — The maternity medical expenses, family planning medical expenses, and other expenses incurred by employees shall be paid from the maternity insurance fund in accordance with the provisions of the State. During the maternity leave period, employees shall receive maternity allowances in accordance with the provisions of the State.

Chapter VII — Social Insurance Funds

Article 44 — Social insurance funds shall include the basic endowment insurance fund, basic medical insurance fund, work-related injury insurance fund, unemployment insurance fund, and maternity insurance fund. Social insurance funds shall be accounted for separately according to the types of social insurance, and the accounts shall be prepared uniformly according to the state uniform accounting system. Social insurance funds shall be used exclusively for designated purposes, and no organization or individual may misappropriate or divert them.

Article 45 — When the basic endowment insurance fund gradually implements national pooling, other social insurance funds shall gradually implement provincial pooling. The specific time and steps shall be prescribed by the State Council.

Article 46 — Social insurance funds shall be managed through a system of revenue and expenditure with separate lines of management, and the government shall not misappropriate or divert social insurance funds in any form. No organization or individual may use social insurance funds for purposes other than those provided by law.

Article 47 — The budget and final accounts of social insurance funds shall be prepared by the social insurance agencies and approved in accordance with the procedures prescribed by the State.

Article 48 — Social insurance funds shall be operated safely in accordance with the overall plans of the State. The ways of investing and operating social insurance funds shall be prescribed by the State Council.

Chapter VIII — Supervision of Social Insurance

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Article 49 — The standing committees of the people's congresses at all levels shall hear and deliberate on the special work reports of the people's governments at the corresponding levels on the revenue and expenditure, management, investment and operation of social insurance funds, and on supervision and inspection, and shall organize the enforcement inspection of this Law and exercise other statutory functions and powers.

Article 50 — The administrative departments of social insurance of the 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. Where an employer or individual is found to have violated social insurance laws or regulations in the course of supervision and inspection, the matter shall be dealt with in accordance with the law.

Article 51 — Social insurance agencies and their staff members shall not commit any of the following acts: (1) failing to perform their statutory duties; (2) failing to deposit social insurance funds into special financial accounts; (3) withholding or refusing to pay social insurance benefits in accordance with the law, or illegally deducting social insurance benefits; (4) tampering with or destroying payment records, records of enjoyment of social insurance benefits, or other social insurance data; or (5) other acts in violation of social insurance laws and regulations.

Article 52 — The State shall establish a national social insurance public service platform and gradually extend it nationwide, providing convenient social insurance services such as inquiry and application for insured persons.

Chapter IX — Legal Liability

Article 53 — Where an employer fails to register for social insurance, the social insurance agency shall order it to make rectification within a prescribed time limit. Where the employer fails to make rectification within the 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 500 yuan but not more than 3,000 yuan shall be imposed on the directly responsible person in charge and other directly responsible persons.

Article 54 — Where an employer fails to pay social insurance premiums in full and on time, the social insurance premium collection agency shall order it to pay within a prescribed time limit or make up the shortfall, and an overdue fine of 0.05% per day shall be imposed from the date of non-payment. Where the employer still fails to pay within the prescribed time limit, a fine of not less than one time but not more than three times the amount in arrears shall be imposed by the relevant administrative department.

Article 55 — Where an employer or individual obtains social insurance benefits by fraud, falsification of certification materials, or other fraudulent means, the social insurance administrative department shall order it to return the social insurance benefits fraudulently obtained and impose a fine of not less than two times but not more than five times the amount fraudulently obtained.

Article 56 — Where a social insurance agency or a financial institution with which social insurance funds are deposited, or any of their staff members, commits any of the following acts, the social insurance administrative department shall order it to make rectification and shall confiscate the illegal gains, and shall impose sanctions on the directly responsible person in charge and other directly responsible persons in accordance with the law: (1) misappropriating or diverting social insurance funds; (2) failing to deposit social insurance funds into special financial accounts in accordance with the provisions; or (3) other acts in violation of social insurance laws and regulations.

Chapter X — Supplementary Provisions

Article 57 — Foreigners who are employed within the territory of the People's Republic of China shall participate in social insurance with reference to the provisions of this Law. Where international treaties provide otherwise, such provisions shall prevail.

Article 58 — This Law shall come into force on July 1, 2011.

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