Social Insurance Law of the PRC

Dan Young Business Consultancy — www.danyoungcpa.com

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 for the purposes of regulating social insurance relationships, safeguarding the legitimate rights and interests of citizens to participate in social insurance and enjoy social insurance benefits, ensuring that citizens share the fruits of development, promoting social harmony and stability, in accordance with the Constitution of the People's Republic of China.

Article 2 — The State shall establish a social insurance system comprising basic endowment insurance, basic medical insurance, work-related injury insurance, unemployment insurance and maternity insurance, and shall ensure that citizens shall, under the statutory circumstances, have the right to receive material assistance from the State and society in accordance with the law.

Article 3 — The social insurance system shall adhere to the principles of extensive coverage, basic protection, multi-tiered design 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 interest 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 by their own employers on their behalf.

Article 5 — The 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. The 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 systems for social insurance funds to ensure the safe and efficient operation of social insurance funds. The people's governments at or above the county level shall take measures to encourage and support participation of all sectors of society in the supervision of social insurance funds.

Article 7 — The social insurance administrative departments under the State Council shall be responsible for the administration of social insurance throughout the country. Other relevant departments under the State Council shall be responsible for the relevant social insurance work within their respective functions and responsibilities. The social insurance administrative departments under the local people's governments at or above the county level shall be responsible for the administration of social insurance within their respective administrative regions. Other relevant departments under the local people's governments at or above the county level shall be responsible for the relevant social insurance work within their respective functions and responsibilities.

Article 8 — Social insurance agencies shall provide social insurance services, and be responsible for social insurance registration, personal interest recording, the payment of social insurance benefits, 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 supervise matters relating to the social insurance rights and interests of employees.

Chapter II — Basic Endowment Insurance

Article 10 — Employees shall participate in basic endowment insurance, and the basic endowment insurance premiums shall be paid jointly by the employer and the employees. Individual businesses 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 the endowment insurance of public servants and staff governed by the public servant system 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 and government subsidies.

Article 12 — Employers shall pay basic endowment insurance premiums according to the proportion of the total wages of their employees as prescribed by the State, which shall be credited to the basic endowment insurance social pooling fund. Employees shall pay basic endowment insurance premiums according to the proportion of their own wages as prescribed by the State, which shall be credited to their individual accounts. For individual businesses 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 proportion prescribed by the State, and shall be credited to the basic endowment insurance social pooling fund and individual accounts respectively.

Article 13 — Before employees of state-owned enterprises, government-affiliated institutions and public institutions participate in basic endowment insurance, the basic endowment insurance premiums that should have been paid during the period deemed as payment years shall be borne by the government. Where the basic endowment insurance fund has a shortfall, the government shall provide subsidies.

Article 14 — Individual accounts may not be withdrawn in advance. The bookkeeping interest rate of individual accounts shall not be lower than the bank fixed deposit interest rate, and shall be exempt from interest tax. Where an individual dies, the balance of the individual account may be inherited.

Article 15 — The basic pension shall consist of the social pooling pension and the individual account pension. The basic pension shall be determined based on the factors such as the individual’s cumulative payment years, payment wages, the average wage of employees in the locality, the amount in the individual account, and the average life expectancy of the urban population.

Article 16 — An individual who has participated in basic endowment insurance and has made cumulative contributions for 15 years when reaching the statutory retirement age shall receive a basic pension on a monthly basis. An individual who has participated in basic endowment insurance but has made cumulative contributions for less than 15 years when reaching the statutory retirement age may make contributions until he or she has reached the 15-year threshold and then receive a basic pension on a monthly basis, or may transfer to the new rural social endowment insurance or the urban resident social endowment insurance and enjoy the corresponding endowment insurance benefits in accordance with the provisions of the State Council.

Article 17 — Where an individual who participates in basic endowment insurance dies due to illness or non-work-related reasons, his or her surviving family members may receive a funeral subsidy and a compassionate allowance. Where an individual becomes completely disabled due to illness or non-work-related reasons before reaching the statutory retirement age, he or she may receive a disability allowance. The funds required shall be paid from the basic endowment insurance fund.

Article 18 — The State shall establish a mechanism for the normal adjustment of the basic pension. The level of the basic pension shall be raised in a timely manner according to the increase in the average wage of employees and the rise in prices.

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Article 19 — Where an individual transfers his or her basic endowment insurance relationship across social pooling regions, the basic endowment insurance premiums paid by the individual shall be transferred together with the individual account, and the payment 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 the 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 the basic pension and the 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 the urban resident social endowment insurance system. The people's governments of provinces, autonomous regions and municipalities directly under the Central Government may, in light of actual conditions, combine the urban resident social endowment insurance and the new rural social endowment insurance for implementation.

Chapter III — Basic Medical Insurance

Article 23 — Employees shall participate in basic medical insurance for employees, and the basic medical insurance premiums shall be paid jointly by the employer and the employees according to the proportion prescribed by the State. Individual businesses without employees, part-time workers who have not participated in basic medical insurance through their employers, and other flexible employment personnel may participate in basic medical insurance for employees, and the basic medical insurance premiums shall be paid by individuals according to the proportion prescribed by the State.

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

Article 25 — The State shall establish and improve the basic medical insurance system for urban residents. The basic medical insurance for urban residents shall be a combination of individual contributions and government subsidies. The government shall grant subsidies to the individuals who need them as prescribed by the State for the portion of the basic medical insurance premiums to be paid by individuals.

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

Article 27 — Where an individual who participates in basic medical insurance for employees has made cumulative contributions for the number of years prescribed by the State when reaching the statutory retirement age, he or she 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. Where the individual has not reached the number of years prescribed by the State, he or she may make contributions until reaching the number of years prescribed by the State.

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

Article 29 — The portion of the medical expenses of insured persons that should be paid by the basic medical insurance fund shall be settled directly between the social insurance agency and the medical

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institution or the pharmaceutical business institution. The social insurance administrative departments and the health administrative departments shall establish a settlement system for medical expenses incurred for medical treatment in other places so as to facilitate the enjoyment of basic medical insurance benefits by insured persons.

Article 30 — The following medical expenses shall not be covered by the basic medical insurance fund: (1) expenses that should be paid from the work-related injury insurance fund; (2) expenses that should be borne by a third party; (3) expenses that should be borne by public health; and (4) medical expenses incurred outside the territory of the People's Republic of China. Where the medical expenses are legally payable by a third party, if the third party fails to pay or the third party cannot be identified, the basic medical insurance fund shall pay the expenses in advance. After the basic medical insurance fund has paid the expenses in advance, it shall have the right to recover the payment from the third party.

Article 31 — Social insurance agencies may, based on the needs of their management services, enter into service agreements with medical institutions and pharmaceutical business institutions to regulate medical service practices. Medical institutions shall provide reasonable and necessary medical services for insured persons.

Article 32 — Where an individual transfers his or her basic medical insurance relationship across social pooling regions, the basic medical insurance payment years shall be calculated cumulatively.

Chapter IV — Work-Related Injury Insurance

Article 33 — 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 34 — The State shall determine the differential rates of work-related injury insurance according to the degree of risks of different industries, and shall, based on the situation of the use of the work-related injury insurance funds and the incidence of work-related injuries, implement floating rates within each industry. The industry differential rates and floating rates within industries shall be prescribed by the social insurance administrative department under the State Council and shall be implemented after approval by the State Council.

Article 35 — Employers shall pay work-related injury insurance premiums according to the total wages of their employees and the rates determined by the social insurance agency.

Article 36 — Where an employee suffers an accidental injury or an occupational disease at work and is determined to have suffered a work-related injury upon determination, the employee shall enjoy work-related injury insurance benefits. Where the employee's ability to work is determined to have been lost after assessment, the employee shall enjoy disability benefits. The determination of work-related injuries and the assessment of the loss of ability to work shall be simple and convenient.

Article 37 — Where an employee is injured at work under any of the following circumstances, the injury shall not be determined as a work-related injury: (1) the injury is caused intentionally by the employee; (2) the injury is caused by being drunk or taking drugs; (3) the injury is caused by self-mutilation or suicide; or (4) other circumstances prescribed by laws or administrative regulations.

Article 38 — The following expenses incurred as a result of a work-related injury shall be paid from the work-related injury insurance fund in accordance with the provisions of the State: (1) medical expenses and rehabilitation expenses for the treatment of work-related injuries; (2) food subsidies for hospitalization; (3) transportation, accommodation and food expenses for medical treatment outside the social pooling region; (4) expenses for the installation and configuration of disability assistive devices; (5) nursing expenses confirmed by the assessment of the employee's ability to work as being required where the employee is

unable to take care of his or her own daily life; (6) a one-time disability subsidy and the disability allowance received by employees of disability grades 1 to 4 on a monthly basis; (7) a one-time medical subsidy received upon termination or dissolution of the labor contract; (8) funeral subsidies, compassionate allowance for supporting relatives, and work-related death subsidy received in the event of death due to a work-related injury; and (9) labor capacity assessment fee.

Article 39 — The following expenses incurred as a result of a work-related injury shall be paid by the employer in accordance with the provisions of the State: (1) wages and benefits during the period of treatment for the work-related injury; (2) the disability allowance received by employees of disability grades 5 and 6 on a monthly basis; and (3) a one-time disability employment subsidy received upon termination or dissolution of the labor contract.

Article 40 — Where an employee who suffers a work-related injury meets the conditions for receiving a basic pension, the payment of the disability allowance shall be suspended and the employee shall enjoy basic endowment insurance benefits. Where the basic endowment insurance benefits are lower than the disability allowance, the difference shall be made up from the work-related injury insurance fund.

Article 41 — Where an employee suffers a work-related injury while the employer has not paid work-related injury insurance premiums in accordance with the law, the employer shall pay the work-related injury insurance benefits. Where the employer fails to pay, the work-related injury insurance fund shall pay first. The work-related injury insurance benefits paid in advance by the work-related injury insurance fund shall be recovered from the employer by the social insurance agency. The employer shall reimburse the social insurance agency for the full amount paid in advance. Where the employer fails to reimburse, the social insurance agency may recover the payment in accordance with the provisions of Article 63 of this Law.

Article 42 — Where an employee's injury at work is caused by a third party, and the third party fails to pay the medical expenses for the work-related injury, or the third party cannot be identified, the work-related injury insurance fund shall pay first. After the work-related injury insurance fund has paid the expenses in advance, it shall have the right to recover the payment from the third party.

Article 43 — Where an employee who suffers a work-related injury falls under any of the following circumstances, the employee shall cease to enjoy work-related injury insurance benefits: (1) having lost the conditions for enjoying the benefits; (2) refusing to undergo the assessment of the ability to work; or (3) refusing medical treatment.

Chapter V — Unemployment Insurance

Article 44 — Employees shall participate in unemployment insurance, and the unemployment insurance premiums shall be paid jointly by the employer and the employees according to the proportion prescribed by the State.

Article 45 — Where an unemployed person who has participated in unemployment insurance meets the following conditions, the unemployed person shall receive unemployment insurance benefits from the unemployment insurance fund: (1) the employer and the individual have paid unemployment insurance premiums for one full year before the unemployment; (2) the employment has been terminated not due to the will of the individual; and (3) the individual has registered as unemployed and has the requirement to seek employment.

Article 46 — Where an unemployed person whose employer and the individual have paid unemployment insurance premiums for one full year but less than five years before the unemployment, the maximum period for receiving unemployment insurance benefits shall be 12 months. Where the cumulative payment period is five full years but less than ten full years, the maximum period for receiving unemployment insurance benefits shall be 18 months. Where the cumulative payment period is ten full years or more, the maximum period for receiving unemployment insurance benefits shall be 24 months. Where an individual is

re-employed and becomes unemployed again, the period for receiving unemployment insurance benefits shall be recalculated, and the period for receiving unemployment insurance benefits for the second time shall be combined with the period for receiving unemployment insurance benefits that should have been received but was not received for the previous unemployment, provided that the maximum 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 minimum subsistence guarantee standard for urban residents.

Article 48 — During the period of receiving unemployment insurance benefits, an unemployed person shall participate in basic medical insurance for employees and enjoy basic medical insurance benefits. The basic medical insurance premiums payable by the unemployed person shall be paid from the unemployment insurance fund, and the individual shall not pay basic medical insurance premiums.

Article 49 — Where an unemployed person dies during the period of receiving unemployment insurance benefits, a funeral subsidy and a compassionate allowance shall be paid to his or her surviving family members by reference to the provisions applicable to active employees in the locality. The funds required shall be paid from the unemployment insurance fund. Where an individual's death simultaneously qualifies for funeral subsidies under the basic endowment insurance, work-related injury insurance and unemployment insurance, his or her surviving family members may only choose one of them.

Article 50 — An employer shall, in a timely manner, issue a certificate of termination or dissolution of the employment relationship for the unemployed person, and shall inform the social insurance agency of the list of unemployed persons within 15 days from the date of termination or dissolution of the employment relationship. An unemployed person shall, with the certificate of termination or dissolution of the employment relationship issued by the employer, register as unemployed with the public employment service agency designated by the social insurance agency in a timely manner. An unemployed person shall receive unemployment insurance benefits on a monthly basis from the date of registration as unemployed, with the unemployment insurance certificate and his or her identity card.

Article 51 — Where an unemployed person falls under any of the following circumstances during the period of receiving unemployment insurance benefits, the receipt of unemployment insurance benefits shall be suspended: (1) has been re-employed; (2) has been enlisted for military service; (3) has migrated outside the territory of the People's Republic of China; (4) has started to enjoy basic endowment insurance benefits; or (5) refuses, without justifiable reasons, to accept the appropriate job or training introduced by the relevant department or institution designated by the local people's government.

Article 52 — Where an individual transfers his or her unemployment insurance relationship across social pooling regions, the unemployment insurance premiums paid by the individual shall be transferred together with the individual, and the payment years shall be calculated cumulatively.

Chapter VI — Maternity Insurance

Article 53 — Employees shall participate in maternity insurance, and the maternity insurance premiums shall be paid by the employer according to the proportion prescribed by the State. 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 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 allowance.

Article 55 — Maternity medical expenses shall include the following items: (1) medical expenses incurred for childbirth; (2) medical expenses incurred for family planning; and (3) other project expenses prescribed by laws and regulations. Maternity allowance shall be calculated and paid according to the average monthly wage of the employees of the employer in the preceding year.

Article 56 — An employee shall enjoy maternity allowance under any of the following circumstances: (1) where a female employee takes maternity leave; (2) where the employee takes leave for a family planning operation; or (3) other circumstances prescribed by laws and regulations. Maternity allowance shall be determined based on the average monthly wage of the employees of the employer in the preceding year.

Chapter VII — Collection and Payment of Social Insurance Premiums

Article 57 — Employers shall, within 30 days from the date of establishment, apply to the local social insurance agency for social insurance registration with their business licenses, registration certificates, or seals of the unit. The social insurance agency shall, within 15 days from the date of receipt of the application, complete the examination and issue a social insurance registration certificate. Where the registered items of an employer's social insurance registration have changed, or the employer is terminated in accordance with the law, the employer shall, within 30 days from the date of the change or termination, apply to the social insurance agency for change or cancellation of the social insurance registration. The market supervision and administration departments, the civil affairs departments and the organizational code administration departments shall notify the social insurance agencies of the establishment and termination of employers in a timely manner, and the public security authorities shall notify the social insurance agencies of the birth and death of individuals as well as the registration, change and cancellation of household registration in a timely manner.

Article 58 — Employers shall, within 30 days from the date of employment, apply to the social insurance agency for social insurance registration for their employees. Where social insurance registration is not completed, the social insurance agency shall determine the social insurance premiums to be paid by the employers. Individual businesses without employees who voluntarily participate in social insurance, part-time workers who have not participated in social insurance through their employers, and other flexible employment personnel shall apply to the social insurance agency for social insurance registration. The State shall establish a nationally unified individual social security number. The individual social security number shall be the citizenship number of the individual.

Article 59 — The 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 scope of the collection, the rates and the premium amounts shall be prescribed by the State Council and the people's governments of provinces, autonomous regions and municipalities directly under the Central Government.

Article 60 — Employers shall voluntarily declare, and shall pay social insurance premiums in full and on time. No reduction or exemption without authorization shall be allowed, unless force majeure or other statutory circumstances occur. The portion of social insurance premiums to be paid by employees shall be withheld and remitted by the employer from the wages of the employees, and the employer shall inform the individual of the details of the payment of social insurance premiums on a monthly basis. Individual businesses without employees, part-time workers who have not participated in social insurance through their employers, and other flexible employment personnel may directly pay social insurance premiums 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 inform the employers and individuals of the payment status on a regular basis.

Article 62 — Where an employer fails to declare an amount of social insurance premiums to be paid in accordance with the relevant provisions, the social insurance premium collection institution shall determine the amount to be paid by the employer. Where the amount declared by an employer is lower than the actual amount, the employer shall make up the difference and shall pay a late fee at the rate of 0.05 percent for each day from the date of the arrears.

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 make the payment or make up the deficiency within a specified time limit. Where the employer fails to pay the full amount within the time limit, the social insurance premium collection institution may inquire about the deposit account of the employer with banks or other financial institutions. The social insurance premium collection institution may apply to the relevant administrative department at or above the county level for a decision to transfer the social insurance premiums, and notify the bank or other financial institution where the employer has an account to transfer the social insurance premiums. Where the balance in the employer's account is less than the amount of the social insurance premiums to be paid, 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 the 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 the employer's assets equivalent to the amount of the social insurance premiums to be paid, and use the proceeds from the auction to offset the social insurance premiums.

Chapter VIII — Social Insurance Funds

Article 64 — Social insurance funds shall include basic endowment insurance funds, basic medical insurance funds, work-related injury insurance funds, unemployment insurance funds and maternity insurance funds. Each social insurance fund shall establish separate accounts and carry out separate accounting in accordance with the types of social insurance, and shall implement a unified national accounting system. Social insurance funds shall be used for designated purposes only, and no organization or individual may misappropriate or divert the funds. Basic endowment insurance funds shall be gradually subject to national pooling. Other social insurance funds shall be gradually subject to provincial pooling, and the specific timetable and steps shall be prescribed by the State Council.

Article 65 — Social insurance funds shall achieve a balance between revenue and expenditure through budgets. The people's governments at or above the county level shall provide subsidies to social insurance funds in the event of a shortfall.

Article 66 — Social insurance funds shall prepare budgets and final accounts in accordance with the levels of social pooling. Social insurance fund budgets shall be prepared according to the development plans of social insurance projects and the principle of achieving a balance between revenue and expenditure. The draft budgets of social insurance funds shall be submitted to the people's congresses at the corresponding levels for examination and approval. No adjustment may be made to the approved social insurance fund budgets without legal procedures.

Article 67 — The draft budgets and final accounts of social insurance funds shall be prepared by the social insurance agencies and, after having been examined by the social insurance administrative departments, submitted to the finance departments. The finance departments shall submit them to the people's governments at the corresponding levels, and the people's governments at the corresponding levels shall incorporate them in the government budgets and final accounts.

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

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Article 69 — Social insurance funds shall, on the premise of ensuring safety, invest and operate in accordance with the provisions of the State Council to preserve and increase the value of the funds. Social insurance funds shall not be used for any investment or operation in violation of regulations, shall not be used to balance other government budgets, nor shall they be used for the construction or renovation of office premises or for the purchase of means of transportation and other non-operational expenses.

Article 70 — Social insurance agencies shall publish the revenue and expenditure, balance and income of social insurance funds on a regular basis to the public.

Article 71 — The State shall establish a national social security fund, which shall be composed of funds allocated by the central government budget, funds raised by other means approved by the State Council, and the investment income thereof, and shall be used for the supplementary and adjustment of social insurance expenditures such as endowment insurance. The national social security fund shall be managed and operated by the national social security fund management and operation institution, and shall, on the premise of ensuring safety, preserve and increase its value. The national social security fund shall publish its revenue and expenditure, management and operation to the public on a regular basis. The social insurance administrative departments and the finance departments and the audit authorities under the State Council shall supervise the revenue and expenditure, management and operation of the national social security fund.

Chapter IX — Social Insurance Administration

Article 72 — Social insurance agencies shall be established for social pooling regions. Where necessary for work, social insurance agencies may set up branch offices and service outlets in social pooling regions with the approval of the local social insurance administrative departments and the organizational code administration departments. The personnel expenses of social insurance agencies, the basic operating expenses and management expenses necessary for the handling of social insurance shall be guaranteed by the government budgets at the corresponding levels in full and on time in accordance with the provisions of the State.

Article 73 — Social insurance agencies shall establish and improve their business, 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, through their business handling, statistics and investigation, acquire the data needed for social insurance work, and the relevant units and individuals shall provide timely and truthful data. Social insurance agencies shall establish files for employers in a timely manner, recording the information such as the number of persons participating in social insurance, the payment of premiums, and shall keep complete and accurate records of the personal interest data such as the payment of social insurance premiums by individuals, the years of payment by employers for the individuals, and the receipt of social insurance benefits by individuals. Social insurance agencies shall send the personal interest records to the individuals free of charge on a regular basis. Employers and individuals may inquire and check their payment and social insurance benefits records with social insurance agencies free of charge, and request social insurance agencies to provide social insurance consultation and other related services.

Article 75 — The national social insurance information system shall be planned and constructed in a unified manner by the State in accordance with the principle of overall planning. The people’s governments at or above the county level shall incorporate the construction of social insurance information systems into the overall planning of informatization construction, strengthen the integration and sharing of social insurance information resources among the relevant departments, and improve the level of social insurance administration.

Chapter X — Social Insurance Supervision

Article 76 — 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 the supervision and inspection thereof, and shall organize the enforcement inspection of this Law to exercise their supervisory functions in accordance with the law.

Article 77 — The social insurance administrative departments under 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. When the social insurance administrative departments conduct supervision and inspection, the employers and individuals under inspection shall truthfully provide information relating to social insurance, and shall not refuse inspection or make false or concealed reports.

Article 78 — The finance departments and audit authorities shall, in accordance with their respective functions and responsibilities, supervise the revenue and expenditure, management and investment and operation of social insurance funds.

Article 79 — The social insurance administrative departments shall supervise and inspect the revenue and expenditure, management and investment and operation of social insurance funds, and upon discovering any existing problems, shall propose suggestions for rectification, make a disposition decision on the illegal acts in accordance with the law, or transfer the case to the relevant administrative department for disposition. The results of the inspection shall be published to the public on a regular basis. Social insurance administrative departments shall, in conducting supervision and inspection of social insurance funds, have the right to take the following measures: (1) to consult, record and copy the information relating to the revenue and expenditure, management and investment and operation of social insurance funds, and to seal up the information that may be transferred, concealed or destroyed; (2) to inquire the relevant units and individuals about the existing problems; and (3) to apply to the people's banks or the relevant financial regulatory authorities for stopping the payment of the relevant funds.

Article 80 — Social insurance supervision committees shall be formed by representatives of employers, insured persons, trade unions and experts, among others, to examine and analyze the revenue and expenditure, management and investment and operation of social insurance funds, and put forward consultation opinions and suggestions on social insurance work. When social insurance agencies report to the relevant authorities on the revenue and expenditure, management and investment and operation of social insurance funds, they shall simultaneously report to the social insurance supervision committees.

Article 81 — Social insurance agencies shall accept social supervision. Any organization or individual shall have the right to report or make a complaint about any act violating social insurance laws or regulations. The social insurance administrative departments, the health administrative departments, the social insurance agencies, the social insurance premium collection institutions, and the finance departments and the audit authorities shall deal with reports and complaints falling within their respective functions and responsibilities in accordance with the law. For reports and complaints that fall within the functions and responsibilities of their own departments or institutions, they shall deal with them in a timely manner. For reports and complaints that do not fall within their own functions and responsibilities, they shall notify and transfer them to the departments or institutions that have the authority to deal with them in a written form. The departments and institutions receiving the transfer shall deal with them within the statutory period and shall not further transfer them without authorization.

Chapter XI — Legal Liability

Article 82 — Where an employer fails to complete social insurance registration within the prescribed time limit, the social insurance administrative department shall order it to make rectification within a specified time limit. Where the employer fails to make rectification within the time limit, the social insurance administrative department shall impose a fine of not less than one time and not more than three times the amount of the

social insurance premiums payable by the employer, and a fine of not less than RMB 500 and not more than RMB 3,000 on the directly responsible persons in charge and other directly responsible persons.

Article 83 — Where an employer refuses to issue a certificate of termination or dissolution of the employment relationship, the matter shall be dealt with in accordance with the Labor Contract Law of the People's Republic of China and other relevant laws.

Article 84 — Where an employer fails to pay social insurance premiums in full and on time, if the employer fails to make the payment within the time limit after having been ordered to do so by the social insurance premium collection institution, the social insurance premium collection institution may apply to a people's court for the seizure, attachment or auction of the employer's assets equivalent to the amount of the social insurance premiums to be paid, and use the proceeds from the auction to offset the social insurance premiums.

Article 85 — Where an employer conceals the total wages, the number of employees, or other relevant information, and thereby evades the payment of social insurance premiums, the social insurance administrative department shall order it to make rectification within a specified time limit and impose a fine of not less than one time and not more than three times the amount of the social insurance premiums evaded.

Article 86 — Where an employer fails to pay social insurance premiums in full and on time, the social insurance premium collection institution shall order it to make the payment or make up the deficiency within a specified time limit, and shall impose a late fee at the rate of 0.05 percent for each day from the date of the arrears. Where the employer fails to pay the full amount within the time limit, a fine of not less than one time and not more than three times the amount of the outstanding social insurance premiums shall be imposed by the relevant administrative department.

Article 87 — Where a social insurance agency, a medical institution, a pharmaceutical business institution or any other social insurance service institution defrauds social insurance funds by fraud, forgery of certification materials or other means, the social insurance administrative department shall order the return of the social insurance funds defrauded and impose a fine of not less than two times and not more than five times the amount defrauded. Where the case involves a social insurance service institution, the service agreement shall be terminated. Where the directly responsible persons in charge and other directly responsible persons have a practicing qualification, their practicing qualification shall be revoked in accordance with the law.

Article 88 — Any person who defrauds social insurance funds by fraud, forgery of certification materials or other means shall be ordered by the social insurance administrative department to return the social insurance funds defrauded and shall be fined not less than two times and not more than five times the amount defrauded.

Article 89 — Where a social insurance agency or any of its staff members commits any of the following acts, the social insurance administrative department shall order rectification. Where loss is caused to the social insurance funds, the employer or the individual, the person shall be liable for compensation in accordance with the law, and the directly responsible persons in charge and other directly responsible persons shall be given sanctions in accordance with the law: (1) failing to perform the statutory duties of social insurance; (2) failing to deposit the social insurance funds into a special financial account; (3) deducting, delaying or refusing to pay social insurance benefits; (4) losing or tampering with the payment records, social insurance benefit records and other social insurance data, or personal interest records; (5) committing other acts in violation of social insurance laws and regulations. Where the social insurance premium collection institution commits any of the acts specified in the preceding paragraph without authorization, the social insurance administrative department shall impose sanctions in the same manner as for social insurance agencies.

Article 90 — Where a social insurance premium collection institution changes the rates or the base for the payment of social insurance premiums without authorization, resulting in the collection of insufficient or excessive social insurance premiums, the relevant administrative department shall order it to recover the

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amount of the insufficiently collected social insurance premiums or refund the amount of the excessively collected social insurance premiums. The directly responsible persons in charge and other directly responsible persons shall be given sanctions in accordance with the law.

Article 91 — Where any unit or individual misappropriates or diverts social insurance funds in violation of the provisions of this Law, the misappropriated or diverted social insurance funds shall be recovered, the illegal gains shall be confiscated, and a sanction shall be given to the directly responsible persons in charge and other directly responsible persons in accordance with the law. Where a crime is constituted, criminal liability shall be pursued in accordance with the law.

Article 92 — Where any unit or individual divulges the personal information of an employer or an individual in violation of the provisions of this Law, the divulged personal information shall be eliminated in accordance with the law. Where loss is caused, the person shall be liable for compensation in accordance with the law. The directly responsible persons in charge and other directly responsible persons shall be given sanctions in accordance with the law. Where a crime is constituted, criminal liability shall be pursued in accordance with the law.

Article 93 — Where any state functionary commits any of the acts of dereliction of duty, abuse of power, or engaging in malpractices for personal gain in social insurance administration or supervision, a sanction shall be imposed in accordance with the law.

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

Chapter XII — Supplementary Provisions

Article 95 — Rural migrant workers in cities shall participate in social insurance in accordance with the provisions of this Law.

Article 96 — Where land is expropriated, the social insurance premiums of the farmers whose land has been expropriated shall be arranged by the State Council.

Article 97 — Where a foreigner who is employed within the territory of the People's Republic of China participates in social insurance, the matter shall be governed by reference to the provisions of this Law.

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

Disclaimer: This English translation of the Social Insurance Law of the People's Republic of China (2010) is provided for reference and informational purposes only. While every effort has been made to ensure accuracy, this translation is unofficial and carries no legal authority. The original Chinese text adopted by the National People's Congress shall prevail in all legal matters. Users should consult qualified legal professionals for advice on specific compliance obligations. Dan Young Business Consultancy assumes no liability for any errors, omissions, or reliance on this translation.