

Special Provisions on the Labor Protection of Female Employees of the People's Republic of China

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

Adopted at the 200th Executive Meeting of the State Council on April 18, 2012, promulgated by Decree No. 619 of the State Council of the People's Republic of China on April 28, 2012, effective as of April 28, 2012.

Article 1 — Purpose and Scope — These Provisions are formulated in accordance with the Labor Law of the People's Republic of China, the Law on the Protection of Women's Rights and Interests, and other relevant laws and regulations to reduce and resolve the special difficulties caused by the physiological characteristics of female employees during work or production, and to protect the health of female employees. These Provisions shall apply to female employees of state organs, enterprises, public institutions, social organizations, individually-owned businesses and other organizations within the territory of the People's Republic of China.

Article 2 — Employer Obligations — Employers shall strengthen the labor protection of female employees, take measures to improve the labor safety and hygiene conditions for female employees, and provide training on labor safety and hygiene knowledge to female employees.

Article 3 — Prohibition of Discrimination — Employers shall not refuse to recruit female employees or raise recruitment standards for female employees on grounds of gender. Labor contracts concluded between employers and female employees shall not contain provisions restricting the marriage or childbirth of female employees.

Article 4 — Labor Contract Protection — Employers shall not reduce female employees' wages, dismiss female employees, or rescind or terminate labor contracts or employment agreements with female employees on grounds of marriage, pregnancy, childbirth or breastfeeding, except as otherwise provided by laws and regulations.

Article 5 — Wage Protection — During pregnancy, childbirth and the breastfeeding period, employers shall not reduce female employees' wages or cancel their welfare benefits.

Article 6 — Prohibited Work and Restrictions — Female employees shall not be assigned to engage in the following work or operations:

1. Underground work in mines; 2. Work with grade-IV physical labor intensity as specified in the national standards; 3. Other work or operations prohibited for female employees.

During the period from the seventh month of pregnancy, female employees shall not be assigned to work extended working hours or night shift work, and a certain amount of rest time shall be arranged during working hours.

Article 7 — Menstrual Period Protection — During the menstrual period, female employees shall not be assigned to engage in high-altitude work, low-temperature work, cold-water work or work with grade-III physical labor intensity as specified in the national standards.

Article 8 — Pregnancy Protection — During pregnancy, female employees shall not be assigned to engage in work with grade-III physical labor intensity as specified in the national standards or work in an environment where the concentration of toxic and harmful substances exceeds the national occupational health standards.

Female employees who are already more than seven months pregnant shall not be assigned to work extended working hours or night shift work.

Article 9 — Maternity Leave Benefits — Female employees shall be entitled to 98 days of maternity leave, of which 15 days may be taken before childbirth. Where the childbirth is difficult, an additional 15 days of maternity leave shall be granted. Where multiple births occur, an additional 15 days of maternity leave shall be granted for each additional infant.

Where a female employee has a miscarriage before the fourth month of pregnancy, she shall be entitled to 15 days of maternity leave; where she has a miscarriage after the fourth month of pregnancy, she shall be entitled to 42 days of maternity leave.

Where female employees have a miscarriage before seven months of pregnancy, they shall be entitled to maternity leave in accordance with the provisions of the preceding paragraph.

During maternity leave, the wages of female employees shall be paid in accordance with the regulations on maternity insurance. For female employees who have participated in maternity insurance, the maternity allowance shall be paid by the maternity insurance fund according to the standard of the average monthly wage of the employer's employees in the previous year. For female employees who have not participated in maternity insurance, their wages during maternity leave shall be paid by the employer according to the standard of wages before maternity leave.

The medical expenses for female employees' childbirth or miscarriage shall be paid by the maternity insurance fund for those who have participated in maternity insurance; for those who have not participated in maternity insurance, such expenses shall be paid by the employer.

Article 10 — Breastfeeding Protection — During the breastfeeding period (within one year after childbirth) of a female employee, the employer shall not assign her to engage in work with grade-III physical labor intensity as specified in the national standards or other work prohibited during breastfeeding, and shall not assign her to work extended working hours or night shift work.

An employer shall allow one hour of breastfeeding time per day during working hours for female employees breastfeeding infants under one year of age. Where a female employee gives birth to more than one infant, the breastfeeding time shall be increased by one hour per day for each additional infant.

The breastfeeding time for female employees and the travel time between the workplace and the breastfeeding location shall be counted as working hours.

Article 11 — Maternity Insurance — Employers shall participate in maternity insurance and pay maternity insurance premiums for female employees in accordance with the law. Female employees who have participated in maternity insurance shall enjoy maternity insurance benefits in accordance with the law.

Article 12 — Dormitory and Facilities — Employers with a relatively large number of female employees shall establish facilities such as female employee health rooms, pregnant employee rest rooms and breastfeeding rooms in accordance with the needs of female employees.

Article 13 — Complaint Rights — Female employees may lodge complaints, reports or bring charges with the relevant departments in accordance with the law against acts in violation of these Provisions, or apply to a labor dispute mediation organization for mediation, or apply to a labor dispute arbitration committee for arbitration. Where a female employee is dissatisfied with the arbitration award, she may file a lawsuit with a people's court in accordance with the law.

Article 14 — Legal Liability — Where an employer violates these Provisions by infringing upon the lawful rights and interests of a female employee, the human resources and social security administrative department of the people's government at or above the county level shall order it to make corrections within a specified time limit. Where it fails to make corrections within the time limit, a fine of not less than 3,000

yuan but not more than 5,000 yuan may be imposed on the employer.

Where an employer violates the provisions on the scope of work prohibited for female employees or violates the provisions on working hours or work shift arrangements for female employees, the human resources and social security administrative department shall order it to make corrections within a specified time limit and impose a fine in accordance with the relevant provisions of the State.

Article 15 — Claims and Compensation — Where an employer violates these Provisions and causes damage to a female employee, it shall bear compensation liability in accordance with the law. Where the relevant departments and their staff members neglect their duties, abuse their powers or engage in favoritism during the implementation of these Provisions, the relevant persons in charge and directly responsible personnel shall be subject to administrative sanctions in accordance with the law. Where the circumstances constitute a crime, criminal liability shall be pursued in accordance with the law.

Article 16 — Supplementary Provisions — These Provisions shall come into force on April 28, 2012. The Provisions on the Labor Protection of Female Employees promulgated by the State Council on July 21, 1988 shall be repealed simultaneously.

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