Provisions on the Placement of Surplus Workers of State-Owned Enterprises

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

Adopted at the 115th Executive Meeting of the State Council; promulgated by Decree No. 111 of the State Council of the People's Republic of China on April 20, 1993; effective as of the date of promulgation.

Article 1 — These Provisions are formulated for the purpose of properly arranging surplus staff and workers of State-owned enterprises, enhancing the vitality of enterprises, and improving the economic efficiency of enterprises.

Article 2 — The arrangement of surplus staff and workers of State-owned enterprises (hereinafter referred to as "enterprises") shall follow the principle of arrangement primarily by the enterprise itself with social assistance as a supplement, so as to guarantee the basic livelihood of surplus staff and workers.

Article 3 — Enterprises shall arrange surplus staff and workers by, in accordance with these Provisions, expanding diversified operations, organizing labor service activities, developing the tertiary industry, comprehensively utilizing resources and adopting other measures.

The administrative departments in charge of enterprises, the labor administrative departments and trade union organizations shall guide, assist and support enterprises in doing a good job of arranging surplus staff and workers, actively create conditions, cultivate and improve the labor market, and open up channels for social arrangement.

Article 4 — Independent-accounting enterprises engaged in the tertiary industry that are established by an enterprise for the purpose of arranging its surplus staff and workers shall be exempted from enterprise income tax for two years from the date of commencement of business and shall pay enterprise income tax at a 50 percent reduction for the following three years.

Article 5 — Labor employment service enterprises established by an enterprise shall undertake the task of arranging the enterprise's surplus staff and workers. The enterprise shall, in accordance with the relevant State provisions on the administration of State-owned assets, provide support in terms of funds, premises, raw materials and equipment.

Article 6 — Independent-accounting enterprises established in accordance with law by an enterprise by organizing its surplus staff and workers may undertake technological transformation or labor service projects within the enterprise that were originally contracted to outside units.

Article 7 — An enterprise may place its surplus staff and workers on standby or provide them with retraining for a change of post; the wage and benefit treatment during the training period shall be determined by the enterprise itself.

Article 8 — With discussion and approval by the enterprise's staff and workers' congress and reporting to the administrative department in charge of the enterprise for the record, an enterprise may grant its staff and workers leave for a limited period. During the leave period, the enterprise shall pay the staff and workers a living allowance.

Female staff and workers during pregnancy or the lactation period may, upon their own application, be granted leave by the enterprise for not more than two years, during which the enterprise shall pay a living allowance. Where the leave includes maternity leave, wages shall be paid in accordance with State provisions during the maternity leave period.

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Article 9 — Where a staff member or worker is less than five years from retirement age, he or she may, upon his or her own application and with the approval of the enterprise leadership, withdraw from his or her post for rest. During the period of withdrawal for rest, the enterprise shall pay the staff member or worker a living allowance. In localities where retirement expense pooling has already been implemented, the enterprise and the staff member or worker who has withdrawn from his or her post for rest shall pay basic old-age insurance premiums in accordance with the relevant provisions. When the staff member or worker reaches the retirement age prescribed by the State during the period of withdrawal for rest, retirement formalities shall be completed in accordance with the provisions. The period of withdrawal for rest shall be counted as length of service, and shall be calculated together with his or her previous length of service.

Article 10 — Staff members and workers may apply to resign. With respect to staff members and workers whose resignation is approved by the enterprise, the enterprise shall, when completing the resignation formalities, pay a one-time living subsidy in accordance with the relevant State provisions.

Article 11 — The living allowances paid in accordance with Articles 8 and 9 of these Provisions shall be charged to the enterprise's wage fund; the living allowance standard shall be determined by the enterprise itself, but shall not be lower than the minimum standard prescribed by the people's governments of provinces, autonomous regions and municipalities directly under the Central Government.

Article 12 — Where an enterprise must reduce its staff due to major changes in its production and business operations, it may, with discussion and approval by the enterprise's staff and workers' congress, terminate labor contracts with staff and workers under the labor contract system ahead of schedule, but shall perform its obligations as agreed in the contracts; where the contracts contain no agreement, the enterprise shall pay the staff and workers whose labor contracts are terminated ahead of schedule compensation equivalent to one month's standard wage for each full year of service in the enterprise, based on the number of years of service.

Article 13 — Labor administrative departments at all levels and administrative departments in charge of enterprises shall do a good job of the social arrangement and reallocation of surplus staff and workers, and shall encourage and assist surplus staff and workers to organize themselves for employment and to seek self-employment. Staff and workers reallocated between enterprises may be formally transferred or temporarily seconded; where they are temporarily seconded, their wages and welfare treatment during the secondment period shall be agreed upon by the two enterprises in an agreement.

Article 14 — Where surplus staff and workers have difficulty being arranged by the enterprise itself and become unemployed in society, they shall, during the period of unemployment, enjoy unemployment insurance benefits in accordance with law. The labor administrative departments and the relevant administrative departments shall create conditions to assist the staff and workers in re-employment.

Article 15 — Staff and workers arranged by independent-accounting enterprises established by an enterprise in accordance with these Provisions shall, in accordance with the relevant State provisions, be included in the statistical scope of the staff numbers and economic indicators of the newly established enterprises.

Article 16 — The people's governments of provinces, autonomous regions and municipalities directly under the Central Government may formulate measures for implementation in accordance with these Provisions.

Article 17 — These Provisions shall be interpreted by the labor administrative department of the State Council.

Article 18 — These Provisions shall enter into force as of the date of promulgation.

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