

中华人民共和国劳动法（2018修正）

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中华人民共和国劳动法（2018修正）

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修正）

Labour Law of the People's Republic of China (Amended in 2018)

(Adopted at the 8th Session of the Standing Committee of the Eighth National People's Congress on 5 July 1994, amended for the first time according to the Decision on Revising Certain Laws at the 10th Session of the Standing Committee of the Eleventh National People's Congress on 27 August 2009, and amended for the second time according to the Decision on Revising Seven Laws Including the Labour Law of the People's Republic of China at the 7th Session of the Standing Committee of the Thirteenth National People's Congress on 29 December 2018)

第一章 总 则

Chapter I General Provisions

第一条 为了保护劳动者的合
法权益，调整劳动关系，建立和维

Article 1 This Law is enacted in accordance with the Constitution of the People's Republic of China in order to protect the legitimate rights and interests of workers, regulate the labour relations, establish and safeguard a labour system

护适应社会主义市场经济的劳动制度，促进经济发展和社会进步，根据宪法，制定本法。

第二条 在中华人民共和国境内的企业、个体经济组织（以下统称用人单位）和与之形成劳动关系的劳动者，适用本法。

国家机关、事业组织、社会团体和与之建立劳动合同关系的劳动者，依照本法执行。

第三条 劳动者享有平等就业和选择职业的权利、取得劳动报酬的权利、休息休假的权利、获得劳动安全卫生保护的权利、接受职业技能培训的权利、享受社会保险和福利的权利、提请劳动争议处理的权利以及法律规定的其他劳动权利。

劳动者应当完成劳动任务，提高职业技能，执行劳动安全卫生规程，遵守劳动纪律和职业道德。

第四条 用人单位应当依法建

that is adaptable to the socialist market economy and promote economic development and social progress.

Article 2 This Law shall apply to all enterprises and individual economic organisations (hereinafter collectively referred to as "employers") and workers who have formed labour relationships with those employers within the territory of the People's Republic of China. The government organs, public institutions, social organisations and workers who have established contractual labour relationships with them shall be governed by this Law.

Article 3 A worker shall enjoy the right to equal employment and to choose an occupation, the right to obtain labour remuneration, the right to rest and have holidays, the right to receive labour safety and hygiene protection, the right to receive vocational training, the right to enjoy social security and welfare, the right to request settlement of labour disputes and other labour rights stipulated by the law. A worker shall fulfil work assignments, improve his/her vocational skills, implement labour safety and hygiene regulations and observe labour discipline and professional ethics.

Article 4 An employer shall establish and improve its rules and regulations in accordance with the law in order to ensure

立和完善规章制度，保障劳动者享有劳动权利和履行劳动义务。

that its workers enjoy labour rights and perform labour obligations.

第五条 国家采取各种措施，促进劳动就业，发展职业教育，制定劳动标准，调节社会收入，完善社会保险，协调劳动关系，逐步提高劳动者的生活水平。

Article 5 The State adopts all possible measures to promote employment, develop vocational education, formulate labour standards, regulate social income, improve social security, coordinate labour relations and progressively improve the living standards of workers.

第六条 国家提倡劳动者参加社会义务劳动，开展劳动竞赛和合理化建议活动，鼓励和保护劳动者进行科学研究、技术革新和发明创造，表彰和奖励劳动模范和先进工作者。

Article 6 The State advocates the voluntary participation of workers in social work, launches the labour emulation campaigns and the activity of rationalization proposals, encourages and protects the scientific research, technological innovation and invention□creation conducted by workers, and commends and rewards model workers and advanced workers.

第七条 劳动者有权依法参加和组织工会。

Article 7 Workers have the right to join or organise trade unions in accordance with the law. Trade unions shall represent and protect the lawful rights and interests of workers and carry out their activities independently according to law.

工会代表和维护劳动者的合法权益，依法独立自主地开展活动。

第八条 劳动者依照法律规定，通过职工大会、职工代表大会或者其他形式，参与民主管理或者就保护劳动者合法权益与用人单位进行平等协商。

Article 8 A worker shall, in accordance with the provisions of law, participate in democratic management through a workers' congress, workers' representative assembly or other forms, or carry out consultation on the basis of equality with his/her employer concerning the protection of legitimate rights and interests of workers.

第九条 国务院劳动行政部门主管全国劳动工作。

县级以上地方人民政府劳动行政部门主管本行政区域内的劳动工作。

Article 9 The labour administrative department under the State Council is in charge of labour work nationwide. The labour administrative departments of the local people's governments at the county level or above shall be responsible for labour work within their respective administrative regions.

第二章 促进就业

Chapter II Promotion of Employment

第十条 国家通过促进经济和社会发展，创造就业条件，扩大就业机会。

国家鼓励企业、事业组织、社会团体在法律、行政法规规定的范围内兴办产业或者拓展经营，增加就业。

国家支持劳动者自愿组织起来就业和从事个体经营实现就业。

Article 10 The State creates conditions for employment and increases employment opportunities by promoting economic and social development. The State encourages enterprises, public institutions and social organisations to start up businesses or expand business operations within the scope stipulated by laws and administrative regulations so as to increase employment opportunities.

The State supports workers in voluntarily organising themselves for employment or engaging in self-employed businesses in order to secure employment.

第十一条 地方各级人民政府应当采取措施，发展多种类型的职业介绍机构，提供就业服务。

Article 11 The local people's governments at all levels shall adopt measures to develop various types of job introduction agencies to provide employment services.

第十二条 劳动者就业，不因民族、种族、性别、宗教信仰不同而受歧视。

Article 12 Workers shall not be discriminated against in employment regardless of their nationality, race, sex or religious belief.

第十三条 妇女享有与男子平等的就业权利。在录用职工时，除国家规定的不适合妇女的工种或者岗位外，不得以性别为由拒绝录用妇女或者提高对妇女的录用标准。

Article 13 Women shall enjoy equal right to employment as men. When employees are recruited, women shall not be refused on the grounds of sex, nor shall the recruitment standards for women be raised, except for those types of work or positions unsuitable for women as stipulated by the State.

第十四条 残疾人、少数民族人员、退出现役的军人的就业，法律、法规有特别规定的，从其规定。

Article 14 Where there are special provisions in laws and regulations concerning employment of disabled persons, persons of minority and military personnel discharged from active service, such provisions shall apply.

第十五条 禁止用人单位招用未满十六周岁的未成年人。

Article 15 Employers are prohibited from recruiting minors under the age of sixteen (16). Entities of literature and art, sports and special arts and crafts that recruit minors under the age of sixteen (16) must observe the relevant provisions of the State and guarantee their right to receive compulsory education.

文艺、体育和特种工艺单位招用未满十六周岁的未成年人，必须遵守国家有关规定，并保障其接受义务教育的权利。

第三章 劳动合同和集体合同

Chapter III Labour Contracts and Collective Contracts

第十六条 劳动合同是劳动者与用人单位确立劳动关系、明确双方权利和义务的协议。

Article 16 A labour contract is an agreement made between a worker and an employer to establish work relationships and define the rights and obligations of both parties. A labour contract shall be concluded for establishment of work relationships.

建立劳动关系应当订立劳动合同。

第十七条 订立和变更劳动合

同，应当遵循平等自愿、协商一致的原则，不得违反法律、行政法规的规定。

劳动合同依法订立即具有法律约束力，当事人必须履行劳动合同规定的义务。

Article 17 Conclusion and modification of a labour contract shall follow the principles of equality, voluntariness and consensus, and shall not violate the laws and administrative regulations. Once concluded in accordance with the law, a labour contract shall immediately become legally binding on both parties. The parties to a labour contract must assume obligations as stipulated in the labour contract.

第十八条 下列劳动合同无效

：

（一）违反法律、行政法规的劳动合同；

（二）采取欺诈、威胁等手段订立的劳动合同。

无效的劳动合同，从订立的时候起，就没有法律约束力。确认劳动合同部分无效的，如果不影响其余部分的效力，其余部分仍然有效。

劳动合同的无效，由劳动争议仲裁委员会或者人民法院确认。

Article 18 The following labour contracts shall be deemed invalid: (1) where a labour contract is in violation of the provisions of laws and administrative regulations; and

(2) where a labour contract is concluded by means of deception, threat or other unlawful means.

An invalid labour contract shall have no legal binding force from the time it is concluded. Where a labour contract is deemed partially invalid, and the validity of the remaining parts is not affected, the remaining parts of the labour contract shall remain valid.

The invalidity of a labour contract shall be confirmed by a labour dispute arbitration committee or a people's court.

第十九条 劳动合同应当以书

Article 19 A labour contract shall be concluded in writing and shall include the following clauses: (1) term of the labour

面形式订立，并具备以下条款：

（一）劳动合同期限；

（二）工作内容；

（三）劳动保护和劳动条件；

（四）劳动报酬；

（五）劳动纪律；

（六）劳动合同终止的条件；

（七）违反劳动合同的责任。

劳动合同除前款规定的必备条款外，当事人可以协商约定其他内容。

contract;

(2) work tasks;

(3) labour protection and labour conditions;

(4) labour remuneration;

(5) labour discipline;

(6) conditions for termination of labour contract; and

(7) liability for breach of labour contract.

Apart from the essential clauses as stipulated in the preceding paragraph, the parties to the labour contract may agree upon other contents through consultation.

第二十条 劳动合同的期限分

为有固定期限、无固定期限和以完成一定的工作为期限。

劳动者在同一用人单位连续工作满十年以上，当事人双方同意续延劳动合同的，如果劳动者提出订立无固定期限的劳动合同，应当订立无固定期限的劳动合同。

Article 20 The term of a labour contract may be divided into fixed term, non-fixed term and term based on the completion of certain work. Where an extension of a labour contract is agreed upon by both parties after a worker has worked for a continuous period of ten (10) years for the same employer, a labour contract with a non-fixed term shall be concluded if the worker proposes to enter into a labour contract with an indefinite term.

第二十一条 劳动合同可以约定试用期。试用期最长不得超过六个月。

Article 21 A labour contract may stipulate a probationary period which shall not exceed six (6) months at most.

第二十二条 劳动合同当事人可以在劳动合同中约定保守用人单位商业秘密的有关事项。

Article 22 The parties to a labour contract may agree on matters in the labour contract concerning the keeping of trade secrets of the employer.

第二十三条 劳动合同期满或者当事人约定的劳动合同终止条件出现，劳动合同即行终止。

Article 23 A labour contract shall be terminated with immediate effect on the expiry of its term or when conditions for termination of the labour contract occur as agreed by the parties concerned.

第二十四条 经劳动合同当事人协商一致，劳动合同可以解除。

Article 24 A labour contract may be rescinded upon agreement between the parties concerned through consultation.

第二十五条 劳动者有下列情形之一的，用人单位可以解除劳动合同：

Article 25 An employer may rescind a labour contract if a worker falls under any of the following circumstances: (1) where he/she is proved unqualified for employment during the probationary period;

（一）在试用期间被证明不符合录用条件的；

(2) where he/she has seriously violated labour discipline or the rules and regulations of the employer;

（二）严重违反劳动纪律或者用人单位规章制度的；

(3) where he/she has committed serious dereliction of duties or has practised favouritism for personal gains, causing great damage to the interests of the employer; or

（三）严重失职，营私舞弊，对用人单位利益造成重大损害的；

(4) where he/she has been subject to criminal liability in accordance with the law.

（四）被依法追究刑事责任的

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第二十六条 有下列情形之一的，用人单位可以解除劳动合同，但是应当提前三十日以书面形式通知劳动者本人：

（一）劳动者患病或者非因工负伤，医疗期满后，不能从事原工作也不能从事由用人单位另行安排的工作的；

（二）劳动者不能胜任工作，经过培训或者调整工作岗位，仍不能胜任工作的；

（三）劳动合同订立时所依据的客观情况发生重大变化，致使原劳动合同无法履行，经当事人协商不能就变更劳动合同达成协议的。

第二十七条 用人单位濒临破产进行法定整顿期间或者生产经营状况发生严重困难，确需裁减人员的，应当提前三十日向工会或者全体职工说明情况，听取工会或者职工的意见，经向劳动行政部门报告

Article 26 An employer may rescind a labour contract in any of the following circumstances, provided however that it shall notify the worker in writing thirty (30) days in advance: (1) where a worker, upon expiration of medical treatment, is unable to take up his/her original job or any other work arranged by the employer due to illness or non-work-related injury;

(2) where a worker is not competent for work and remains unqualified even after training or adjustment of his/her position; or

(3) where the original labour contract cannot be performed due to major changes in the objective conditions based on which the labour contract is concluded and an agreement to amend the labour contract cannot be reached by both parties through consultation.

Article 27 Where an employer genuinely needs to reduce staff during a period of statutory rectification due to bankruptcy or due to major difficulties in its production and business operations, it shall, thirty (30) days in advance, explain the situation to the trade union, or all workers, seek the opinions of the trade union or workers, and may lay off workers after report to the labour authority. Where an employer has laid off staff in accordance with the provisions of this Article, but recruits workers within six (6) months, it shall give preference to those laid

后，可以裁减人员。

用人单位依据本条规定裁减人员，在六个月内录用人员的，应当优先录用被裁减的人员。

off.

第二十八条 用人单位依据本法第二十四条、第二十六条、第二十七条的规定解除劳动合同的，应当依照国家有关规定给予经济补偿。

Article 28 Where an employer rescinds the labour contract in accordance with the provisions of Article 24, 26 or 27 hereof, it shall make economic compensation pursuant to relevant State regulations.

第二十九条 劳动者有下列情形之一的，用人单位不得依据本法第二十六条、第二十七条的规定解除劳动合同：

（一）患职业病或者因工负伤并被确认丧失或者部分丧失劳动能力的；

（二）患病或者负伤，在规定的医疗期内的；

（三）女职工在孕期、产期、哺乳期内的；

（四）法律、行政法规规定的

Article 29 An employer may not rescind a labour contract in accordance with the provisions of Article 26 or 27 hereof if a worker has any of following circumstances: (1) where he/she suffers from an occupational disease or a work-related injury and has been confirmed as being totally or partially unable to work;

(2) where he/she falls within the stipulated period of medical treatment due to an illness or injury;

(3) where a female worker is within the period of pregnancy, perinatal or lactation; or

(4) other circumstances as stipulated in laws and administrative regulations.

其他情形。

第三十条 用人单位解除劳动合同，工会认为不适当的，有权提出意见。如果用人单位违反法律、法规或者劳动合同，工会有权要求重新处理；劳动者申请仲裁或者提起诉讼的，工会应当依法给予支持和帮助。

Article 30 Where the trade union holds that the rescission of a labour contract by an employer is improper, it may put forward opinions. In case that the employer violates laws, regulations or the labour contract, the trade union shall have the right to demand correction; the trade union shall support and assist a worker who applies for arbitration or files a lawsuit according to law.

第三十一条 劳动者解除劳动合同，应当提前三十日以书面形式通知用人单位。

Article 31 A worker rescinding a labour contract shall inform his/her employer in writing thirty (30) days in advance.

第三十二条 有下列情形之一的，劳动者可以随时通知用人单位解除劳动合同：

Article 32 A worker may, at any time, notify his/her employer to rescind a labour contract in any of the following circumstances: (1) during the probationary period;

（一）在试用期内的；

(2) where an employer forces the worker to work by means of violence, threat or illegal restriction of personal freedom; or

（二）用人单位以暴力、威胁

(3) where an employer fails to pay labour remuneration or to provide work conditions stipulated in the labour contract.

或者非法限制人身自由的手段强迫劳动的；

（三）用人单位未按照劳动合

同约定支付劳动报酬或者提供劳动条件的。

第三十三条 企业职工一方与

企业可以就劳动报酬、工作时间、休息休假、劳动安全卫生、保险福利等事项，签订集体合同。集体合同草案应当提交职工代表大会或者全体职工讨论通过。

集体合同由工会代表职工与企业签订；没有建立工会的企业，由职工推举的代表与企业签订。

Article 33 The workers of an enterprise as one party may enter into a collective contract with the enterprise on labour remuneration, working hours, rest days and holidays, labour safety and hygiene, insurance and welfare and other related matters. A draft collective contract shall be submitted to the workers' representative assembly or all of the workers, for discussion and adoption. A collective contract shall be signed by the enterprise and the trade union on behalf of the workers; or shall be signed by the enterprise and a representative elected by the workers if the enterprise has not established a trade union.

第三十四条 集体合同签订后

应当报送劳动行政部门；劳动行政部门自收到集体合同文本之日起十五日内未提出异议的，集体合同即行生效。

Article 34 A collective contract, upon signature, shall be submitted to the labour authority. A collective contract shall be deemed to take effect immediately if the labour authority raises no objections within fifteen (15) days from receipt of the collective contract.

第三十五条 依法签订的集体

合同对企业和企业全体职工具有约束力。职工个人与企业订立的劳动合同中劳动条件和劳动报酬等标准不得低于集体合同的规定。

Article 35 A collective contract signed in accordance with the law shall have legal binding force on the enterprise and all of its workers. The working conditions and labour remuneration and other standards stipulated in a labour contract which has been signed by an individual worker and an enterprise shall not be lower than those stipulated in a collective contract.

第四章 工作时间和休息休假

Chapter IV Working Hours, Rest Days and Holidays

第三十六条 国家实行劳动者

每日工作时间不超过八小时、平均

Article 36 The State adopts a system of working hours with daily working hours for each worker not in excess of eight (8) hours and average weekly working hours not in excess of forty□four (44) hours.

每周工作时间不超过四十四小时的
工时制度。

第三十七条 对实行计件工作
的劳动者，用人单位应当根据本法
第三十六条规定的工时制度合理确
定其劳动定额和计件报酬标准。

第三十八条 用人单位应当保
证劳动者每周至少休息一日。

第三十九条 企业因生产特点
不能实行本法第三十六条、第三十
八条规定的，经劳动行政部门批准
，可以实行其他工作和休息办法。

第四十条 用人单位在下列节
日期间应当依法安排劳动者休假：

（一）元旦；

（二）春节；

（三）国际劳动节；

（四）国庆节；

（五）法律、法规规定的其他
休假节日。

Article 37 An employer shall, in accordance with the system of
working hours stipulated in Article 36 hereof, rationally
determine the work quota and piece work rate for a worker
involved in piece work.

Article 38 An employer shall ensure that its workers have at
least one (1) day off in a week.

Article 39 In case an enterprise is unable to implement the
provisions of Article 36 and 38 hereof due to requirements of
its production, it may adopt other measures for working hours
and rest days subject to approval by the labour authority.

Article 40 An employer shall arrange for its workers to have
holidays on the following festivals: (1) New Year's Day;

(2) Spring Festival;

(3) International Labour Day;

(4) National Day; and

(5) Other festivals as stipulated by laws and regulations.

第四十一条 用人单位由于生产经营需要，经与工会和劳动者协商后可以延长工作时间，一般每日不得超过一小时；因特殊原因需要延长工作时间的，在保障劳动者身体健康的条件下延长工作时间每日不得超过三小时，但是每月不得超过三十六小时。

Article 41 Due to the requirements of production and business operations, an employer may extend the working hours of a worker after consulting with the trade union and the worker concerned, however, the extended working hours shall in general not exceed one (1) hour per day; where an extension of working hours is required due to special reasons, such extension shall not exceed three (3) hours per day under the condition that the workers' health is guaranteed, and the amount of overtime extended shall not exceed thirty-six (36) hours per month.

第四十二条 有下列情形之一的，延长工作时间不受本法第四十一条规定的限制：

（一）发生自然灾害、事故或者因其他原因，威胁劳动者生命健康和财产安全，需要紧急处理的；

（二）生产设备、交通运输线路、公共设施发生故障，影响生产和公众利益，必须及时抢修的；

（三）法律、行政法规规定的其他情形。

Article 42 An extension of working hours shall not be restricted by the provisions of Article 41 hereof in any of the following circumstances: (1) an emergency response is needed when the life and health of workers and safety of property are threatened due to natural disaster, accident or other causes; (2) where urgent repairs must be promptly made to production equipment, transportation lines or public facilities which are break down so as to affect production or the public interest; or (3) other circumstances as stipulated by laws and administrative regulations.

第四十三条 用人单位不得违反本法规定延长劳动者的工作时间。

Article 43 An employer shall not extend the working hours of its workers in violation of the provisions of this Law.

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第四十四条 有下列情形之一的，

用人单位应当按照下列标准支付高于劳动者正常工作时间工资的工资报酬：

（一）安排劳动者延长工作时间的，支付不低于工资的百分之一百五十的工资报酬；

（二）休息日安排劳动者工作又不能安排补休的，支付不低于工资的百分之二百的工资报酬；

（三）法定休假日安排劳动者工作的，支付不低于工资的百分之三百的工资报酬。

Article 44 An employer shall, under the following standards, pay wages which are higher than the normal wage rates for normal working hours of a worker in any of the following circumstances: (1) when arranging for a worker to work overtime, it shall pay not less than 150% of the normal wage;

(2) when arranging for a worker to work during rest days and being unable to arrange for compensatory time off, it shall pay not less than 200% of the normal wage; or

(3) when arranging for a worker to work during a statutory holiday, it shall pay not less than 300% of the normal wage.

第四十五条 国家实行带薪年

休假制度。

劳动者连续工作一年以上的，享受带薪年假。具体办法由国务院规定。

Article 45 The State implements a system of paid annual leave. A worker who has worked for one (1) or more successive years shall enjoy paid annual leave. The specific measures shall be enacted by the State Council.

第五章 工 资

Chapter V Wages

第四十六条 工资分配应当遵

循按劳分配原则，实行同工同酬。

Article 46 Wages shall be paid under the principle of distribution according to performance and equal pay for equal work. Wage levels are increased gradually on the basis of

工资水平在经济发展的基础上逐步提高。国家对工资总量实行宏观调控。

economic growth. The State shall exercise macro control over the total payroll.

第四十七条 用人单位根据本单位的生产经营特点和经济效益，依法自主确定本单位的工资分配方式和工资水平。

Article 47 An employer shall, in light of the characteristics of its production and business operations and its economic benefits, independently determine its own wage distribution measures and wage levels.

第四十八条 国家实行最低工资保障制度。最低工资的具体标准由省、自治区、直辖市人民政府规定，报国务院备案。

Article 48 The State implements a minimum wage guarantee system. Specific standards for minimum wages shall be determined by the people's governments of provinces, autonomous regions and municipalities directly under the central government and shall be filed with the State Council for the record. Wages paid by an employer to its workers shall not be less than the local minimum wage standards.

用人单位支付劳动者的工资不得低于当地最低工资标准。

第四十九条 确定和调整最低工资标准应当综合参考下列因素：

Article 49 In the determination and adjustment of minimum wage standards, the following factors shall be taken into comprehensive consideration: (1) the minimum living expenses of a worker and his/her average dependents;

（一）劳动者本人及平均赡养人口的最低生活费用；

(2) the average social wage level;

（二）社会平均工资水平；

(3) the labour productivity;

（三）劳动生产率；

(4) the employment situation; and

（四）就业状况；

(5) differences in the levels of economic development between different regions.

（五）地区之间经济发展水平的差异。

第五十条 工资应当以货币形式按月支付给劳动者本人。不得克扣或者无故拖欠劳动者的工资。

第五十一条 劳动者在法定休假日和婚丧假期间以及依法参加社会活动期间，用人单位应当依法支付工资。

第六章 劳动安全卫生

第五十二条 用人单位必须建立、健全劳动安全卫生制度，严格执行国家劳动安全卫生规程和标准，对劳动者进行劳动安全卫生教育，防止劳动过程中的事故，减少职业危害。

第五十三条 劳动安全卫生设施必须符合国家规定的标准。

新建、改建、扩建工程的劳动安全卫生设施必须与主体工程同时设计、同时施工、同时投入生产和使用。

Article 50 Wages shall be paid to workers themselves in monetary form on a monthly basis. Wages paid to workers shall not be deducted or delayed without proper reasons.

Article 51 An employer shall pay wages in accordance with the law to its workers during statutory holidays, marriage or bereavement leave and participation in social activities in accordance with the law.

Chapter VI Labour Safety and Hygiene

Article 52 An employer must establish a sound labour safety and hygiene system and shall strictly implement State rules and standards of labour safety and hygiene, conduct labour safety and hygiene education among its workers, prevent accidents during work and reduce occupational hazards.

Article 53 Labour safety and hygiene facilities must meet the standards stipulated by the State. Labour safety and hygiene facilities for a new construction, reconstruction or extension project must be designed, constructed and put into production and use at the same time as the main project.

第五十四条 用人单位必须为劳动者提供符合国家规定的劳动安全卫生条件和必要的劳动防护用品，对从事有职业危害作业的劳动者应当定期进行健康检查。

Article 54 An employer must provide its workers with labour safety and hygiene conditions in conformity with the regulations of the State and necessary articles for labour protection and shall conduct regular health checks for workers engaged in operations of occupational hazards.

第五十五条 从事特种作业的劳动者必须经过专门培训并取得特种作业资格。

Article 55 A worker engaged in a special operation must receive special training and shall acquire relevant qualifications for special operation.

第五十六条 劳动者在劳动过程中必须严格遵守安全操作规程。

劳动者对用人单位管理人员违章指挥、强令冒险作业，有权拒绝执行；对危害生命安全和身体健康的行为，有权提出批评、检举和控告。

Article 56 A worker must strictly observe the safety operation procedures. A worker shall have the right to refuse to carry out the command against rules and operations at risk forced upon him/her by management personnel of his/her employer; a worker shall also have the right to criticise, accuse or bring charges against any act that is harmful to life, safety and personal health.

第五十七条 国家建立伤亡事故和职业病统计报告和处理制度。县级以上各级人民政府劳动行政部门、有关部门和用人单位应当依法对劳动者在劳动过程中发生的伤亡事故和劳动者的职业病状况，进行统计、报告和处理。

Article 57 The State establishes a system of statistics, reporting and handling of fatalities and injuries and occupational diseases. The labour administrative departments of the people's governments at the county level or above, relevant departments and employers shall conduct statistics, report and handle fatalities and injuries incurred by workers during the course of their work and workers' occupational diseases in accordance with the law.

第 七 章 女职工和未成年工特殊保护	Chapter VII Special Protection of Female Workers and Underage Workers
第五十八条 国家对女职工和未成年工实行特殊劳动保护。 未成年工是指年满十六周岁未满十八周岁的劳动者。	Article 58 The State exercises special labour protection for female workers and underage workers. Underage workers shall refer to those workers who are over sixteen (16) years but under the age of eighteen (18).
第五十九条 禁止安排女职工从事矿山井下、国家规定的第四级体力劳动强度的劳动和其他禁忌从事的劳动。	Article 59 It is prohibited to arrange for female workers to engage in labour in mining pits, work involving physical labour of the fourth degree of intensity as specified by the State, or any prohibited work.
第六十条 不得安排女职工在经期从事高处、低温、冷水作业和国家规定的第三级体力劳动强度的劳动。	Article 60 It is prohibited to arrange for female workers, during the menstrual period, to engage in labour at high altitudes, in low temperatures or which involves contact with cold water, or work involving physical labour of the third degree of intensity as specified by the State.
第六十一条 不得安排女职工在怀孕期间从事国家规定的第三级体力劳动强度的劳动和孕期禁忌从事的劳动。对怀孕七个月以上的女职工，不得安排其延长工作时间和夜班劳动。	Article 61 It is prohibited to arrange for pregnant workers to engage in work involving physical labour of the third degree of intensity as specified by the State, or any other work prohibited during pregnancy. No extra hours or night shift shall be arranged for female workers pregnant for seven months or more.
第六十二条 女职工生育享受不少于九十天的产假。	Article 62 Female workers shall be entitled to maternity leave no less than ninety (90) days at childbirth.

第六十三条 不得安排女职工

在哺乳未满一周岁的婴儿期间从事国家规定的第三级体力劳动强度的劳动和哺乳期禁忌从事的其他劳动，不得安排其延长工作时间和夜班劳动。

Article 63 During the period of breastfeeding an infant under the age of one (1) year, it is prohibited to arrange for female workers to engage in work involving physical labour of the third degree of intensity as specified by the State or any other work prohibited during the lactation period. No extra hours or night shift shall be arranged for such female workers.

第六十四条 不得安排未成年

工从事矿山井下、有毒有害、国家规定的第四级体力劳动强度的劳动和其他禁忌从事的劳动。

Article 64 It is prohibited to arrange for underage workers to engage in work in mining pits, work under poisonous or harmful circumstances, work involving physical labour of the fourth degree of intensity as specified by the State, or any other work prohibited.

第六十五条 用人单位应当对

未成年工定期进行健康检查。

Article 65 An employer shall arrange for regular health checks for underage workers.

第八章 职业培训

Chapter VIII Vocational Training

第六十六条 国家通过各种途

径，采取各种措施，发展职业培训事业，开发劳动者的职业技能，提高劳动者素质，增强劳动者的就业能力和工作能力。

Article 66 The State carries out vocational training undertakings through all possible channels and by adopting all measures to develop the vocational skills of workers, improve workers' quality and enhance employment ability and work skills of workers.

第六十七条 各级人民政府应

当把发展职业培训纳入社会经济发展的规划，鼓励和支持有条件的企业、事业组织、社会团体和个人进

Article 67 The people's governments at all levels shall incorporate vocational training in their social and economic development programs and shall encourage and support qualified enterprises, public institutions, social organisations and individuals to conduct all forms of vocational training.

行各种形式的职业培训。

第六十八条 用人单位应当建立职业培训制度，按照国家规定提取和使用职业培训经费，根据本单位实际，有计划地对劳动者进行职业培训。

从事技术工种的劳动者，上岗前必须经过培训。

Article 68 An employer shall establish a system of vocational training and shall, pursuant to State regulations, withdraw and use funds for vocational training, and carry out vocational training for its workers in a planned way in light of its actual situation. Workers to be engaged in technical work must receive training before taking up their posts.

第六十九条 国家确定职业分类，对规定的职业制定职业技能标准，实行职业资格证书制度，由经备案的考核鉴定机构负责对劳动者实施职业技能考核鉴定。

Article 69 The State determines occupational classifications, formulates occupational skill standards for specified occupations and practices a vocational qualification certificate system. The assessment and accreditation agencies that have been filed for the record shall be responsible for assessment and accreditation of occupational skills of workers.

第九章 社会保险和福利

Chapter IX Social Security and Welfare

第七十条 国家发展社会保险事业，建立社会保险制度，设立社会保险基金，使劳动者在年老、患病、工伤、失业、生育等情况下获得帮助和补偿。

Article 70 The State develops social security undertakings, and establishes a social security system and social security funds in order to assist and compensate workers who are old, suffer illness and work-related injuries, are unemployed or give birth, etc.

第七十一条 社会保险水平应当与社会经济发展水平和社会承受能力相适应。

Article 71 The level of social security shall be appropriate to the level of social and economic development and the social bearing capacity.

第七十二条 社会保险基金按照保险类型确定资金来源，逐步实行社会统筹。用人单位和劳动者必须依法参加社会保险，缴纳社会保险费。

Article 72 Social security funds shall, in accordance with the types of insurance, determine the sources of funds and shall progressively be placed under uniform arrangements. An employer and its workers must participate in social insurance schemes and pay social security premiums in accordance with the law.

第七十三条 劳动者在下列情形下，依法享受社会保险待遇：

Article 73 Workers shall enjoy social insurance benefits in accordance with the law under any of the following circumstances: (1) retirement;

（一）退休；

(2) suffering from an illness or injury;

（二）患病、负伤；

(3) being disabled due to work-related injury or suffering an occupational disease;

（三）因工伤残或者患职业病；

(4) being unemployed; and

(5) giving birth.

（四）失业；

In the event of death of a worker, the family members of the deceased shall receive survivor subsidies.

（五）生育。

The conditions and standards of social insurance benefits for workers shall be stipulated by laws and regulations.

劳动者死亡后，其遗属依法享受遗属津贴。

Social insurance benefits enjoyed by workers must be paid on time and in full.

劳动者享受社会保险待遇的条件和标准由法律、法规规定。

劳动者享受的社会保险金必须按时足额支付。

Article 74 A social security fund agency shall conduct

第七十四条 社会保险基金经

办机构依照法律规定收支、管理和运营社会保险基金，并负有使社会保险基金保值增值的责任。

社会保险基金监督机构依照法律规定，对社会保险基金的收支、管理和运营实施监督。

社会保险基金经办机构和社会保险基金监督机构的设立和职能由法律规定。

任何组织和个人不得挪用社会保险基金。

第七十五条 国家鼓励用人单位根据本单位实际情况为劳动者建立补充保险。

国家提倡劳动者个人进行储蓄性保险。

第七十六条 国家发展社会福利事业，兴建公共福利设施，为劳动者休息、休养和疗养提供条件。

用人单位应当创造条件，改善集体福利，提高劳动者的福利待遇

receipts, expenditures, management and operation of the social security fund pursuant to laws and regulations and shall be responsible for preserving and increasing the value of the social security fund. A social security fund supervisory authority shall be responsible for supervision of receipts, expenditures, management and operation of social security funds pursuant to laws.

Establishment and functions of a social security fund agency and of a social security fund supervisory authority shall be stipulated by the law.

No organisation or individual may misappropriate the social security fund.

Article 75 The State encourages employers to establish supplementary insurance for their workers according to their actual circumstances. The State advocates individual workers to participate in savings insurance.

Article 76 The State develops social and welfare undertakings and constructs public welfare facilities to provide conditions for workers to rest, convalesce and recuperate. An employer shall create conditions to improve the collective welfare and raise the welfare benefits of its workers.

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第十章 劳动争议

Chapter X Labour Disputes

第七十七条 用人单位与劳动者发生劳动争议，当事人可以依法申请调解、仲裁、提起诉讼，也可以协商解决。

Article 77 Where a labour dispute occurs between an employer and a worker, any party concerned may, in accordance with the law, apply for conciliation or arbitration, file a lawsuit or settle the dispute through consultation. The principle of conciliation shall apply to arbitration and legal proceedings.

调解原则适用于仲裁和诉讼程序。

第七十八条 解决劳动争议，应当根据合法、公正、及时处理的原则，依法维护劳动争议当事人的合法权益。

Article 78 In the settlement of a labour dispute, the principles of legitimacy, fairness and timeliness shall be followed in order to safeguard the legal rights and interests of the parties to a labour dispute in accordance with the law.

第七十九条 劳动争议发生后，当事人可以向本单位劳动争议调解委员会申请调解；调解不成，当事人一方要求仲裁的，可以向劳动争议仲裁委员会申请仲裁。当事人一方也可以直接向劳动争议仲裁委员会申请仲裁。对仲裁裁决不服的，可以向人民法院提起诉讼。

Article 79 When a labour dispute arises, the parties to the dispute may apply to the labour dispute conciliation committee of the employer for conciliation; if conciliation fails, and any of the parties concerned demands arbitration, it may apply to the labour dispute arbitration committee for arbitration. Any party may also directly apply to the labour dispute arbitration committee for arbitration. Any party that disagrees with an arbitration award may file a lawsuit with the people's court.

第八十条 在用人单位内，可以设立劳动争议调解委员会。劳动

Article 80 A labour dispute conciliation committee may be established in an employer and shall consist of representatives of workers, the employer and the trade union.

争议调解委员会由职工代表、用人单位代表和工会代表组成。劳动争议调解委员会主任由工会代表担任。

劳动争议经调解达成协议的，当事人应当履行。

The chairperson of a labour dispute conciliation committee shall be a representative of the trade union. If an agreement is reached for a labour dispute through conciliation, the parties concerned shall implement the same.

第八十一条 劳动争议仲裁委员会由劳动行政部门代表、同级工会代表、用人单位方面的代表组成。劳动争议仲裁委员会主任由劳动行政部门代表担任。

Article 81 A labour dispute arbitration committee shall consist of representatives of the labour authority, the trade union at the same level and the employer. The chairperson of a labour dispute arbitration committee shall be a representative of the labour authority.

第八十二条 提出仲裁要求的一方应当自劳动争议发生之日起六十日内向劳动争议仲裁委员会提出书面申请。仲裁裁决一般应在收到仲裁申请的六十日内作出。对仲裁裁决无异议的，当事人必须履行。

Article 82 A party which requests arbitration shall file a written application with the labour dispute arbitration committee within sixty (60) days from the date on which the labour dispute occurs. An arbitration award shall, in general, be made within sixty (60) days from receipt of an arbitration application. If there are no objections to the arbitration award, the parties concerned shall perform the same.

第八十三条 劳动争议当事人对仲裁裁决不服的，可以自收到仲裁裁决书之日起十五日内向人民法院提起诉讼。一方当事人在法定期限内不起诉又不履行仲裁裁决的，另一方当事人可以申请人民法院强

Article 83 Any party to a labour dispute that disagrees with an arbitration award may file a lawsuit with the people's court within fifteen (15) days of receiving notice of the arbitration award. Where any party fails to initiate legal proceedings and perform the arbitration award within the prescribed time limit, the other party may apply to the people's court for enforcement.

制执行。

第八十四条 因签订集体合同发生争议，当事人协商解决不成的，当地人民政府劳动行政部门可以组织有关各方协调处理。

因履行集体合同发生争议，当事人协商解决不成的，可以向劳动争议仲裁委员会申请仲裁；对仲裁裁决不服的，可以自收到仲裁裁决书之日起十五日内向人民法院提起诉讼。

Article 84 Where a dispute arises over the conclusion of a collective contract and the parties concerned fail to resolve the matter through consultation, the labour administrative department of the local people's government may organize relevant parties to coordinate and settlement. Where a dispute arises over the performance of a collective contract and the parties to the dispute fail to resolve the matter through consultation, an application may be filed with the labour dispute arbitration committee for arbitration; any party that disagrees with the arbitration award may file a lawsuit with the people's court within fifteen (15) days of receiving notice of the arbitration award.

第十一章 监督检查

Chapter XI Supervision and Inspection

第八十五条 县级以上各级人民政府劳动行政部门依法对用人单位遵守劳动法律、法规的情况进行监督检查，对违反劳动法律、法规的行为有权制止，并责令改正。

Article 85 The labour administrative departments of the people's governments at the county level or above shall carry out supervision and inspection over employers' compliance with labour laws and regulations in accordance with the law, have the right to stop any act in violation of labour laws and regulations and order rectification.

第八十六条 县级以上各级人民政府劳动行政部门监督检查人员执行公务，有权进入用人单位了解执行劳动法律、法规的情况，查阅必要的资料，并对劳动场所进行检

Article 86 The supervision and inspection personnel of the labour administrative departments of the people's governments at the county level or above shall, while performing their official duties, have the right to enter employers to inquire about the implementation of labour laws and regulations, consult documents as necessary and inspect labour premises. The supervision and inspection personnel of the labour administrative departments of the people's governments at

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the county level or above must present their certificates while performing their duties, enforce the law impartially and observe relevant provisions.

县级以上各级人民政府劳动行政部门监督检查人员执行公务，必须出示证件，秉公执法并遵守有关规定。

第八十七条 县级以上各级人民政府有关部门在各自职责范围内，对用人单位遵守劳动法律、法规的情况进行监督。

Article 87 Relevant departments of the people's governments at the county level or above shall, within the scope of their respective functions and powers, supervise employers' compliance with labour laws and regulations.

第八十八条 各级工会依法维护劳动者的合法权益，对用人单位遵守劳动法律、法规的情况进行监督。

Article 88 Trade unions at all levels shall safeguard the legal rights and interests of workers in accordance with the law and supervise the implementation by employers of labour laws and regulations. Any organisation or individual shall have the right to file an accusation and bring charges against any act in violation of labour laws and regulations.

任何组织和个人对于违反劳动法律、法规的行为有权检举和控告。

第十二章 法律责任

Chapter XII Legal Liability

第八十九条 用人单位制定的劳动规章制度违反法律、法规规定的，由劳动行政部门给予警告，责令改正；对劳动者造成损害的，应当承担赔偿责任。

Article 89 Where labour rules and regulations formulated by an employer are in violation of laws and regulations, the labour authority shall issue a warning and order it to rectify; if damage is caused to workers, the employer shall bear liability for compensation.

第九十条 用人单位违反本法规定，延长劳动者工作时间的，由劳动行政部门给予警告，责令改正，并可以处以罚款。

Article 90 Where an employer has extended the working hours of its workers in violation of the provisions of this Law, the labour authority shall issue a warning and order it to rectify and may concurrently impose a fine on it.

第九十一条 用人单位有下列侵害劳动者合法权益情形之一的，由劳动行政部门责令支付劳动者的工资报酬、经济补偿，并可以责令支付赔偿金：

Article 91 Where an employer has committed any of the following acts that infringe upon the legitimate rights and interests of its workers, the labour authority shall order it to pay wages and economic compensation to those workers and may also order it to pay compensation: (1) the deduction or delay, without proper reason, of the payment of workers' wages;

（一）克扣或者无故拖欠劳动者工资的；

(2) the refusal to pay remuneration to workers for extended working hours;

（二）拒不支付劳动者延长工作时间工资报酬的；

(3) the payment of workers' wages at a rate lower than the local minimum wage rate; or

（三）低于当地最低工资标准支付劳动者工资的；

(4) the failure to pay economic compensation to workers in accordance with the provisions of this Law after the dissolution of a labour contract.

（四）解除劳动合同后，未依照本法规定给予劳动者经济补偿的。

第九十二条 用人单位的劳动安全设施和劳动卫生条件不符合国家规定或者未向劳动者提供必要的劳动防护用品和劳动保护设施的，

Article 92 Where the labour safety facilities and labour hygiene conditions of an employer fail to meet the requirements of the State or where an employer fails to provide the necessary labour protection articles and labour protection facilities for workers, the labour authority or relevant authorities shall order it to make rectifications and

由劳动行政部门或者有关部门责令改正，可以处以罚款；情节严重的，提请县级以上人民政府决定责令停产整顿；对事故隐患不采取措施，致使发生重大事故，造成劳动者生命和财产损失的，对责任人员依照刑法有关规定追究刑事责任。

may impose a fine on it; if the case is very serious, a request shall be made to the people's government at the county level or above to make a decision to order suspension of operations for rectification; if an employer fails to adopt measures to prevent potential accidents, resulting in a major accident and causing loss of life and property of a worker, the liable persons shall be subject to criminal liability pursuant to the provisions of the Criminal Law.

第九十三条 用人单位强令劳动者违章冒险作业，发生重大伤亡事故，造成严重后果的，对责任人员依法追究刑事责任。

Article 93 Where an employer forces its workers to take risks in performing operations against relevant rules, causing major injuries or fatalities and serious consequences, the liable persons shall be subject to criminal liability in accordance with the law.

第九十四条 用人单位非法招用未满十六周岁的未成年人的，由劳动行政部门责令改正，处以罚款；情节严重的，由市场监督管理部门吊销营业执照。

Article 94 Where an employer has illegally recruited minors under sixteen (16) years of age, the labour authority shall order it to rectify and may impose a fine on it; if the case is very serious, the market regulatory authority shall revoke its business licence.

第九十五条 用人单位违反本法对女职工和未成年工的保护规定，侵害其合法权益的，由劳动行政部门责令改正，处以罚款；对女职工或者未成年工造成损害的，应当承担赔偿责任。

Article 95 Where an employer has violated the provisions of this Law on the protection of female and underage workers by infringing upon their legal rights and interests, the labour authority shall order it to rectify and impose a fine on it; the employer shall bear liability for compensation for any harm caused to female and underage workers.

第九十六条 用人单位有下列

Article 96 Where an employer has committed any of the

行为之一，由公安机关对责任人员处以十五日以下拘留、罚款或者警告；构成犯罪的，对责任人员依法追究刑事责任：

（一）以暴力、威胁或者非法限制人身自由的手段强迫劳动的；

（二）侮辱、体罚、殴打、非法搜查和拘禁劳动者的。

following acts, the public security organ may detain those liable persons for up to fifteen (15) days, impose a fine or issue a warning to them; should the case be serious enough to constitute a crime, the liable persons shall be subject to criminal liability in accordance with the law: (1) compelling workers to work by force, threat or by means of illegal restriction of personal freedom; or

(2) insulting, physically punishing, beating, illegally searching or taking workers into custody.

第九十七条 由于用人单位的原因订立的无效合同，对劳动者造成损害的，应当承担赔偿责任。

Article 97 Where an invalid contract concluded as a result of fault of an employer has caused harm to workers, the employer shall bear liability for compensation.

第九十八条 用人单位违反本法规定的条件解除劳动合同或者故意拖延不订立劳动合同的，由劳动行政部门责令改正；对劳动者造成损害的，应当承担赔偿责任。

Article 98 Where an employer rescinds a labour contract in violation of the requirements of this Law or deliberately delays the conclusion of a labour contract, the labour authority shall order it to rectify; if damage is caused to workers, the employer shall bear liability for compensation.

第九十九条 用人单位招用尚未解除劳动合同的劳动者，对原用人单位造成经济损失的，该用人单位应当依法承担连带赔偿责任。

Article 99 Where an employer has employed a worker whose labour contract with a former employer has not yet been rescinded, thereby causing economic losses to the former employer, the employer shall bear joint and several liability for compensation in accordance with the law.

第一百条 用人单位无故不缴纳社会保险费的，由劳动行政部门

Article 100 Where an employer fails to pay social insurance premiums without proper reason, the labour authority shall order it to pay outstanding premiums within a prescribed time

责令其限期缴纳；逾期不缴的，可以加收滞纳金。

limit; if it fails to make payment within the prescribed time limit, an overdue fine may be imposed on it.

第一百零一条 用人单位无理阻挠劳动行政部门、有关部门及其工作人员行使监督检查权，打击报复举报人员的，由劳动行政部门或者有关部门处以罚款；构成犯罪的，对责任人员依法追究刑事责任。

Article 101 Where an employer unjustifiably obstructs the labour authority, relevant authorities and their personnel in the exercise of the rights of supervision and inspection or retaliates against the whistleblowers, the labour authority or relevant authorities shall impose a fine on it; if the case is serious enough to constitute a crime, the liable persons shall be investigated for criminal liability in accordance with the law.

第一百零二条 劳动者违反本法规定的条件解除劳动合同或者违反劳动合同中约定的保密事项，对用人单位造成经济损失的，应当依法承担赔偿责任。

Article 102 Where a worker rescinds a labour contract in violation of the requirements of this Law or has violated the confidentiality provisions stipulated in the labour contract, thus causing the economic losses to his/her employer, he/she shall bear liability for compensation in accordance with the law.

第一百零三条 劳动行政部门或者有关部门的工作人员滥用职权、玩忽职守、徇私舞弊，构成犯罪的，依法追究刑事责任；不构成犯罪的，给予行政处分。

Article 103 Where any functionary of a labour authority or relevant authorities abuses his/her power, commits dereliction of duty or practices favouritism for personal gains, if the case constitutes a crime, criminal liability shall be pursued in accordance with the law. If a crime is not constituted, he/she shall be given disciplinary sanction.

第一百零四条 国家工作人员和社会保险基金经办机构的工作人员挪用社会保险基金，构成犯罪的，依法追究刑事责任。

Article 104 Where any government functionary or a staff member of the social security fund agency misappropriates the social security fund, if the case constitutes a crime, criminal liability shall be pursued in accordance with the law.

第一百零五条 违反本法规定侵害劳动者合法权益，其他法律、行政法规已规定处罚的，依照该法律、行政法规的规定处罚。

Article 105 Where there are provisions of other laws or administrative regulations on the punishment of infringements upon the legitimate rights and interests of workers as stipulated by this Law, such provisions shall apply.

第十三章 附 则

Chapter XIII Supplementary Provisions

第一百零六条 省、自治区、直辖市人民政府根据本法和本地区的实际情况，规定劳动合同制度的实施步骤，报国务院备案。

Article 106 The people's governments of provinces, autonomous regions and municipalities directly under the central government shall, in accordance with this Law and in light of their actual situation, stipulate the implementation steps of the labour contract system and report the same to the State Council for record.

第一百零七条 本法自1995年1月1日起施行。

Article 107 This Law shall come into force on 1 January 1995.



扫一扫，手机阅读更方便