

# 中华人民共和国职业病防治法

（2001 年 10 月 27 日第九届全国人民代表大会常务委员会第二十四次会议通过 根据 2011 年 12 月 31 日第十一届全国人民代表大会常务委员会第二十四次会议《关于修改〈中华人民共和国职业病防治法〉的决定》第一次修正 根据 2016 年 7 月 2 日第十二届全国人民代表大会常务委员会第二十一次会议《关于修改〈中华人民共和国节约能源法〉等六部法律的决定》第二次修正 根据 2017 年 11 月 4 日第十二届全国人民代表大会常务委员会第三十次会议《关于修改〈中华人民共和国会计法〉等十一部法律的决定》第三次修正 根据 2018 年 12 月 29 日第十三届全国人民代表大会常务委员会第七次会议《关于修改〈中华人民共和国劳动法〉等七部法律的决定》第四次修正）

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## 第一章 总 则

**第一条** 为了预防、控制和消除职业病危害，防治职业病，保护劳动者健康及其相关权益，促进经济社会发展，根据宪法，制定本法。

**第二条** 本法适用于中华人民共和国领域内的职业病防治活动。

本法所称职业病，是指企业、事业单位和个体经济组织等用人单位的劳动者在职业活动中，因接触粉尘、放射性物质和其他有毒、有害因素而引起的疾病。

职业病的分类和目录由国务院卫生行政部门

会同国务院劳动保障行政部门制定、调整并公布。

**第三条** 职业病防治工作坚持预防为主、防治结合的方针，建立用人单位负责、行政机关监管、行业自律、职工参与和社会监督的机制，实行分类管理、综合治理。

**第四条** 劳动者依法享有职业卫生保护的权利。

用人单位应当为劳动者创造符合国家职业卫生标准和卫生要求的工作环境和条件，并采取措施保障劳动者获得职业卫生保护。

工会组织依法对职业病防治工作进行监督，维护劳动者的合法权益。用人单位制定或者修改有关职业病防治的规章制度，应当听取工会组织的意见。

**第五条** 用人单位应当建立、健全职业病防治责任制，加强对职业病防治的管理，提高职业病防治水平，对本单位产生的职业病危害承担责任。

**第六条** 用人单位的主要负责人对本单位的职业病防治工作全面负责。

**第七条** 用人单位必须依法参加工伤保险。

国务院和县级以上地方人民政府劳动保障行政部门应当加强对工伤保险的监督管理，确保劳动者依法享受工伤保险待遇。

**第八条** 国家鼓励和支持研制、开发、推广、应用有利于职业病防治和保护劳动者健康的新技术、新工艺、新设备、新材料，加强对职业病的机理和发生规律的基础研究，提高职业病防治科学技术水平；积极采用有效的职业病防治技术、工艺、设备、材料；限制使用或者淘汰职业病危害严重的技术、工艺、设备、材料。

国家鼓励和支持职业病医疗康复机构的建设。

**第九条** 国家实行职业卫生监督制度。

国务院卫生行政部门、劳动保障行政部门依照本法和国务院确定的职责，负责全国职业病防治的监督管理工作。国务院有关部门在各自的职责范围内负责职业病防治的有关监督管理工作。

县级以上地方人民政府卫生行政部门、劳动保障行政部门依据各自职责，负责本行政区域内职业病防治的监督管理工作。县级以上地方人民政府有关部门在各自的职责范围内负责职业病防治的有关监督管理工作。

县级以上人民政府卫生行政部门、劳动保障行政部门（以下统称职业卫生监督管理部门）应当加强沟通，密切配合，按照各自职责分工，依法行使职权，承担责任。

**第十条** 国务院和县级以上地方人民政府应当制定职业病防治规划，将其纳入国民经济和社会发展规划，并组织实施。

县级以上地方人民政府统一负责、领导、组织、协调本行政区域的职业病防治工作，建立健全职业病防治工作体制、机制，统一领导、指挥职业卫生突发事件应对工作；加强职业病防治能力建设和服务体系建设，完善、落实职业病防治

工作责任制。

乡、民族乡、镇的人民政府应当认真执行本法，支持职业卫生监督管理部门依法履行职责。

**第十一条** 县级以上人民政府职业卫生监督管理部门应当加强对职业病防治的宣传教育，普及职业病防治的知识，增强用人单位的职业病防治观念，提高劳动者的职业健康意识、自我保护和行使职业卫生保护权利的能力。

**第十二条** 有关防治职业病的国家职业卫生标准，由国务院卫生行政部门组织制定并公布。

国务院卫生行政部门应当组织开展重点职业病监测和专项调查，对职业健康风险进行评估，为制定职业卫生标准和职业病防治政策提供科学依据。

县级以上地方人民政府卫生行政部门应当定期对本行政区域的职业病防治情况进行统计和分析。

**第十三条** 任何单位和个人有权对违反本法的行为进行检举和控告。有关部门收到相关的检举和控告后，应当及时处理。

对防治职业病成绩显著的单位和个人，给予奖励。

## 第二章 前期预防

**第十四条** 用人单位应当依照法律、法规要求，严格遵守国家职业卫生标准，落实职业病预防措施，从源头上控制和消除职业病危害。

**第十五条** 产生职业病危害的用人单位的设立除应当符合法律、行政法规规定的设立条件外，其工作场所还应当符合下列职业卫生要求：

（一）职业病危害因素的强度或者浓度符合国家职业卫生标准；

（二）有与职业病危害防护相适应的设施；

（三）生产布局合理，符合有害与无害作业分开的原则；

（四）有配套的更衣间、洗浴间、孕妇休息间等卫生设施；

（五）设备、工具、用具等设施符合保护劳动者生理、心理健康的要求；

（六）法律、行政法规和国务院卫生行政部门关于保护劳动者健康的其他要求。

**第十六条** 国家建立职业病危害项目申报制度。

用人单位工作场所存在职业病目录所列职业病的危害因素的，应当及时、如实向所在地卫生行政部门申报危害项目，接受监督。

职业病危害因素分类目录由国务院卫生行政部门制定、调整并公布。职业病危害项目申报的具体办法由国务院卫生行政部门制定。

**第十七条** 新建、扩建、改建建设项目和技术改造、技术引进项目（以下统称建设项目）可能产生职业病危害的，建设单位在可行性论证阶段应当进行职业病危害预评价。

医疗机构建设项目可能产生放射性职业病危害的，建设单位应当向卫生行政部门提交放射性职业病危害预评价报告。卫生行政部门应当自收到预评价报告之日起三十日内，作出审核决定并书面通知建设单位。未提交预评价报告或者预评价报告未经卫生行政部门审核同意的，不得开工建设。

职业病危害预评价报告应当对建设项目可能产生的职业病危害因素及其对工作场所和劳动者健康的影响作出评价，确定危害类别和职业病防护措施。

建设项目职业病危害分类管理办法由国务院卫生行政部门制定。

**第十八条** 建设项目的职业病防护设施所需费用应当纳入建设项目工程预算，并与主体工程同时设计，同时施工，同时投入生产和使用。

建设项目的职业病防护设施设计应当符合国

家职业卫生标准和卫生要求；其中，医疗机构放射性职业病危害严重的建设项目的防护设施设计，应当经卫生行政部门审查同意后，方可施工。

建设项目在竣工验收前，建设单位应当进行职业病危害控制效果评价。

医疗机构可能产生放射性职业病危害的建设项目竣工验收时，其放射性职业病防护设施经卫生行政部门验收合格后，方可投入使用；其他建设项目的职业病防护设施应当由建设单位负责依法组织验收，验收合格后，方可投入生产和使用。卫生行政部门应当加强对建设单位组织的验收活动和验收结果的监督核查。

**第十九条** 国家对从事放射性、高毒、高危粉尘等作业实行特殊管理。具体管理办法由国务院制定。

### 第三章 劳动过程中的防护与管理

**第二十条** 用人单位应当采取下列职业病防治管理措施：

（一）设置或者指定职业卫生管理机构或者组织，配备专职或者兼职的职业卫生管理人员，负责本单位的职业病防治工作；

（二）制定职业病防治计划和实施方案；

（三）建立、健全职业卫生管理制度和操作规程；

（四）建立、健全职业卫生档案和劳动者健康监护档案；

（五）建立、健全工作场所职业病危害因素监测及评价制度；

（六）建立、健全职业病危害事故应急救援预案。

**第二十一条** 用人单位应当保障职业病防治所需的资金投入，不得挤占、挪用，并对因资金投入不足导致的后果承担责任。

**第二十二条** 用人单位必须采用有效的职业病防护设施，并为劳动者提供个人使用的职业病防护用品。

用人单位为劳动者个人提供的职业病防护用品必须符合防治职业病的要求；不符合要求的，不得使用。

**第二十三条** 用人单位应当优先采用有利于防治职业病和保护劳动者健康的新技术、新工艺、新设备、新材料，逐步替代职业病危害严重的技术、工艺、设备、材料。

**第二十四条** 产生职业病危害的用人单位，应当在醒目位置设置公告栏，公布有关职业病防治的规章制度、操作规程、职业病危害事故应急救援措施和工作场所职业病危害因素检测结果。

对产生严重职业病危害的作业岗位，应当在其醒目位置，设置警示标识和中文警示说明。警示说明应当载明产生职业病危害的种类、后果、预防以及应急救治措施等内容。

**第二十五条** 对可能发生急性职业损伤的有毒、有害工作场所，用人单位应当设置报警装置，配置现场急救用品、冲洗设备、应急撤离通道和必要的泄险区。

对放射工作场所和放射性同位素的运输、贮存，用人单位必须配置防护设备和报警装置，保证接触放射线的工作人员佩戴个人剂量计。

对职业病防护设备、应急救援设施和个人使用的职业病防护用品，用人单位应当进行经常性的维护、检修，定期检测其性能和效果，确保其处于正常状态，不得擅自拆除或者停止使用。

**第二十六条** 用人单位应当实施由专人负责的职业病危害因素日常监测，并确保监测系统处于正常运行状态。

用人单位应当按照国务院卫生行政部门的规定，定期对工作场所进行职业病危害因素检测、评价。检测、评价结果存入用人单位职业卫生档

案，定期向所在地卫生行政部门报告并向劳动者公布。

职业病危害因素检测、评价由依法设立的取得国务院卫生行政部门或者设区的市级以上地方人民政府卫生行政部门按照职责分工给予资质认可的职业卫生技术服务机构进行。职业卫生技术服务机构所作检测、评价应当客观、真实。

发现工作场所职业病危害因素不符合国家职业卫生标准和卫生要求时，用人单位应当立即采取相应治理措施，仍然达不到国家职业卫生标准和卫生要求的，必须停止存在职业病危害因素的作业；职业病危害因素经治理后，符合国家职业卫生标准和卫生要求的，方可重新作业。

**第二十七条** 职业卫生技术服务机构依法从事职业病危害因素检测、评价工作，接受卫生行政部门的监督检查。卫生行政部门应当依法履行监督职责。

**第二十八条** 向用人单位提供可能产生职业病危害的设备的，应当提供中文说明书，并在设备的醒目位置设置警示标识和中文警示说明。警示说明应当载明设备性能、可能产生的职业病危害、安全操作和维护注意事项、职业病防护以及应急救治措施等内容。

**第二十九条** 向用人单位提供可能产生职业病危害的化学品、放射性同位素和含有放射性物质的材料的，应当提供中文说明书。说明书应当载明产品特性、主要成份、存在的有害因素、可能产生的危害后果、安全使用注意事项、职业病防护以及应急救治措施等内容。产品包装应当有醒目的警示标识和中文警示说明。贮存上述材料的场所应当在规定的部位设置危险物品标识或者放射性警示标识。

国内首次使用或者首次进口与职业病危害有关的化学材料，使用单位或者进口单位按照国家规定经国务院有关部门批准后，应当向国务院卫

生行政部门报送该化学材料的毒性鉴定以及经有关部门登记注册或者批准进口的文件等资料。

进口放射性同位素、射线装置和含有放射性物质的物品的，按照国家有关规定办理。

**第三十条** 任何单位和个人不得生产、经营、进口和使用国家明令禁止使用的可能产生职业病危害的设备或者材料。

**第三十一条** 任何单位和个人不得将产生职业病危害的作业转移给不具备职业病防护条件的单位和个人。不具备职业病防护条件的单位和个人不得接受产生职业病危害的作业。

**第三十二条** 用人单位对采用的技术、工艺、设备、材料，应当知悉其产生的职业病危害，对有职业病危害的技术、工艺、设备、材料隐瞒其危害而采用的，对所造成的职业病危害后果承担责任。

**第三十三条** 用人单位与劳动者订立劳动合同（含聘用合同，下同）时，应当将工作过程中可能产生的职业病危害及其后果、职业病防护措施和待遇等如实告知劳动者，并在劳动合同中写明，不得隐瞒或者欺骗。

劳动者在已订立劳动合同期间因工作岗位或者工作内容变更，从事与所订立劳动合同中未告知的存在职业病危害的作业时，用人单位应当依照前款规定，向劳动者履行如实告知的义务，并协商变更原劳动合同相关条款。

用人单位违反前两款规定的，劳动者有权拒绝从事存在职业病危害的作业，用人单位不得因此解除与劳动者所订立的劳动合同。

**第三十四条** 用人单位的主要负责人和职业卫生管理人员应当接受职业卫生培训，遵守职业病防治法律、法规，依法组织本单位的职业病防治工作。

用人单位应当对劳动者进行上岗前的职业卫生培训和在岗期间的定期职业卫生培训，普及职

业卫生知识，督促劳动者遵守职业病防治法律、法规、规章和操作规程，指导劳动者正确使用职业病防护设备和个人使用的职业病防护用品。

劳动者应当学习和掌握相关的职业卫生知识，增强职业病防范意识，遵守职业病防治法律、法规、规章和操作规程，正确使用、维护职业病防护设备和个人使用的职业病防护用品，发现职业病危害事故隐患应当及时报告。

劳动者不履行前款规定义务的，用人单位应当对其进行教育。

**第三十五条** 对从事接触职业病危害的作业的劳动者，用人单位应当按照国务院卫生行政部门的规定组织上岗前、在岗期间和离岗时的职业健康检查，并将检查结果书面告知劳动者。职业健康检查费用由用人单位承担。

用人单位不得安排未经上岗前职业健康检查的劳动者从事接触职业病危害的作业；不得安排有职业禁忌的劳动者从事其所禁忌的作业；对在职业健康检查中发现有与所从事的职业相关的健康损害的劳动者，应当调离原工作岗位，并妥善安置；对未进行离岗前职业健康检查的劳动者不得解除或者终止与其订立的劳动合同。

职业健康检查应当由取得《医疗机构执业许可证》的医疗卫生机构承担。卫生行政部门应当加强对职业健康检查工作的规范管理，具体管理办法由国务院卫生行政部门制定。

**第三十六条** 用人单位应当为劳动者建立职业健康监护档案，并按照规定的期限妥善保存。

职业健康监护档案应当包括劳动者的职业史、职业病危害接触史、职业健康检查结果和职业病诊疗等有关个人健康资料。

劳动者离开用人单位时，有权索取本人职业健康监护档案复印件，用人单位应当如实、无偿提供，并在所提供的复印件上签章。

**第三十七条** 发生或者可能发生急性职业病

危害事故时，用人单位应当立即采取应急救援和控制措施，并及时报告所在地卫生行政部门和有关部门。卫生行政部门接到报告后，应当及时会同有关部门组织调查处理；必要时，可以采取临时控制措施。卫生行政部门应当组织做好医疗救治工作。

对遭受或者可能遭受急性职业病危害的劳动者，用人单位应当及时组织救治、进行健康检查和医学观察，所需费用由用人单位承担。

**第三十八条** 用人单位不得安排未成年工从事接触职业病危害的作业；不得安排孕期、哺乳期的女职工从事对本人和胎儿、婴儿有危害的作业。

**第三十九条** 劳动者享有下列职业卫生保护权利：

- （一）获得职业卫生教育、培训；
- （二）获得职业健康检查、职业病诊疗、康复等职业病防治服务；
- （三）了解工作场所产生或者可能产生的职业病危害因素、危害后果和应当采取的职业病防护措施；
- （四）要求用人单位提供符合防治职业病要求的职业病防护设施和个人使用的职业病防护用品，改善工作条件；
- （五）对违反职业病防治法律、法规以及危及生命健康的行为提出批评、检举和控告；
- （六）拒绝违章指挥和强令进行没有职业病防护措施的作业；
- （七）参与用人单位职业卫生工作的民主管理，对职业病防治工作提出意见和建议。

用人单位应当保障劳动者行使前款所列权利。因劳动者依法行使正当权利而降低其工资、福利待遇或者解除、终止与其订立的劳动合同的，其行为无效。

**第四十条** 工会组织应当督促并协助用人单

位开展职业卫生宣传教育和培训，有权对用人单位的职业病防治工作提出意见和建议，依法代表劳动者与用人单位签订劳动安全卫生专项集体合同，与用人单位就劳动者反映的有关职业病防治的问题进行协调并督促解决。

工会组织对用人单位违反职业病防治法律、法规，侵犯劳动者合法权益的行为，有权要求纠正；产生严重职业病危害时，有权要求采取防护措施，或者向政府有关部门建议采取强制性措施；发生职业病危害事故时，有权参与事故调查处理；发现危及劳动者生命健康的情形时，有权向用人单位建议组织劳动者撤离危险现场，用人单位应当立即作出处理。

**第四十一条** 用人单位按照职业病防治要求，用于预防和治理职业病危害、工作场所卫生检测、健康监护和职业卫生培训等费用，按照国家有关规定，在生产成本中据实列支。

**第四十二条** 职业卫生监督管理部门应当按照职责分工，加强对用人单位落实职业病防护管理措施情况的监督检查，依法行使职权，承担责任。

## 第四章 职业病诊断与 职业病病人保障

**第四十三条** 职业病诊断应当由取得《医疗机构执业许可证》的医疗卫生机构承担。卫生行政部门应当加强对职业病诊断工作的规范管理，具体管理办法由国务院卫生行政部门制定。

承担职业病诊断的医疗卫生机构还应当具备下列条件：

- （一）具有与开展职业病诊断相适应的医疗卫生技术人员；
- （二）具有与开展职业病诊断相适应的仪器、设备；
- （三）具有健全的职业病诊断质量管理制度。

承担职业病诊断的医疗卫生机构不得拒绝劳动者进行职业病诊断的要求。

**第四十四条** 劳动者可以在用人单位所在地、本人户籍所在地或者经常居住地依法承担职业病诊断的医疗卫生机构进行职业病诊断。

**第四十五条** 职业病诊断标准和职业病诊断、鉴定办法由国务院卫生行政部门制定。职业病伤残等级的鉴定办法由国务院劳动保障行政部门会同国务院卫生行政部门制定。

**第四十六条** 职业病诊断，应当综合分析下列因素：

（一）病人的职业史；

（二）职业病危害接触史和工作场所职业病危害因素情况；

（三）临床表现以及辅助检查结果等。

没有证据否定职业病危害因素与病人临床表现之间的必然联系的，应当诊断为职业病。

职业病诊断证明书应当由参与诊断的取得职业病诊断资格的执业医师签署，并经承担职业病诊断的医疗卫生机构审核盖章。

**第四十七条** 用人单位应当如实提供职业病诊断、鉴定所需的劳动者职业史和职业病危害接触史、工作场所职业病危害因素检测结果等资料；卫生行政部门应当监督检查和督促用人单位提供上述资料；劳动者和有关机构也应当提供与职业病诊断、鉴定有关的资料。

职业病诊断、鉴定机构需要了解工作场所职业病危害因素情况时，可以对工作场所进行现场调查，也可以向卫生行政部门提出，卫生行政部门应当在十日内组织现场调查。用人单位不得拒绝、阻挠。

**第四十八条** 职业病诊断、鉴定过程中，用人单位不提供工作场所职业病危害因素检测结果等资料的，诊断、鉴定机构应当结合劳动者的临床表现、辅助检查结果和劳动者的职业史、职业

病危害接触史，并参考劳动者的自述、卫生行政部门提供的日常监督检查信息等，作出职业病诊断、鉴定结论。

劳动者对用人单位提供的工作场所职业病危害因素检测结果等资料有异议，或者因劳动者的用人单位解散、破产，无用人单位提供上述资料的，诊断、鉴定机构应当提请卫生行政部门进行调查，卫生行政部门应当自接到申请之日起三十日内对存在异议的资料或者工作场所职业病危害因素情况作出判定；有关部门应当配合。

**第四十九条** 职业病诊断、鉴定过程中，在确认劳动者职业史、职业病危害接触史时，当事人对劳动关系、工种、工作岗位或者在岗时间有争议的，可以向当地的劳动人事争议仲裁委员会申请仲裁；接到申请的劳动人事争议仲裁委员会应当受理，并在三十日内作出裁决。

当事人在仲裁过程中对自己提出的主张，有责任提供证据。劳动者无法提供由用人单位掌握的与仲裁主张有关的证据的，仲裁庭应当要求用人单位在指定期限内提供；用人单位在指定期限内不提供的，应当承担不利后果。

劳动者对仲裁裁决不服的，可以依法向人民法院提起诉讼。

用人单位对仲裁裁决不服的，可以在职业病诊断、鉴定程序结束之日起十五日内依法向人民法院提起诉讼；诉讼期间，劳动者的治疗费用按照职业病待遇规定的途径支付。

**第五十条** 用人单位和医疗卫生机构发现职业病病人或者疑似职业病病人时，应当及时向所在地卫生行政部门报告。确诊为职业病的，用人单位还应当向所在地劳动保障行政部门报告。接到报告的部门应当依法作出处理。

**第五十一条** 县级以上地方人民政府卫生行政部门负责本行政区域内的职业病统计报告的管理工作，并按照规定上报。

**第五十二条** 当事人对职业病诊断有异议的，可以向作出诊断的医疗卫生机构所在地地方人民政府卫生行政部门申请鉴定。

职业病诊断争议由设区的市级以上地方人民政府卫生行政部门根据当事人的申请，组织职业病诊断鉴定委员会进行鉴定。

当事人对设区的市级职业病诊断鉴定委员会的鉴定结论不服的，可以向省、自治区、直辖市人民政府卫生行政部门申请再鉴定。

**第五十三条** 职业病诊断鉴定委员会由相关专业的专家组成。

省、自治区、直辖市人民政府卫生行政部门应当设立相关的专家库，需要对职业病争议作出诊断鉴定时，由当事人或者当事人委托有关卫生行政部门从专家库中以随机抽取的方式确定参加诊断鉴定委员会的专家。

职业病诊断鉴定委员会应当按照国务院卫生行政部门颁布的职业病诊断标准和职业病诊断、鉴定办法进行职业病诊断鉴定，向当事人出具职业病诊断鉴定书。职业病诊断、鉴定费用由用人单位承担。

**第五十四条** 职业病诊断鉴定委员会组成人员应当遵守职业道德，客观、公正地进行诊断鉴定，并承担相应的责任。职业病诊断鉴定委员会组成人员不得私下接触当事人，不得收受当事人的财物或者其他好处，与当事人有利害关系的，应当回避。

人民法院受理有关案件需要进行职业病鉴定时，应当从省、自治区、直辖市人民政府卫生行政部门依法设立的相关的专家库中选取参加鉴定的专家。

**第五十五条** 医疗卫生机构发现疑似职业病病人时，应当告知劳动者本人并及时通知用人单位。

用人单位应当及时安排对疑似职业病病人进

行诊断；在疑似职业病病人诊断或者医学观察期间，不得解除或者终止与其订立的劳动合同。

疑似职业病病人在诊断、医学观察期间的费用，由用人单位承担。

**第五十六条** 用人单位应当保障职业病病人依法享受国家规定的职业病待遇。

用人单位应当按照国家有关规定，安排职业病病人进行治疗、康复和定期检查。

用人单位对不适宜继续从事原工作的职业病病人，应当调离原岗位，并妥善安置。

用人单位对从事接触职业病危害的作业的劳动者，应当给予适当岗位津贴。

**第五十七条** 职业病病人的诊疗、康复费用，伤残以及丧失劳动能力的职业病病人的社会保障，按照国家有关工伤保险的规定执行。

**第五十八条** 职业病病人除依法享有工伤保险外，依照有关民事法律，尚有获得赔偿的权利的，有权向用人单位提出赔偿要求。

**第五十九条** 劳动者被诊断患有职业病，但用人单位没有依法参加工伤保险的，其医疗和生活保障由该用人单位承担。

**第六十条** 职业病病人变动工作单位，其依法享有的待遇不变。

用人单位在发生分立、合并、解散、破产等情形时，应当对从事接触职业病危害的作业的劳动者进行健康检查，并按照国家有关规定妥善安置职业病病人。

**第六十一条** 用人单位已经不存在或者无法确认劳动关系的职业病病人，可以向地方人民政府医疗保障、民政部门申请医疗救助和生活等方面的救助。

地方各级人民政府应当根据本地区的实际情况，采取其他措施，使前款规定的职业病病人获得医疗救治。

## 第五章 监 督 检 查

**第六十二条** 县级以上人民政府职业卫生监督管理部门依照职业病防治法律、法规、国家职业卫生标准和卫生要求，依据职责划分，对职业病防治工作进行监督检查。

**第六十三条** 卫生行政部门履行监督检查职责时，有权采取下列措施：

（一）进入被检查单位和职业病危害现场，了解情况，调查取证；

（二）查阅或者复制与违反职业病防治法律、法规的行为有关的资料和采集样品；

（三）责令违反职业病防治法律、法规的单位和个人停止违法行为。

**第六十四条** 发生职业病危害事故或者有证据证明危害状态可能导致职业病危害事故发生时，卫生行政部门可以采取下列临时控制措施：

（一）责令暂停导致职业病危害事故的作业；

（二）封存造成职业病危害事故或者可能导致职业病危害事故发生的材料和设备；

（三）组织控制职业病危害事故现场。

在职业病危害事故或者危害状态得到有效控制后，卫生行政部门应当及时解除控制措施。

**第六十五条** 职业卫生监督执法人员依法执行职务时，应当出示监督执法证件。

职业卫生监督执法人员应当忠于职守，秉公执法，严格遵守执法规范；涉及用人单位的保密的，应当为其保密。

**第六十六条** 职业卫生监督执法人员依法执行职务时，被检查单位应当接受检查并予以支持配合，不得拒绝和阻碍。

**第六十七条** 卫生行政部门及其职业卫生监督执法人员履行职责时，不得有下列行为：

（一）对不符合法定条件的，发给建设项目有关证明文件、资质证明文件或者予以批准；

（二）对已经取得有关证明文件的，不履行监督检查职责；

（三）发现用人单位存在职业病危害的，可能造成职业病危害事故，不及时依法采取控制措施；

（四）其他违反本法的行为。

**第六十八条** 职业卫生监督执法人员应当依法经过资格认定。

职业卫生监督管理部门应当加强队伍建设，提高职业卫生监督执法人员的政治、业务素质，依照本法和其他有关法律、法规的规定，建立、健全内部监督制度，对其工作人员执行法律、法规和遵守纪律的情况，进行监督检查。

## 第六章 法 律 责 任

**第六十九条** 建设单位违反本法规定，有下列行为之一的，由卫生行政部门给予警告，责令限期改正；逾期不改正的，处十万元以上五十万元以下的罚款；情节严重的，责令停止产生职业病危害的作业，或者提请有关人民政府按照国务院规定的权限责令停建、关闭：

（一）未按照规定进行职业病危害预评价的；

（二）医疗机构可能产生放射性职业病危害的建设项目未按照规定提交放射性职业病危害预评价报告，或者放射性职业病危害预评价报告未经卫生行政部门审核同意，开工建设的；

（三）建设项目的职业病防护设施未按照规定与主体工程同时设计、同时施工、同时投入生产和使用的；

（四）建设项目的职业病防护设施设计不符合国家职业卫生标准和卫生要求，或者医疗机构放射性职业病危害严重的建设项目的防护设施设计未经卫生行政部门审查同意擅自施工的；

（五）未按照规定对职业病防护设施进行职业病危害控制效果评价的；

（六）建设项目竣工投入生产和使用前，职业病防护设施未按照规定验收合格的。

**第七十条** 违反本法规定，有下列行为之一的，由卫生行政部门给予警告，责令限期改正；逾期不改正的，处十万元以下的罚款：

（一）工作场所职业病危害因素检测、评价结果没有存档、上报、公布的；

（二）未采取本法第二十条规定的职业病防治管理措施的；

（三）未按照规定公布有关职业病防治的规章制度、操作规程、职业病危害事故应急救援措施的；

（四）未按照规定组织劳动者进行职业卫生培训，或者未对劳动者个人职业病防护采取指导、督促措施的；

（五）国内首次使用或者首次进口与职业病危害有关的化学材料，未按照规定报送毒性鉴定资料以及经有关部门登记注册或者批准进口的文件的。

**第七十一条** 用人单位违反本法规定，有下列行为之一的，由卫生行政部门责令限期改正，给予警告，可以并处五万元以上十万元以下的罚款：

（一）未按照规定及时、如实向卫生行政部门申报产生职业病危害的项目的；

（二）未实施由专人负责的职业病危害因素日常监测，或者监测系统不能正常监测的；

（三）订立或者变更劳动合同时，未告知劳动者职业病危害真实情况的；

（四）未按照规定组织职业健康检查、建立职业健康监护档案或者未将检查结果书面告知劳动者的；

（五）未依照本法规定在劳动者离开用人单位时提供职业健康监护档案复印件的。

**第七十二条** 用人单位违反本法规定，有下

列行为之一的，由卫生行政部门给予警告，责令限期改正，逾期不改正的，处五万元以上二十万元以下的罚款；情节严重的，责令停止产生职业病危害的作业，或者提请有关人民政府按照国务院规定的权限责令关闭：

（一）工作场所职业病危害因素的强度或者浓度超过国家职业卫生标准的；

（二）未提供职业病防护设施和个人使用的职业病防护用品，或者提供的职业病防护设施和个人使用的职业病防护用品不符合国家职业卫生标准和卫生要求的；

（三）对职业病防护设备、应急救援设施和个人使用的职业病防护用品未按照规定进行维护、检修、检测，或者不能保持正常运行、使用状态的；

（四）未按照规定对工作场所职业病危害因素进行检测、评价的；

（五）工作场所职业病危害因素经治理仍然达不到国家职业卫生标准和卫生要求时，未停止存在职业病危害因素的作业的；

（六）未按照规定安排职业病病人、疑似职业病病人进行诊治的；

（七）发生或者可能发生急性职业病危害事故时，未立即采取应急救援和控制措施或者未按照规定及时报告的；

（八）未按照规定在产生严重职业病危害的作业岗位醒目位置设置警示标识和中文警示说明的；

（九）拒绝职业卫生监督管理部门监督检查的；

（十）隐瞒、伪造、篡改、毁损职业健康监护档案、工作场所职业病危害因素检测评价结果等相关资料，或者拒不提供职业病诊断、鉴定所需资料的；

（十一）未按照规定承担职业病诊断、鉴定

费用和职业病病人的医疗、生活保障费用的。

**第七十三条** 向用人单位提供可能产生职业病危害的设备、材料，未按照规定提供中文说明书或者设置警示标识和中文警示说明的，由卫生行政部门责令限期改正，给予警告，并处五万元以上二十万元以下的罚款。

**第七十四条** 用人单位和医疗卫生机构未按照规定报告职业病、疑似职业病的，由有关主管部门依据职责分工责令限期改正，给予警告，可以并处一万元以下的罚款；弄虚作假的，并处二万元以上五万元以下的罚款；对直接负责的主管人员和其他直接责任人员，可以依法给予降级或者撤职的处分。

**第七十五条** 违反本法规定，有下列情形之一的，由卫生行政部门责令限期治理，并处五万元以上三十万元以下的罚款；情节严重的，责令停止产生职业病危害的作业，或者提请有关人民政府按照国务院规定的权限责令关闭：

（一）隐瞒技术、工艺、设备、材料所产生的职业病危害而采用的；

（二）隐瞒本单位职业卫生真实情况的；

（三）可能发生急性职业损伤的有毒、有害工作场所、放射工作场所或者放射性同位素的运输、贮存不符合本法第二十五条规定的；

（四）使用国家明令禁止使用的可能产生职业病危害的设备或者材料的；

（五）将产生职业病危害的作业转移给没有职业病防护条件的单位和个人，或者没有职业病防护条件的单位和个人接受产生职业病危害的作业的；

（六）擅自拆除、停止使用职业病防护设备或者应急救援设施的；

（七）安排未经职业健康检查的劳动者、有职业禁忌的劳动者、未成年工或者孕期、哺乳期女职工从事接触职业病危害的作业或者禁忌作业

的；

（八）违章指挥和强令劳动者进行没有职业病防护措施的作业的。

**第七十六条** 生产、经营或者进口国家明令禁止使用的可能产生职业病危害的设备或者材料的，依照有关法律、行政法规的规定给予处罚。

**第七十七条** 用人单位违反本法规定，已经对劳动者生命健康造成严重损害的，由卫生行政部门责令停止产生职业病危害的作业，或者提请有关人民政府按照国务院规定的权限责令关闭，并处十万元以上五十万元以下的罚款。

**第七十八条** 用人单位违反本法规定，造成重大职业病危害事故或者其他严重后果，构成犯罪的，对直接负责的主管人员和其他直接责任人员，依法追究刑事责任。

**第七十九条** 未取得职业卫生技术服务资质认可擅自从事职业卫生技术服务的，由卫生行政部门责令立即停止违法行为，没收违法所得；违法所得五千元以上的，并处违法所得二倍以上十倍以下的罚款；没有违法所得或者违法所得不足五千元的，并处五千元以上五万元以下的罚款；情节严重的，对直接负责的主管人员和其他直接责任人员，依法给予降级、撤职或者开除的处分。

**第八十条** 从事职业卫生技术服务的机构和承担职业病诊断的医疗卫生机构违反本法规定，有下列行为之一的，由卫生行政部门责令立即停止违法行为，给予警告，没收违法所得；违法所得五千元以上的，并处违法所得二倍以上五倍以下的罚款；没有违法所得或者违法所得不足五千元的，并处五千元以上二万元以下的罚款；情节严重的，由原认可或者登记机关取消其相应的资格；对直接负责的主管人员和其他直接责任人员，依法给予降级、撤职或者开除的处分；构成犯罪的，依法追究刑事责任：

- (一) 超出资质认可或者诊疗项目登记范围从事职业卫生技术服务或者职业病诊断的；
- (二) 不按照本法规定履行法定职责的；
- (三) 出具虚假证明文件的。

**第八十一条** 职业病诊断鉴定委员会组成人员收受职业病诊断争议当事人的财物或者其他好处的，给予警告，没收收受的财物，可以并处三千元以上五万元以下的罚款，取消其担任职业病诊断鉴定委员会组成人员的资格，并从省、自治区、直辖市人民政府卫生行政部门设立的专家库中予以除名。

**第八十二条** 卫生行政部门不按照规定报告职业病和职业病危害事故的，由上一级行政部门责令改正，通报批评，给予警告；虚报、瞒报的，对单位负责人、直接负责的主管人员和其他直接责任人员依法给予降级、撤职或者开除的处分。

**第八十三条** 县级以上地方人民政府在职业病防治工作中未依照本法履行职责，本行政区域出现重大职业病危害事故、造成严重社会影响的，依法对直接负责的主管人员和其他直接责任人员给予记大过直至开除的处分。

县级以上人民政府职业卫生监督管理部门不履行本法规定的职责，滥用职权、玩忽职守、徇私舞弊，依法对直接负责的主管人员和其他直接责任人员给予记大过或者降级的处分；造成职业病危害事故或者其他严重后果的，依法给予撤职或者开除的处分。

**第八十四条** 违反本法规定，构成犯罪的，依法追究刑事责任。

## 第七章 附 则

**第八十五条** 本法下列用语的含义：

职业病危害，是指对从事职业活动的劳动者可能导致职业病的各种危害。职业病危害因素包括：职业活动中存在的各种有害的化学、物理、生物因素以及在作业过程中产生的其他职业有害因素。

职业禁忌，是指劳动者从事特定职业或者接触特定职业病危害因素时，比一般职业人群更易于遭受职业病危害和罹患职业病或者可能导致原有自身疾病病情加重，或者在从事作业过程中诱发可能导致对他人生命健康构成危险的疾病的个人特殊生理或者病理状态。

**第八十六条** 本法第二条规定的用人单位以外的单位，产生职业病危害的，其职业病防治活动可以参照本法执行。

劳务派遣用工单位应当履行本法规定的用人单位的义务。

中国人民解放军参照执行本法的办法，由国务院、中央军事委员会制定。

**第八十七条** 对医疗机构放射性职业病危害控制的监督管理，由卫生行政部门依照本法的规定实施。

**第八十八条** 本法自 2002 年 5 月 1 日起施行。

# Law of the People's Republic of China on the Prevention and Control of Occupational Diseases (2018 Amendment)

## 中华人民共和国职业病防治法(2018 修正)

Law of the People's Republic of China on the Prevention and Control of Occupational Diseases

(Adopted at the 24th session of the Standing Committee of the Ninth National People's Congress on October 27, 2001; amended for the first time according to the [Decision on Amending the Law of the People's Republic of China on the Prevention and Control of Occupational Diseases](#) as adopted at the 24th session of the Standing Committee of the Eleventh National People's Congress on December 31, 2011; amended for the second time in accordance with the [Decision of the Standing Committee of the National People's Congress on Amending Six Laws including the Energy Conservation Law of the People's Republic of China](#) at the 21st Session of the Standing Committee of the Twelfth National People's Congress on July 2, 2016; amended for the third time in accordance with the [Decision of the National People's Congress on Amending Eleven Laws including the Accounting Law of the People's Republic of China](#) at the 30th Session of the Standing Committee of the Twelfth National People's Congress of the People's Republic of China on November 4, 2017; and amended for the fourth time according to the [Decision of the Standing Committee of the National People's Congress to Amend Seven Laws Including the Labor Law of the People's Republic of China](#) as adopted at the Seventh Session of the Standing Committee of the Thirteenth National People's Congress of the People's Republic of China on December 29, 2018)

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Chapter I General Provisions

**Article 1** To prevent, control, and eliminate occupational disease hazards, prevent and control occupational diseases, protect the health and relevant rights and interests of employees, and promote economic and social development, this Law is formulated in accordance with the [Constitution](#).

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**Article 2** This law shall apply to the prevention and control of occupational diseases within the territory of the People's Republic of China.

For the purposes of this Law, “occupational diseases” means the diseases contracted by the employees of an enterprise, a public institution, an individual economic organization, or other employer for their exposures to toxic or harmful factors such as dust and radioactive substances in occupational activities.

The categories and catalogue of occupational diseases shall be determined, adjusted, and published by the health administrative department of the State Council in conjunction with the labor and social security administrative department of the State Council.

**Article 3** In the prevention and control of occupational diseases, the guideline of “focusing on prevention and combining prevention with control” shall be followed, a mechanism of “responsibility of the employers, regulation by the administrative organs, industry self-discipline, participation by the employees, and supervision by the general public” shall be established, and categorized management and comprehensive control shall be implemented.

**Article 4** Employees shall be entitled to occupational health protection according to law.

Employers shall create work environment and conditions meeting the national occupational health standards and health requirements and take measures to ensure that employees receive occupational health protection.

Trade unions shall oversee the prevention and control of occupational diseases and protect the lawful rights and interests of employees according to law. When formulating or amending rules and regulations on the prevention and control of occupational diseases, employers shall solicit the opinions of trade unions.

**Article 5** Employers shall establish and improve a responsibility system for the prevention and control of occupational diseases, strengthen the management of prevention and control of occupational diseases, improve their capabilities of prevention and control of occupational diseases, and assume responsibilities for their own occupational disease hazards.

**Article 6** The primary person in charge of an employer shall assume the overall responsibility for the employer's prevention and control of occupational diseases.

**Article 7** Employers must participate in work-related injury insurance according to law.

The labor and social security administrative departments of the State Council and the local people's governments at and above the county level shall strengthen their supervision and administration of work-related injury insurance and ensure that employees enjoy the benefits of work-related injury insurance according to law.

**Article 8** The state encourages and supports the research, development, promotion, and application of new technologies, new processes, new equipment, and new materials which facilitate the prevention and control of occupational diseases and the health protection of employees and accentuates the fundamental research on the mechanisms and occurrence patterns of occupational diseases to elevate the scientific and technological levels in the prevention and control of occupational diseases;

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technologies, processes, equipment, and materials which are effective for the prevention and control of occupational diseases shall be actively adopted; and technologies, processes, equipment, and materials which cause serious occupational disease hazards shall be restricted in use or eliminated.

The state encourages and supports the construction of medical rehabilitation institutions for occupational diseases.

**Article 9** The state shall apply an occupational health supervision system.

The health administrative department, and labor and social security administrative department of the State Council shall, according to the functions prescribed by this Law and the State Council, supervise and administer the prevention and control of occupational diseases across the country. Other relevant departments of the State Council shall, within their respective functions, supervise and administer the prevention and control of occupational diseases.

The health administrative departments, and labor and social security administrative departments of the local people's governments at and above the county level shall, according to their respective functions, supervise and administer the prevention and control of occupational diseases within their respective administrative regions. Other relevant departments of the local people's governments at and above the county level shall supervise and administer the prevention and control of occupational diseases within their respective functions.

The health administrative departments, and labor and social security administrative departments of the people's governments at and above the county level (hereinafter together referred to as the “departments of occupational health supervision and administration”) shall strengthen communication and cooperate closely with each other and, according to their respective functions, legally exercise powers and assume responsibilities.

**Article 10** The State Council and the local people's governments at and above the county level shall prepare plans on the prevention and control of occupational diseases, which shall be included in the national economic and social development plan, and organize the implementation of such plans.

The local people's governments at and above the county level shall uniformly lead, organize, and coordinate work on the prevention and control of occupational diseases within their respective administrative regions, establish effective working systems and mechanisms for the prevention and control of occupational diseases, and uniformly lead and direct work in response to occupational health emergencies; and enhance their capabilities of preventing and controlling occupational diseases and related service systems and improve and implement the responsibility system for the prevention and control of occupational diseases.

The people's governments of townships, ethnic townships, and towns shall, in accordance with this Law, support the departments of occupational health supervision and administration in performing their statutory functions.

**Article 11** The departments of occupational health supervision and administration of the people's governments at and above the county level shall provide more publicity and education on the prevention and control of occupational diseases, disseminate knowledge on the prevention and control of occupational diseases, reinforce employers' awareness of prevention and control of occupational diseases, and improve employees' awareness of occupational health and self-protection and ability to

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exercise rights to occupational health protection.

**Article 12** The national occupational health standards on the prevention and control of occupational diseases shall be formulated and published by the health administrative department of the State Council.

The health administrative department of the State Council shall organize monitoring and special investigations on major occupational diseases and assessments on occupational health risks to provide a scientific basis for formulating occupational health standards and policies for the prevention and control of occupational diseases. The health administrative departments of the local people's governments at and above the county level shall collect statistics and conduct survey and analysis on the prevention and control of occupational diseases within their respective administrative regions on a regular basis.

**Article 13** Any entity or individual shall have the right to report and make accusations regarding violations of this Law. The relevant departments shall handle such reports and accusations in a timely manner after receipt.

Entities and individuals which have made remarkable achievements in the prevention and control of occupational diseases shall be rewarded.

## Chapter II Early Prevention

**Article 14** Employers shall, as required by laws and regulations, strictly comply with the national occupational health standards and implement preventative measures against occupational diseases to control and eliminate occupational disease hazards at source.

**Article 15** The formation of an employer with occupational disease hazards shall meet the requirements of laws and administrative regulations, and the employer's work sites shall also meet the following occupational health requirements:

- (1) The intensity or density of occupational disease hazard factors meets the national occupational health standards;
- (2) There are facilities suitable for protection from occupational disease hazards;
- (3) The production layout is reasonable and conforms to the principle of separating harmful operations from harmless operations;
- (4) There are accessory health facilities, such as changing rooms, bathrooms, and lounges for pregnant women;
- (5) Equipment, tools, appliances, and other facilities shall meet the requirements for protecting the physical and mental health of employees; and
- (6) Other requirements of laws, administrative regulations, and the health administrative department of the State Council for protecting the health of employees.

**Article 16** The state shall establish a declaration system for projects with occupational disease hazards.

Where an employer's work site has any occupational disease hazard factors as listed in the catalogue of occupational diseases, the employer shall truthfully declare the hazardous project to the local health administrative department in a timely manner and accept supervision.

A catalogue of categorized occupational disease hazard factors shall be formulated, adjusted, and published by the health administrative department of the State Council.

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The specific measures for declaration of projects with occupational disease hazards shall be formulated by the health administrative department of the State Council.

**Article 17** Where a new construction, an expansion, or a reconstruction project or a technical transformation or technology introduction project (hereinafter referred to as the “construction project”) may cause any occupational hazards, the construction entity shall conduct the pre-assessment of occupational hazards at the feasibility study stage.

Where the construction project of a medical institution may have radioactive occupational hazards, the construction entity shall submit a report on the pre-assessment of radioactive occupational hazards to the health administrative department. The health administrative department shall, within 30 days of receipt of the pre-assessment report, make an examination decision and notify the construction entity of the decision in writing. The entity shall not commence construction if no pre-assessment report is submitted or the pre-assessment report is not approved by the health administrative department upon examination.

In the preliminary evaluation report on occupational disease hazards, the occupational disease hazard factors which may arise from the construction project and their effects on the work sites and the health of employees shall be evaluated, the hazards shall be categorized, and the protective measures against occupational diseases shall be determined.

The [measures for the categorized administration of occupational disease hazards in construction projects](#) shall be formulated by the health administrative department of the State Council.

**Article 18** The expenses necessary for the protective facilities against occupational diseases of a construction project shall be included in the project budget of the construction project, and such facilities shall be designed, constructed, and put to use in production and other operations at the same time as the main body of the project. The design of the facilities for the prevention and control of occupational diseases of a construction project shall comply with the state's occupational health standards and health requirements; and the construction of the prevention and control facilities of a construction project with serious radioactive occupational hazards of a medical institution cannot be commenced until the design of such facilities has been approved by the health administrative department upon examination.

Before the acceptance check of a construction project, the construction entity shall evaluate the effects of occupational hazard control.

When a construction project that may have radioactive occupational hazards of a medical institution is undergoing acceptance check, its facilities for the prevention and control of radioactive occupational diseases cannot be put into use until they have passed the acceptance check of the health administrative department. The construction entity shall be responsible for legally organizing the acceptance check of the facilities for the prevention and control of occupational diseases of any other construction project, and the facilities cannot be put into production and use until they have passed the acceptance check. The health administrative department shall strengthen the supervision and inspection of acceptance check activities organized by the construction entity and acceptance check results.

**Article 19** The state shall apply special administration to radioactive, highly toxic, and high-risk dust operations. The specific administrative measures shall be formulated by

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the State Council.

### Chapter III Protection and Management during Employment

**Article 20** An employer shall take the following management measures for the prevention and control of occupational diseases:

- (1) forming or designating an occupational health management body or organization and having full-time or part-time occupational health management personnel to be responsible for the employer's prevention and control of occupational diseases;
- (2) preparing plans and implementation schemes for the prevention and control of occupational diseases;
- (3) establishing and improving occupational health management rules and operating procedures;
- (4) establishing and improving occupational health archives and employee health surveillance archives;
- (5) establishing and improving the rules for monitoring and evaluating occupational disease hazard factors at work sites; and
- (6) establishing and improving the emergency response plans for occupational disease hazard accidents.

**Article 21** Employers shall ensure the funds required for the prevention and control of occupational diseases, shall not misappropriate such funds, and shall be liable for the consequences of insufficient funds.

**Article 22** Employers must adopt effective protective facilities against occupational diseases and provide employees with occupational disease protection items for personal use.

The occupational disease protection items for personal use provided by an employer to its employees must meet the requirements for the prevention and control of occupational diseases; and those failing to meet such requirements shall not be used.

**Article 23** Employers shall adopt preferably new technologies, new processes, new equipment, and new materials which facilitate the prevention and control of occupational diseases and the protection of health of employees and gradually replace technologies, processes, equipment, and materials causing serious occupational disease hazards.

**Article 24** An employer with occupational disease hazards shall set up a bulletin board in a conspicuous position to disclose its rules, regulations and operating procedures related to the prevention and control of occupational diseases, emergency rescue measures in response to occupational disease hazard accidents, and testing results of occupational disease hazard factors at work sites.

For work posts with serious occupational disease hazards, an employer shall set warning signs and Chinese warning explanations in a conspicuous place. The warning explanations shall indicate the categories, consequences, and prevention of occupational disease hazards, the emergency rescue and treatment measures, and so on.

**Article 25** For toxic or harmful work sites where acute occupational injuries may occur, an employer shall install alarms and provide on-spot rescue items, washing

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equipment, emergency evacuation exits, and necessary hazard buffer zones. For radioactive work sites and the transport and storage of radioactive isotopes, an employer must provide protective equipment, install alarms, and ensure that its personnel exposed to radiation carry a personal dosage gauge. For the protective equipment against occupational diseases, emergency rescue facilities, and occupational disease protection items for personal use, an employer shall conduct routine maintenance and repair, and regularly test their performances and effects, to ensure that they are in normal condition; and shall not dismantle or discontinue the use of them without permission.

**Article 26** Employers shall designate special persons responsible for the daily monitoring of occupational disease hazard factors and ensure the normal operation of the monitoring system.

An employer shall, according to the provisions of the health administrative department of the State Council, conduct regular tests and evaluations of the occupational disease hazard factors at its work sites. The results of such tests and evaluations shall be entered into the occupational health archives of the employer and, on a regular basis, be reported to the local health administrative department and disclosed to its employees.

The tests and evaluations of occupational disease hazard factors shall be conducted by the legally established occupational health technical service institutions accredited by the health administrative department of the State Council or the health administrative department of the local people's government at or above level of a districted city according to its functions. The occupational health technical service institutions shall provide objective and authentic tests and evaluations.

When discovering that the occupational disease hazard factors at a work site fail to meet the national occupational health standards and health requirements, an employer shall take corresponding control measures immediately, and if the national occupational health standards and health requirements are still not met, the employer must discontinue operations with occupational disease hazard factors; and such operations may be resumed only after the occupational disease hazard factors have met the national occupational health standards and health requirements after control measures are taken.

**Article 27** Occupational health technical service institutions shall legally conduct tests and evaluations of occupational disease hazard factors and accept supervision and inspection by the health administrative departments. Health administrative departments shall legally perform their duties of supervision.

**Article 28** To supply an employer with equipment which may cause any occupational disease hazards, a supplier shall provide Chinese instructions and set warning signs and Chinese warning explanations in a conspicuous place of such equipment. The warning explanations shall include the performances of equipment, possible occupational disease hazards, important matters on safe operation and maintenance, protection against occupational diseases, measures for emergency rescue and treatment, and so on.

**Article 29** To supply an employer with chemicals, radioactive isotopes, or materials containing radioactive substances which may cause occupational disease hazards, a supplier shall provide Chinese instructions. The instructions shall include the

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characteristics of products, main ingredients, existing harmful factors, possible harmful consequences, important matters on safe operation, protection against occupational diseases, emergency rescue and treatment measures, and so on. There shall be conspicuous warning signs and Chinese warning explanations on product packages. Dangerous item signs or radiation warning signs shall be set in the prescribed places of storages for the above materials.

For any chemical material related to occupational disease hazards which is used in China or imported into China for the first time, the entity using or importing the chemical material shall, after obtaining the approval of the relevant department of the State Council according to the state provisions, submit the toxicity identification report on the chemical material, documents on registration or approval of import issued by the relevant departments, and other information to the health administrative department of the State Council.

Radioactive isotopes, radial equipment, and items containing radioactive substances shall be imported according to the relevant state provisions.

**Article 30** No entity or individual may produce, deal in, import, or use any equipment or material which may cause occupational disease hazards and whose use is expressly prohibited by the state.

**Article 31** No entity or individual may transfer operations causing occupational disease hazards to any entity or individual which does not meet the conditions for protection from occupational diseases. No entity or individual which does not meet the conditions for protection from occupational diseases may accept operations causing occupational disease hazards.

**Article 32** Where an employer which should have known the occupational disease hazards caused by the adopted technologies, processes, equipment, and materials adopts any technology, process, equipment, or material causing occupational disease hazards by concealing such hazards, the employer shall be liable for the consequences of such hazards.

**Article 33** When signing labor contracts (including employment contracts for public services) with its employees, an employer shall truthfully inform its employees of the occupational disease hazards which may arise in the work process, the consequences thereof, the protective measures against occupational diseases, remuneration, and other matters and include the same in the labor contracts; and shall not conceal such information or defraud its employees.

Where any employee conducts operations causing occupational disease hazards not included in the labor contract signed for any change of position or specific work during the contract period, the employer shall perform its obligation to truthfully inform the employee of such hazards as described in the preceding paragraph and modify the relevant clauses of the original labor contract.

Where the employer violates the provisions of either of the preceding two paragraphs, the employee shall be entitled to refuse to conduct operations causing occupational disease hazards, and the employer shall not therefore rescind the labor contract signed with the employee.

**Article 34** The primary person in charge and the occupational health management personnel of an employer shall receive occupational health training, abide by laws and

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regulations on the prevention and control of occupational diseases, and organize the employer's prevention and control of occupational diseases according to law. Employers shall provide pre-job occupational health training and regular on-the-job occupational health training for employees, disseminate occupational health knowledge, supervise employees in abiding by laws, regulations, rules, and operating procedures on the prevention and control of occupational diseases, and direct employees to correctly use occupational disease protective equipment and occupational disease protective items for personal use. Employees shall gain occupational health knowledge through studies, enhance their awareness of preventing occupational diseases, abide by laws, regulations, rules, and operating procedures on the prevention and control of occupational diseases, properly use and maintain occupational disease protective equipment and occupational disease protective items for personal use, and report any discovered risks of occupational disease hazard accidents in a timely manner. Employers shall educate employees who don't perform the obligations in the preceding paragraph.

**Article 35** For employees conducting operations with exposure to occupational disease hazards, an employer shall organize pre-job, on-the-job, and off-the-job occupational health examination of employees according to the provisions of the health administrative department of the State Council and inform in writing employees of the examination results. The expenses for the occupational health examination shall be assumed by the employer.

Employers shall not assign employees who have not undergone the pre-job occupational health examination to operations with exposure to occupational disease hazards; shall not assign employees with occupational contraindications to operations causing such contraindications; shall transfer employees who are found during occupational health examination to have suffered health injuries related to their jobs from such jobs and settle such employees appropriately; and shall not rescind or terminate labor contacts with employees who have not undergone the off-the-job occupational health examination.

The occupational health examination shall be conducted by medical health institutions that have obtained the Practicing License of Medical Institutions. Health administrative departments shall strengthen the standard administration of occupational health examination, and the specific administrative measures shall be developed by the health administrative department of the State Council.

**Article 36** Employers shall establish occupational health surveillance archives for employees and appropriately maintain the archives for a prescribed period. The occupational health surveillance archives shall include the occupational history, history of exposures to occupational disease hazards, occupational health examination results, diagnosis and treatment of occupational diseases, and other relevant personal health information on employees.

Employees leaving an employer shall be entitled to request a copy of their own occupational health surveillance files, and the employer shall provide a true copy of such files free of charge and sign and seal the copy provided.

**Article 37** Where an acute occupational disease hazard accident occurs or may occur, an employer shall immediately take emergency rescue and control measures and report the accident to the local health administrative department and relevant

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departments in a timely manner. The health administrative department shall, after receiving the report, organize investigation and disposition in a timely manner in conjunction with the relevant departments; and when necessary, may take temporary control measures. The health administrative department shall organize effective medical treatment.

For employees who suffer or may suffer any acute occupational disease hazard, an employer shall organize rescue and treatment and conduct health examination and medical observation in a timely manner, and the necessary expenses shall be assumed by the employer.

**Article 38** Employers shall not assign underage employees to operations with exposure to occupational disease hazards; and shall not assign female employees in pregnancy or lactation to operations causing hazards to them and their fetuses or babies.

**Article 39** Employees shall enjoy the following rights in occupational health protection:

- (1) receive occupational health education and training;
- (2) receive occupational health examination, occupational disease diagnosis, treatment, and rehabilitation, and other services for the prevention and control of occupational diseases;
- (3) be informed of the occupational disease hazard factors which arise or may arise at the work site, the consequences of such hazards, and the protective measures to be taken for the prevention and control of occupational diseases;
- (4) request an employer to provide occupational disease protective facilities and occupational disease protective items for personal use satisfying the requirements for the prevention and control of occupational diseases and improve working conditions;
- (5) criticize or file reports or accusations on conduct which violates laws and regulations on the prevention and control of occupational diseases or endangers life or health;
- (6) refuse to follow directions contrary to rules and procedures or conduct forced operations in the absence of occupational disease protective measures; and
- (7) participate in the democratic management of occupational health of the employer and offer opinions and suggestions on the prevention and control of occupational diseases.

Employers shall guarantee that employees are able to exercise the rights as described in the preceding paragraph. Where an employer reduces the salary, welfare, or other remuneration of an employee or rescinds or terminates the labor contract signed with an employee because the employee has exercised his or her lawful rights according to law, such conduct of the employer shall be void.

**Article 40** The trade union of an employer shall oversee and assist the employer in providing publicity, education and training regarding occupational health, be entitled to offer opinions and suggestions on the employer's prevention and control of occupational diseases, legally conclude a special collective contract on labor safety and health with the employer on behalf of employees, consult with the employer over issues raised by employees concerning the prevention and control of occupational diseases, and promote the resolution of such issues.

The trade union of an employer shall be entitled to require correction of the employer's conduct which violates laws and regulations on the prevention and control

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of occupational diseases and infringes upon the lawful rights and interests of employees; be entitled to require the employer to take protective measures or offer suggestions to the relevant government departments regarding the adoption of compulsory measures, when any serious occupational disease hazard arises; be entitled to participate in accident investigation and disposition, when any occupational disease hazard accident occurs; and be entitled to offer suggestions to the employer regarding evacuation of employees from a dangerous site when discovering any circumstances which endanger the life or health of employees, and the employer shall handle such suggestions immediately.

**Article 41** The expenses incurred by an employer in the prevention and control of occupational disease hazards, health testing of work sites, health surveillance, occupational health training, and so on as required for the prevention and control of occupational diseases shall be truthfully recorded under production costs according to the relevant provisions of the state.

**Article 42** The departments of occupational health supervision and administration shall, according to their respective functions, strengthen their supervision and inspection on employers' adoption of management measures for protection from occupational diseases and legally exercise powers and assume responsibilities.

#### Chapter IV Occupational Disease Diagnosis and Safeguards for Occupational Disease Patients

**Article 43** Occupational disease diagnosis shall be undertaken by a medical or health institution that has obtained the Practicing License of a Medical Institution. The health administrative department shall strengthen the standardized administration of occupational disease diagnosis work, and the specific administrative measures shall be developed by the health administrative department of the State Council.

A medical or health institution undertaking occupational disease diagnosis shall also meet the following conditions:

- (1) It has medical or health staff appropriate for conducting occupational disease diagnosis;
- (2) It has instruments and equipment appropriate for conducting occupational disease diagnosis; and
- (3) It has sound quality management rules for occupational disease diagnosis.

No medical and health institutions providing occupational disease diagnosis shall refuse an employee's request for occupational disease diagnosis.

**Article 44** An employee may seek occupational disease diagnosis at a medical and health institution legally providing occupational disease diagnosis at the place where the employer is located, at the place of the employee's registered permanent residence, or at the place of the employee's habitual residence.

**Article 45** The diagnosis standards for occupational diseases and the diagnosis and identification measures for occupational diseases shall be formulated by the health administrative department of the State Council. The disability grade identification measures for occupational diseases shall be formulated by the labor and social security administrative department of the State Council in conjunction with the health administrative department of the State Council.

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**Article 46** In occupational disease diagnosis, a comprehensive analysis of the following factors shall be conducted:

- (1) the occupational history of a patient;
  - (2) a history of exposures to occupational disease hazards and information on occupational disease hazard factors in the work site; and
  - (3) clinical manifestations, results of assistant examination, and so on.
- Where there is no evidence for denying a necessary connection between occupational disease hazard factors and a patient's clinical manifestations, the patient shall be diagnosed with an occupational disease.

The occupational disease diagnosis certificate shall be signed by the medical practitioner participating in the diagnosis who has obtained the occupational disease diagnosis qualification, and the medical health institution undertaking the occupational disease diagnosis shall conduct examination and affix its seal.

**Article 47** An employer shall truthfully provide the occupational history and history of exposures to occupational disease hazard factors of employees, test results of occupational disease hazard factors at work sites, and other information necessary for occupational disease diagnosis or identification; the health administrative department shall oversee and urge the employer to provide the aforesaid information; and employees and relevant institutions shall also provide information related to occupational disease diagnosis or identification.

Where an occupational disease diagnosis or identification institution needs information on the occupational disease hazard factors at a work site, it may conduct an on-site investigation of the work site or request the health administrative department to do so, and the health administrative department shall organize an on-site investigation within 10 days. The employer shall not refuse or obstruct the on-site investigation.

**Article 48** Where, in the process of occupational disease diagnosis or identification, an employer fails to provide the test results of occupational disease hazard factors at a work site and other information, the diagnosis or identification institution shall, in consideration of the clinical manifestations and assistant examination results of an employee, the occupational history and history of exposures to occupational disease hazards of an employee, the personal statement of an employee, the routine supervision and inspection information from the health administrative department, and other information, arrive at a conclusion of occupational disease diagnosis or identification.

Where an employee raises any objection to the test results of occupational disease hazard factors at a work site and other information provided by the employer or the aforesaid information is not provided because of the dissolution or bankruptcy of the employer, the diagnosis or identification institution shall request the health administrative department to conduct an investigation, and the health administrative department shall, within 30 days after receiving the request, make a determination on the information in dispute or information on occupational disease hazard factors at the work site; and the relevant departments shall cooperate.

**Article 49** Where, in the process of occupational disease diagnosis or identification, the parties dispute the employment relationship, type of work, post, or working hours when the employee's occupational history and history of exposures to occupational

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disease hazard factors are validated, they may apply to the local labor and personnel dispute arbitration committee for arbitration; and the labor and personnel dispute arbitration committee receiving the application shall accept it and render an award within 30 days.

The parties shall provide evidence for their own claims during arbitration. Where an employee cannot provide evidence relevant to his or her arbitral claims that is controlled or managed by the employer, the arbitral tribunal shall require the employer to provide such evidence within a specified time limit; and the employer shall assume any adverse consequences for failing to provide such evidence within the specified time limit.

An employee may file a lawsuit with the people's court against an arbitral award.

An employer may, within 15 days after the end of the occupational disease diagnosis or identification procedure, file a lawsuit with the people's court according to law against an arbitral award. During the lawsuit, the treatment expenses of the employee shall be paid from financial sources prescribed for occupational diseases.

**Article 50** Employers and medical and health institutions shall report in a timely manner discovered occupational disease patients or patients suspected of occupational diseases to the local health administrative department. If an occupational disease is confirmed, an employer shall also report to the local labor and social security administrative department. The departments receiving such reports shall make dispositions according to law.

**Article 51** The health administrative departments of the local people's governments at and above the county level shall administer the statistical reports on occupational diseases within their respective administrative regions and report to the higher authorities according to the relevant provisions.

**Article 52** A party raising any objection to the occupational disease diagnosis may apply for identification to the health administrative department of the people's government of the place where the medical or health institution making the diagnosis is located.

In case of disputes over occupational disease diagnosis, the health administrative department of the local people's government at or above the level of a districted city shall, upon the application of a party, organize identification by the occupational disease diagnosis identification committee.

A party disagreeing to the identification conclusion of the occupational disease diagnosis identification committee at the level of a districted city may apply for re-identification to the health administrative department of the people's government of a province, autonomous region, or municipality directly under the Central Government.

**Article 53** The occupational disease diagnosis identification committee shall be composed of experts in relevant areas.

The health administrative department of the people's government of a province, autonomous region, or municipalities directly under the Central Government shall create relevant expert databases, and when it is necessary to conduct diagnosis identification for occupational disease disputes, the parties or the relevant health administrative department authorized by the parties shall determine the experts sitting on the diagnosis identification committee in the method of random selection from expert databases.

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The occupational disease diagnosis identification committee shall conduct occupational disease diagnosis identification according to the diagnosis standards for occupational diseases and the diagnosis and identification measures for occupational diseases issued by the health administrative department of the State Council and issue a certificate of occupational disease diagnosis identification to the parties. The occupational disease diagnosis and identification expenses shall be assumed by employers.

**Article 54** The members of an occupational disease diagnosis identification committee shall abide by professional ethics, conduct diagnosis identification objectively and impartially, and assume corresponding responsibilities. The members of an occupational disease diagnosis appraisal committee shall not contact the parties in private, shall not accept any property or other benefits from the parties, and shall be disqualified if having any interest relationship with the parties.

Where the relevant cases accepted by a people's court need occupational disease identification, the people's court shall select the experts participating in the identification from the relevant expert databases legally created by the health administrative departments of the people's governments of a province, autonomous region, or municipalities directly under the Central Government.

**Article 55** Medical and health institutions shall, after discovering patients suspected of occupational diseases, shall inform the employees themselves and notify the employers in a timely manner.

Employers shall arrange in a timely manner the diagnosis of patients suspected of occupational diseases; and shall not rescind or terminate the labor contracts with such patients during their diagnosis or medical observation period.

The expenses incurred by patients suspected of occupational diseases during the diagnosis or medical observation period shall be assumed by employers.

**Article 56** Employers shall ensure that occupational diseases patients enjoy the occupational disease benefits prescribed by the state.

Employers shall, according to the relevant provisions of the state, arrange the diagnosis, rehabilitation, and regular examination of occupational diseases patients. Employers shall transfer occupational disease patients who are no longer suitable for their original jobs from their jobs and settle them appropriately.

Employers shall provide appropriate job allowances to employees conducting operations with exposure to occupational disease hazards.

**Article 57** The expenses for the diagnosis and rehabilitation of occupational disease patients and the social security of occupational disease patients who are disabled or have lost work ability shall be governed by the state provisions on work-related injury insurance.

**Article 58** In addition to enjoying the benefits of work-related injury insurance according to law, an occupational disease patient who is entitled to compensation according to relevant civil laws shall have the right to request compensation from the employer.

**Article 59** Where an employee is diagnosed with an occupational disease but the employer fails to participate in the work-related injury insurance as required by law,

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the employee's medical and living expenses shall be assumed by the employer.

**Article 60** The benefits enjoyed by occupational diseases patients shall remain unchanged when they change their employers.

An employer undergoing any business split or combination, dissolution, or bankruptcy shall provide health examination for employees conducting operations with exposure to occupational disease hazards and appropriately settle occupational diseases patients according to the relevant provisions of the state.

**Article 61** Where the employer of an occupational disease patient no longer exists or the employment relationship of an occupational disease cannot be confirmed, the patient may apply to the medical security and civil affairs department of the local people's government for medical assistance, subsistence support, and so on. The local people's governments at all levels shall, based on the actual local circumstances, take other measures to secure medical assistance and treatment for occupational disease patients in the preceding paragraph.

## Chapter V Supervision and Inspection

**Article 62** The departments of occupational health supervision and administration of the people's governments at and above the county level shall, in accordance with laws and regulations on the prevention and control of occupational diseases and national occupational health standards and health requirements, conduct supervision and inspection on the prevention and control of occupational diseases according to their respective functions.

**Article 63** The health administrative departments shall have the right to take the following measures when performing their functions of supervision and inspection:

- (1) entering an entity under inspection and a site with occupational disease hazards to learn relevant information, conduct investigation, and gather evidence;
- (2) consulting or copying materials related to acts which violate laws and regulations on the prevention and control of occupational diseases and collecting samples; and
- (3) ordering entities and individuals which violate laws and regulations on the prevention and control of occupational diseases to cease violations.

**Article 64** Where an occupational disease hazard accident occurs or there is evidence that the state of hazards may cause the occurrence of an occupational disease hazard accident, the health administrative department may take the following temporary control measures:

- (1) ordering suspension of operations which have caused an occupational disease hazard accident;
  - (2) sealing up materials and equipment which have caused an occupational disease hazard accident or may cause the occurrence of an occupational disease hazard accident; and
  - (3) organizing control over the site of an occupational disease hazard accident.
- After an occupational disease hazard accident or the hazardous state is effectively controlled, the health administrative department shall remove the control measures in a timely manner.

**Article 65** The law enforcement personnel of occupational health supervision shall

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produce their law enforcement credentials when performing their duties.

The law enforcement personnel of occupational health supervision shall be devoted to their duties, be impartial in law enforcement, and strictly abide by law enforcement rules; and keep confidential the involved secrets of employers.

**Article 66** When the law enforcement personnel of occupational health supervision perform their duties according to law, the entities under inspection shall accept inspection and provide support and assistance, and shall not refuse or obstruct inspection.

**Article 67** When performing their functions, the health administrative department and their law enforcement personnel of occupational health supervision shall not:

- (1) grant relevant certification documents for a construction project, qualification certification documents, or approval, when the statutory conditions are not met;
- (2) fail to perform the functions of supervision and inspection on those that have obtained the relevant certification documents;
- (3) fail to take control measures in a timely manner according to law after discovering that an employer has occupational disease hazards which may cause an occupational disease hazard accident; and
- (4) otherwise violate this Law.

**Article 68** The law enforcement personnel of occupational health supervision shall undergo qualification procedures according to law.

The departments of occupational health supervision and administration shall strengthen their team building, improve the political awareness and business capabilities of their law enforcement personnel of occupational health supervision, and establish and improve an internal supervision system in accordance with this Law and other relevant laws and regulations to oversee their personnel's enforcement of laws and regulations and compliance with disciplines.

## Chapter VI Legal Liability

**Article 69** Where a construction entity commits any of the following conduct in violation of the provisions of this Law, the health administrative department shall give it a warning and order it to take corrective action within a prescribed time limit; and if it fails to do so, impose a fine of not less than 100,000 yuan but not more than 500,000 yuan on it; and if the circumstances are serious, order it to cease operations causing occupational hazards, or request the relevant people's government to order cessation of construction or a shutdown according to the powers granted by the State Council:

- (1) It fails to conduct the pre-assessment of occupational hazards as required.
- (2) It fails to submit as required a report on the pre-assessment of radioactive occupational hazards of a construction project that may have radioactive occupational hazards of a medical institution, or commences construction without obtaining the health administrative department's approval of the report on the pre-assessment of radioactive occupational hazards upon examination.
- (3) The facilities for the prevention and control of occupational diseases of a construction project are not designed, constructed, and put into production and use at the same time as the main body of the project according to the relevant provisions.
- (4) It unlawfully commences the construction of a project's facilities for the

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prevention and control of occupational diseases of which the design fails to meet the national occupational health standards and health requirements, or commences the construction of the prevention and control facilities of a construction project with serious radioactive occupational hazards of a medical institution without obtaining the health administrative department's approval upon examination of the design of such facilities.

(5) It fails to evaluate the effects of occupational hazard control of facilities for the prevention and control of occupational diseases according to the relevant provisions.

(6) The facilities for the protection and control of occupational diseases fail to pass acceptance check before the completed construction project is put into production and use.

**Article 70** Whoever has committed any of the following conduct in violation of the provisions of this Law shall be warned and ordered to make correction by the health administrative department; and, if no correction is made within the time limit, be fined not more than 100,000 yuan:

(1) failing to archive, report to the higher authorities, or publish the results of testing or evaluation of occupational disease hazards at work sites;

(2) failing to take the management measures for the prevention and control of occupational diseases as set forth in Article 21 of this Law;

(3) failing to publish the rules, regulations, and operating procedures for the prevention and control of occupational diseases and the emergency rescue measures for occupational disease hazard accidents according to the relevant provisions;

(4) failing to organize employees to receive occupational health training according to the relevant provisions or failing to adopt directive and supervisory measures for employees' self-protection against occupational diseases; or

(5) failing to submit a toxicity identification report and documents on registration or approval of import issued by the relevant departments according to the relevant provisions, for any chemical material related to occupational disease hazards which is used in China or imported into China for the first time.

**Article 71** Where an employer has committed any of the following conduct in violation of the provisions of this Law, the health administrative department shall order it to make correction within a prescribed time limit and issue a warning to it and may also impose a fine of not less than 50,000 yuan but not more than 100,000 yuan on it:

(1) failing to truthfully report projects with occupational disease hazards to the health administrative department in a timely manner according to the relevant provisions;

(2) failing to assign special persons to be responsible for the routine monitoring of occupational disease hazard factors or having a monitor system which fails to monitor normally;

(3) failing to inform employees of true conditions of occupational disease hazards when signing or modifying labor contracts;

(4) failing to organize occupational health examination or establish occupational health surveillance archives according to the relevant provisions or failing to inform in writing employees of the examination results; or

(5) failing to provide a copy of occupational health surveillance files according to the provisions of this Law when employees leave the employer.

**Article 72** Where an employer has committed any of the following conduct in

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violation of the provisions of this Law, the health administrative department shall issue a warning to it and order it to make correction within a prescribed time limit; if no correction is made within the time limit, impose a fine of not less than 50,000 yuan but not more than 200,000 yuan shall be imposed on it; and, for serious circumstances, order it to cease operations causing occupational disease hazards or request the relevant people's government to order a shutdown according to the powers granted by the State Council:

- (1) having a work site with the intensity or density of any occupational disease hazard factor exceeding the national occupational health standards;
- (2) failing to provide occupational disease protective facilities and occupational disease protective items for personal use or providing occupational disease protective facilities and occupational disease protective items for personal use which do not meet the national occupational health standards and health requirements;
- (3) failing to maintain, repair, and test the occupational disease protective equipment, emergent rescue facilities, and occupational disease protective items for personal use according to the relevant provisions or failing to maintain the normal state of operation or use thereof;
- (4) failing to test or evaluate the occupational disease hazard factors at a work site according to the relevant provisions;
- (5) failing to cease operations with occupational disease hazard factors at a work site, when such factors fail to meet the national occupational health standards and health requirements even after control measures are taken;
- (6) failing to arrange the diagnosis and treatment for occupational disease patients and patients suspected of occupational diseases according to the relevant provisions;
- (7) failing to immediately take emergency rescue and control measures or failing to report in a timely manner according to the relevant provisions, when an acute occupational disease hazard accident occurs or may occur;
- (8) failing to set warning signs and Chinese warning explanations in a conspicuous position of work posts causing serious occupational disease hazards according to the relevant provisions;
- (9) refusing supervision and inspection by the departments of occupational health supervision and administration;
- (10) withholding, forging, tempering with, or damaging occupational health surveillance files, test and evaluation results of occupational disease hazard factors at a work site, and other relevant information or refusing to provide information necessary for occupational disease diagnosis or identification; or
- (11) failing to assume the occupational disease diagnosis or identification expenses and the medical and living security expenses of occupational disease patients according to the relevant provisions.

**Article 73** Whoever supplies an employer with equipment or materials which may cause occupational disease hazards without providing Chinese instructions or setting warning marks and Chinese warning explanations according to the relevant provisions shall be ordered to make correction within a prescribed time limit, warned, and fined not less than 50,000 yuan but not more than 200,000 yuan by the health administrative department.

**Article 74** Where an employer or a medical or health institution fails to report occupational diseases or suspicion of occupational diseases according to the relevant provisions, the relevant competent administrative department shall, according to its

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functions, order it to make correction within a prescribed time limit and issue a warning to it and may impose a fine of not more than 10,000 yuan; if falsification is committed, shall impose a fine of not less than 20,000 yuan but not more than 50,000 yuan on it; and may take the disciplinary action of demotion or removal from office against the directly responsible chief and other directly liable persons according to law.

**Article 75** Whoever falls under any of the following circumstances in violation of the provisions of this Law shall be ordered to implement control measures within a prescribed time limit and fined not less than 50,000 yuan but not more than 300,000 yuan by the health administrative department; and, for serious circumstances, the health administrative department shall order cessation of operations causing occupational disease hazard or request the relevant people's government to order a shutdown according to the powers granted by the State Council:

- (1) adopting any technology, process, equipment, or material by withholding the occupational disease hazards caused by it;
- (2) withholding its true occupational health conditions;
- (3) failing to comply with the provisions of Article 26 of this Law regarding a toxic or harmful work site or a radioactive work site where acute occupational injuries may occur or the transportation or storage of radioactive isotopes;
- (4) using any equipment or material which may cause occupational disease hazards and whose use is expressly prohibited by the state;
- (5) transferring operations causing occupational disease hazards to any entity or individual which does not meet the conditions for protection from occupational diseases or accepting operations causing occupational disease hazards if the acceptor is an entity or individual which does not meet the conditions for protection from occupational diseases;
- (6) dismantling or discontinuing the use of occupational disease protective equipment or emergency rescue facilities without permission;
- (7) assigning employees who have not undergone the occupational health examination, employees who have occupational contraindications, underage employees, or female employees in pregnancy or lactation to operations with exposure to occupational disease hazards or operations with contraindication; or
- (8) directing, contrary to rules and procedures, or forcing employees to conduct operations in the absence of occupational disease protective measures.

**Article 76** Whoever produces, deals in, or imports any equipment or material which may cause occupational disease hazards and whose use is expressly prohibited by the state shall be punished according to the relevant laws and administrative regulations.

**Article 77** Where an employer's violation of this Law has caused any serious damage to the life or health of employees, the health administrative department shall order it to cease the operations causing occupational disease hazards or request the relevant people's government to order a shutdown according to the powers granted by the State Council and impose a fine of not less than 100,000 yuan but not more than 500,000 yuan on it.

**Article 78** Where an employer's violation of this Law has caused a serious occupational disease hazard accident or any other serious consequences, constituting a crime, the directly responsible chief and other directly liable persons shall be subject

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to criminal liability according to law.

**Article 79** Where any institution unqualified for providing occupational health technical services provides occupational health technical services without approval, the health administrative department shall order it to immediately cease the violation of law and confiscate its illegal income; if the illegal income is not less than 5,000 yuan, impose a fine of not less than two times but not more than ten times the illegal income on it or, if there is no illegal income or the illegal income is less than 5,000 yuan, impose a fine of not less than 5,000 yuan but not more than 50,000 yuan on it; and if the circumstances are serious, take the disciplinary action of demotion, removal from office, or dismissal against the directly responsible person in charge and other directly liable persons in accordance with the law.

**Article 80** Where an institution providing occupational health technical services or a medical or health institution undertaking occupational disease diagnosis commits any of the following conduct, in violation of the provisions of this Law, the health administrative department shall order it to immediately cease the violation of law, give it a warning, and confiscate its illegal income; if the illegal income is not less than 5,000 yuan, impose a fine of not less than two times but not more than five times the illegal income on it or, if there is no illegal income or the illegal income is less than 5,000 yuan, impose a fine of not less than 5,000 yuan but not more than 20,000 yuan on it; if the circumstances are serious, the original certification or registration authority shall cancel its corresponding qualification; take the disciplinary action of demotion, removal from office, or dismissal against the directly responsible person in charge and other directly liable persons in accordance with the law; and if any crime is constituted, shall hold the person criminally liable in accordance with the law:

- (1) Providing occupational health technical services or occupational disease diagnosis beyond the certified qualification or registration scope of diagnosis and treatment items;
- (2) Failing to perform its statutory functions in accordance with the provisions of this Law; and
- (3) Issuing false certification documents.

**Article 81** Where a member of the occupational disease diagnosis identification committee accepts any property or other benefits from the parties to disputes over occupational disease diagnosis, the member shall be warned and the property accepted shall be confiscated; the member may be fined not less than 3,000 yuan but not more than 5,000 yuan; and the member shall be disqualified as a member of the occupational disease diagnosis identification committee and removed from the expert database of the health administrative department of the people's government of a province, autonomous region, or municipality directly under the Central Government.

**Article 82** Where a health administrative department fails to report any occupational disease or occupational disease hazard accident as required, the administrative department at the next higher level shall order it to make correction, circulate a notice of criticism, and issue a warning to it; and if the department falsifies a report or withholds information in a report, the person in charge, the directly responsible chief, and other directly liable persons of the department shall be subject to the disciplinary action of demotion, removal from office, or expulsion according to law.

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**Article 83** Where a local people's government at or above the county level fails to perform its functions in accordance with this Law in the prevention and control of occupational diseases, causing the occurrence of a major occupational disease hazard accident in its administrative region with any serious social impact, the directly responsible chief and other directly liable persons shall be subject to disciplinary actions from major demerit to expulsion according to law.

Where a department of occupational health supervision and administration of a people's government at or above the county level fails to perform its functions prescribed by this Law, abuses its powers, neglects its duties, makes falsification, or practices favoritism, the directly responsible chief and other directly liable persons shall be subject to the disciplinary action of major demerit or demotion according to law and, if any occupational disease hazard accident or other serious consequence is caused, shall be subject to the disciplinary action of removal from office or expulsion according to law.

**Article 84** Whoever commits a crime by violating this Law shall be subject to criminal liability according to law.

## Chapter VII Supplementary Provisions

**Article 85** For the purposes of this Law:

“Occupational disease hazards” means various hazards which may cause occupational diseases to employees in occupational activities. “Occupational disease hazard factors” includes: various harmful chemical, physical, and biological factors existing in occupational activities as well as other occupational harmful factors arising in the process of operations.

“Occupational contraindications” means the special individual physiological or pathological state of an employee who is more likely to suffer occupational disease hazards and contract occupational diseases, suffer aggravation of an existing disease, or contract a disease that may endanger the life or health of others during operations than the general working population when the employee is engaged in a particular occupation or exposed to particular occupational disease hazard factors.

**Article 86** The prevention and control of occupational diseases for occupational disease hazards arising in entities other than the employers as set forth in Article 2 of this Law may be implemented by reference to this Law.

Entities using dispatched labor forces shall perform the obligations of employers as prescribed by this Law.

The measures of the People's Liberation Army of China for implementation by reference to this Law shall be formulated by the State Council and the Central Military Committee.

**Article 87** The supervision and administration of medical institutions' control of radioactive occupational disease hazards shall be conducted by the health administrative departments in accordance with this Law.

**Article 88** This Law shall come into force on May 1, 2002.

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