

# Trade Union Law of the People's Republic of China

(Adopted on April 3, 1992 at the 5th Session of the 7th National People's Congress, Amended according to the Decision on Amending the Trade Union Law of the People's Republic of China at the 24th Session of the Standing Committee of the 9th National People's Congress on Oct.27, 2001)

## Chapter 1 General Provisions

Article 1 This Law is formulated in accordance with the Constitution to protect the position of trade unions in State political, economic and social life, to clarify the rights and obligations of trade unions and to enable them to play their proper role in the development of China's socialist modernization.

Article 2 Trade unions are mass organizations formed by the working classes of their own free will.

The All-China Federation of Trade Unions and all of its trade union organizations shall represent the interests of the employees and protect the legal rights and interests of the employees.

Article 3 All laborers doing physical or mental work in enterprises, public institutions and government organs within Chinese territory who earn their living primarily from wages shall have the right to participate in and form trade union organizations pursuant to the law, regardless of their nationalities, races, sexes, occupations, religious beliefs or educations. No organization or individual may hinder them from doing so or restrict them.

Article 4 Trade unions must abide by and safeguard the Constitution and use the Constitution as the standard for their basic activities, focus on the economic development, adhere to the socialist road and people's democratic dictatorship, insist on the leadership of the Chinese Communist Party and the guidance of Marxism Leninism, Mao Zedong Thought and Deng Xiaoping Theory, and persevere in reform and opening to the outside world, and the trade union work shall be carried out independently and voluntarily in accordance with the Constitution of Trade Unions.

The trade union national representative assembly shall formulate or amend the Constitution of the All-China Federation of Trade Unions, which shall not be in conflict in any way with China's Constitution and laws.

The State shall protect the legal rights and interests of trade unions and any infringement of these rights and interests shall be prohibited.

Article 5 Trade unions shall organize and educate employees to exercise their democratic rights pursuant to the provisions of China's Constitution and laws, to play their role as the nation's master, participate through various channels and formats in the management of national affairs, economic and cultural institutions and social matters, assist the people's governments in their work, uphold the leadership of the working classes and support the worker-peasant alliance which forms the basis of the people's democratic dictatorship of socialist state power.

Article 6 The basic function and duty of the trade unions is to safeguard the legal rights and interests of the employees. While upholding the overall rights and interests of the whole nation, trade unions shall, at the same time, represent and safeguard the rights and interests of

employees.

Trade unions shall coordinate the labor relations and safeguard the labor rights and interests of the enterprise employees through equal negotiation and collective contract system.

Trade unions shall, in accordance with legal provisions, organize the employees to participate in the democratic decision-making, democratic management and democratic supervision of their respective units through the employee representative assembly or other forms.

A trade union must liaise closely with employees, listen to and reflect their views and requirements, care for their livelihood, assist them in overcoming difficulties and serve them wholeheartedly.

Article 7 A trade union shall mobilize and organize the employees to participate in the economic development actively, and to complete the production and work assignments conscientiously, educate the employees to improve their ideological thoughts and ethics, technological and professional, scientific and cultural qualities, and build a employee team with ideals, ethics, education and discipline.

Article 8 The All-China Federation of Trade Unions shall, in accordance with the principles of independence, equality, mutual respect and mutual non-interference in internal affairs, improve the relations of friendly cooperation with the trade union organizations of various other nations.

## Chapter 2 Trade Union Organizations

Article 9 Trade union organizations at all levels shall be established in accordance with the principle of democratic centralism.

Trade union committees at all levels shall be elected by their general assemblies or representative assemblies. The close relatives of the major principals of an enterprise may not be elected as the members of the basic-level trade union committee of that enterprise.

Trade union committees at all levels shall be responsible to and shall submit work reports to general assemblies or representative assemblies at their respective levels and shall be subject to their supervision.

Trade union general assemblies and representative assemblies shall have the right to change or dismiss their elected representatives or committee members.

Trade union organizations at the higher level shall lead the trade union organizations at the lower level.

Article 10 The trade union of an enterprise, public institution or government organ with 25 or more members shall establish a basic-level trade union committee; if the members are less than 25, a basic-level trade union committee may be established separately, or a basic-level trade union committee be established by the members of 2 units or more, or may an organizer be elected to organize activities for the members. If the number of female employee is relatively large, a trade union committee for female employees may be established under the leadership of the equivalent level trade union; if the number of female employee is relatively small, female employee member shall be included in the trade union committee. The towns and townships, and urban districts with a relatively large number of enterprise employees may establish the association of basic-level trade unions. A locality at county level or above shall establish a local all-level federation of trade unions.

Several enterprises of the same industry or in industries of a similar nature may establish a national or local specific industry trade union, depending on their requirements. The All-China Federation of Trade Unions shall operate uniformly at a national level.

Article 11 The establishment of a basic-level trade union, local all-level federation of trade unions or a national or local specific industry trade union must be reported to the trade union organization at the next highest level for approval. The trade unions at the higher level may assign personnel to assist the direct the enterprises to establish trade unions, no unit or individual may obstruct.

Article 12 No unit or individual may cancel or consolidate trade union organizations. If a basic-level trade union organization's enterprise terminates its operations or its public institution or state organ is cancelled, the said trade union organization shall also be cancelled and the case be reported to the trade union at the next higher level. For the trade union cancelled according to the provisions of the preceding paragraph, the membership of its members may be reserved, and the specific management measures shall be formulated by the All-China Federation of Trade Unions.

Article 13 The trade union of an enterprise or public institution with 200 or more workers may establish full-time trade union chairman. The number of the full-time working personnel of the trade union shall be determine by the union and the enterprise or public institution through consultation.

Article 14 The All-China Federation of Trade Unions, local all-level federations of trade unions and specific industry trade unions shall have the legal person status of a social group. Basic-level trade union organizations meeting the legal person requirements stipulated by the General Principles of Civil Law shall be awarded the legal person status of a social group pursuant to the law.

Article 15 The terms of office of the basic-level trade union committee shall be three or five years each. The terms of office of the committees of the local all-level federations of trade unions and of the specific industry trade unions shall be five years each.

Article 16 A basic-level trade union committee shall hold general assembly or representative assembly periodically to discuss and decide on the major issues of the trade union work. The general assembly or representative assembly may be held temporarily upon the proposal of the basic-level trade union committee or more than one third of the trade union members.

Article 17 During their terms of office, a trade union chairman and deputy chairman shall not be arbitrarily transferred to other positions. When indeed necessary, approval shall be obtained from the respective level trade union committee and higher level trade union. General assembly or representative assembly must be held to discuss the dismissal of the trade union chairman or deputy chairman, and the chairman and deputy chairman may not be dismissed unless all members of the general assembly or half the representatives of the representative assembly approve the dismissal.

Article 18 From the day on which the full-time chairman, deputy chairman or the committee members take their posts, the periods of their labor contracts shall be extended automatically, the periods extended shall be equal to their respective terms of office; if the unfulfilled labor contract periods of the non-full-time chairman, deputy chairman or the committee members are shorter than their respective terms of office, the labor contract periods shall be extended until their terms of office expire. But those committing serious negligence or reaching the lawful age for retirement are exceptional.

## Chapter 3 Rights and Obligations of a Trade Union

Article 19 If an enterprise or public institution violates the provisions of the employee representative assembly system or other democratic management systems, the trade union of the said unit shall have the right to request corrections and ensure that the employees exercise their rights to democratic management pursuant to the law. The enterprise or public institution shall handle pursuant to law the matters that shall be submitted to the employee assembly or employee representative assembly for deliberation, approval and decision provided for by laws and regulations.

Article 20 A trade union shall assist and provide guidance to employees in signing labor contracts with an enterprise or a public institution managed as an enterprise. A trade union shall represent employees in equal negotiation and signing a collective contract with an enterprise or a public institution managed as an enterprise. The draft of a collective contract shall be submitted to the employee representatives or the complete body of employees for discussion and adoption. The trade union at the next higher level shall support and assist the trade union in signing the collective contract.

If the enterprise violates the collective contract and infringes upon the rights and interests of the employees, the trade union may ask the enterprise to bear liabilities according to law; if the dispute over the performance of the collective contract can't be settled through consultation, the trade union may submit it to the arbitral agency of labor dispute for arbitration, if the arbitral agency refuses to accept the case or the trade union refuses to accept the finding of arbitration, a lawsuit may be brought before a people's court.

Article 21 A trade union which believes that an enterprise's or a public institution's punishment on an employee is inappropriate shall have the right to put forward its views on the matter.

When unilaterally canceling the labor contract with an employee, the enterprise shall notify the trade union of the reasons in advance, if the trade union regards that the enterprise has violated the laws, regulations and relevant contracts and requests that the case be reinvestigated and dealt with anew, the enterprise shall deliberate the views of the trade union and notify the trade union of the handling result in written form. The trade union shall support and assist the employee who thinks that the enterprise has infringed upon his/her labor rights and interests, and applies for arbitration of labor dispute or brings a lawsuit before a people's court.

Article 22 If an enterprise or public institution has, in violation of the provisions of labor laws and regulations, infringed, as follows, upon the labor rights and interests of the employees, the trade union shall represent the employees to negotiate with the enterprise or public institution and request the enterprise or public institution to take measures for corrections; the enterprise or public institution shall deliberate and handle the case, and reply to the trade union; if the enterprise or public institution refuses to make corrections, the trade union may ask the local people's government to handle the case according to law:

- 1) pocketing part of the employees' wages;
- 2) failing to provide labor safety and health conditions;
- 3) extending the labor time arbitrarily;
- 4) infringing upon the special rights and interests of female employees and underage employees;
- 5) other serious infringement upon the labor rights and interests of the employees.

Article 23 A trade union shall, pursuant to State regulations, supervise the concurrent design, concurrent construction, and concurrent use of the work conditions, and the safety and hygiene facilities of the main part of the project of a newly constructed or expanded enterprise

or of an undergoing technological transformation. The said enterprise or its department in charge shall conscientiously deal with the views put forward by the trade union and shall notify the trade union of the outcome in written form.

Article 24 If a trade union discovers that an enterprise is breaking rules and regulations by directing or forcing workers to take risks or if distinct and significant hidden dangers or occupational hazards are discovered during the production process, the trade union shall have the right to suggest a resolution, and the enterprise shall study the problem and make a reply promptly; on discovering a situation where the personal safety of workers is jeopardized, a trade union shall have the right to suggest to the enterprise that the workers abandon the dangerous site and the said enterprise must decide promptly on the measures to resolve the matter.

Article 25 A trade union shall have the right to investigate into the issues of the infringement upon the legal rights and interests of the employees committed by the enterprise or public institution, and the units concerned shall give assistance.

Article 26 It is necessary that a trade union take part in the investigation and handling of an job-related accident resulting in a fatality or injury or other problems seriously endangering the health of employees. The trade union shall suggest resolutions to the relevant authorities and have the right to require the pursuit of the liability of personnel in charge held directly responsible and other responsible parties. The resolutions suggested by the trade union shall be studied and replied promptly.

Article 27 If an enterprise or public institution is subject to stop work or slow down measures, the trade union shall represent the employees to negotiate with the enterprise, public institution or other relevant authorities, make known the employees' views and requirements and propose resolutions. The enterprise or public institution shall meet the reasonable requirements raised by the employees. And the trade union shall assist the enterprise or public institution in its work so as to enable the normal production process to be resumed as quickly as possible.

Article 28 A trade union shall participate in the mediation in relation to labor disputes within its enterprise.

Equivalent level trade union representatives shall participate in district labor dispute arbitration organizations.

Article 29 Trade union federations at the county level or above may provide their affiliated trade unions and employees with legal services.

Article 30 Trade unions shall assist the enterprises, public institutions and government organs in organizing employee collective welfare matters and wage, labor safety and hygiene and social insurance work.

Article 31 Trade unions shall, in conjunction with the enterprises and public institutions, educate the employees to adopt the attitude towards labor as the nation's master, to take good care of the properties of the State and of the enterprises, shall organize the employees to develop mass rationalization proposal and technological innovation activities, to undertake after-hours cultural and technical studies and occupational training, and shall organize the employees to develop recreational and sports activities.

Article 32 According to the entrustment of the governments, the trade unions shall, in conjunction with the relevant authorities, do a good job in the selection, commendation,

fostering and management of the model workers and advanced labors (workers)

Article 33 The state organs shall listen to the view of the trade unions when drafting or amending the laws, statutory rules and regulations directly involving the rights and interests of the employees. The people's governments at the level of county or above shall, when formulating the national economic and social development plans, listen to the views of the equivalent level trade unions on the important issues involving the rights and interests of the employees. When the people's governments at the county level or above and their relevant authorities formulate important policies or measures on employment, wage, labor safety and hygiene, social insurance, etc, the equivalent level trade unions shall be invited to participate in the research work and the views of the said trade unions shall be taken into consideration.

Article 34 The people's governments at the county level or above may hold meetings or adopt appropriate methods to report the respective governments' important work plans and administrative measures relating to trade union work to their equivalent level trade unions and shall study and determine the ways of handling the suggestions and requests of the working masses reflected through the trade unions. The administrative departments of labor of all levels of people's governments shall, in conjunction with the representatives of their equivalent level trade unions and the enterprises, establish the trilateral negotiation system to jointly study and solve the major problems relating to labor relations.

#### Chapter 4 Basic-level Trade Union Organizations

Article 35 The employee representative assembly of a state-owned enterprise shall be the basic-level structure through which the enterprise executes democratic management as it is the body through which the employees may exercise their rights to democratic management in accordance with the legal provisions.

The trade union committee of a state-owned enterprise shall be the working body of the employee representative assembly and shall be responsible for the daily affairs of the employee representative assembly and for inspecting and supervising the implementation of resolutions of the employee representative assembly.

Article 36 The trade union committee of a collective enterprise shall support and organize the employees' participation in democratic management and democratic supervision and shall safeguard the rights of employees to elect and dismiss administrative personnel and to determine important issues relating to operational management.

Article 37 The trade union committees of the enterprises and institutions apart from those provided for in Article 35 and Article 36 of this Law shall organize the employees' participation in the democratic management of the enterprises and public institutions through the corresponding methods of the enterprises and public institutions according to the legal provisions.

Article 38 Enterprises and public institutions shall listen to the views of the trade unions when studying the important issues relating to the operational management and development; and the participation of trade union representatives is necessary in the meetings convened to discuss matters, such as wages, welfare, labor safety and hygiene, and social insurance, which involve the personal rights and interests of the employees.

The enterprises and public institutions shall support the trade unions in carrying out their work pursuant to the law and the trade unions shall support the enterprises and public institutions in exercising the right to operation and management pursuant to the law.

Article 39 The election of employee representatives from the board of directors or board of supervisors of an enterprise shall be subject to the relevant provisions of the Company Law.

Article 40 A basic-level trade union committee convening a meeting or organizing activities for employees shall do so in time outside production or work hours. If it is necessary to occupy production or work hours, prior approval of the enterprise or public institution shall be required.

If a non-full-time trade union committee member of the basic-level trade union uses production or work hours to participate in a union meeting or undertake the trade union work not more than 3 workdays each month, the member's wages shall be issued as usual and other benefits shall not be affected.

Article 41 The full-time working personnel of the trade union committees of enterprises, public institutions or government organs shall have their wages, awards and bonuses paid by the units to which they belong. With regard to social insurance and other welfare benefits, the same treatment shall be enjoyed by them as that enjoyed by the said units' employees.

## Chapter 5 Trade Union Funds and Assets

Article 42 The sources of trade union funds shall be as follows:  
(1) membership dues paid by union members;  
(2) monthly allocations of 2% of the total wages of all of its employees paid to a trade union as funds by the enterprise, public institution or government organ which established the said trade union organization;  
(3) income turned in by the enterprise or public institutions to which the trade union is subordinated;

(4) people's government subsidies; and  
(5) other income.

The funds allocated by the enterprise or public institution provided for in item 2) of the preceding paragraph shall be paid before tax collection. Trade union funds shall be used primarily to serve the employees and for the trade union activities. Detailed measures on the use of such funds shall be formulated by the All-China Federation of Trade Unions.

Article 43 If an enterprise or public institution delays or refuses the payment of trade union funds without justified reasons, the basic-level trade union or the trade union at the next higher level may apply to the local people's court for order of payment; in case the enterprise or public institution refuses to execute the order of payment, the trade union may apply to the people's court for enforcement according to law.

Article 44 A trade union shall work out its own budget and final accounts, as well as its own fund inspection and supervisory systems in accordance with the principle of independent accounting.

All levels of trade unions shall establish fund inspection committees. The fund income and expenditure of trade unions at all levels shall be investigated by the equivalent level fund inspection committees and periodic reports shall be made to the members' general assemblies or representative assemblies and be subject to supervision. A trade union general assembly or representative assembly shall have the right to put forward suggestions on the use of trade union funds.

The use of trade union funds shall be subject to the supervision of the State according to law.

Article 45 People's governments at all levels and enterprises, public institutions and government organs shall provide the necessary facilities, venues and other material requirements of trade union organizations handling office matters and arranging union activities.

Article 46 No organization or individual may occupy, misappropriate or arbitrarily allocate a trade union's assets, funds or immovable property allocated by the State for use by the trade union.

Article 47 The jurisdictional framework of those enterprises and public institutions serving employees to which the trade unions are subordinated shall not be altered arbitrarily.

Article 48 Persons retiring from positions with trade unions at the county level or above shall receive the same benefits as that of the persons working for State organs.

Chapter 6 Legal Responsibilities

Article 49 A trade union shall have the right to submit the infringement upon its legal rights and interests violating the provisions of this Law to the people's government or the departments concerned for handling, or to bring a lawsuit before the people's court.

Article 50 Those, in violation of the provisions of Article 3, Article 11 of this Law that obstruct the employees from participating in or organizing trade unions according to law or that obstruct the trade unions at the next higher levels from assisting and giving guidance in the establishment of trade unions shall be ordered by the administrative departments of labor to make corrections; those refusing to make corrections shall be submitted by the administrative departments of labor to the people's governments at the level of county or above for handling; those causing serious results by the means of violence or threats and constituting crimes shall be investigated into for criminal responsibilities.

Article 51 Those, in violation of the provisions of this Law, that make vindictive attacks by transferring the working personnel of trade unions performing their duties according to law from their posts without justified reasons shall be ordered by the administrative departments of labor to make corrections; and shall make compensation if any loss is caused. Those that insult, defame or make personal injuries to the trade union working personnel performing duties according to law and thus committed crimes shall be investigated into for criminal responsibilities; in case a crime hasn't been constituted, the public security departments shall give punishment according to the regulations on punishment in respect to management of public security.

Article 52 Those, in violation of the provisions of this Law, who is under any of the following circumstances shall be ordered by the administrative departments of labor to resume the employees' work and reissue the remuneration that should be paid during the cancellation of labor contracts, or be ordered to make compensation of two times the annual income of the said employees:

- 1) the employees' labor contracts are cancelled because of the employees' participation in trade union activities; or
- 2) the labor contracts of the trade union working personnel are cancelled because of their performance of the duties provided for by this Law.

Article 53 Those, in violation of the provisions of this Law, committing any of the following



acts shall be ordered to make corrections and be dealt with by the people's governments at the level of county or above according to law:

- 1) hindering the trade union organizations in organizing the employees to exercise the democratic rights through the employee representative assemblies or other forms according to law;
- 2) illegally canceling or consolidating the trade union organizations;
- 3) hindering the trade unions from participating in the investigation and handlings of the job-related accidents resulting in fatality or personal injuries of the employees and other infringement upon the legal rights and interests of the employees; and
- 4) refusing to make equal negotiation without justified reasons.

Article 54 For those, in violation of the provisions of Article 46 of this Law, occupying the trade union funds and refusing to return, the trade unions may bring lawsuits before the people's courts, request the return of the funds and compensation for losses.

Article 55 The working personnel, in violation of the provisions of this Law, damaging the rights and interests of the employees or trade unions shall be ordered by the equivalent level trade unions or the trade unions at the next higher levels to make corrections or be given punishment; those under serious circumstances shall be dismissed according to the Constitution of the All-China Federation of Trade Unions; those causing losses shall bear the responsibilities for compensation; and those constituting crimes shall be investigated into for criminal responsibilities.

Chapter 7 Supplementary Provisions

Article 56 The specific measures for the implementation of this Law of the trade unions of state organs shall be formulated by the All-China Federation of Trade Unions together with the relevant state organs.

Article 57 This Law shall take effect from the date of promulgation. The Trade Union Law of the People's Republic of China, issued on June 29, 1950 by the People's Central Government, shall be annulled simultaneously.