|  |  |  |
| --- | --- | --- |
| 发文机关  Promulgator | ：  : | 全国人民代表大会常务委员会  The Standing Committee of the National People's Congress |
| 发布日期  Date of Issue | ：  : | 2009.08.27  2009.08.27 |
| 生效日期  Effective Date | ：  : | 2009.08.27  2009.08.27 |
| 时效性  Effectiveness | ：  : | 现行有效  Current |

# 中华人民共和国工会法（2009修订）

# Trade Union Law of the People's Republic of China (Revised in 2009)

中华人民共和国工会法

Trade Union Law of the People's Republic of China

(1992年4月3日第七届全国人民代表大会第五次会议通过 1992年4月3日中华人民共和国主席令第五十七号公布 根据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《关于修改<中华人民共和国工会法>的决定》第一次修正 根据2009年8月27日第十一届全国人民代表大会常务委员会第十次会议《关于修改部分法律的决定》第二次修正)

(Adopted at the 5th session of the 7th National People 's Congress on April 3, 1992; promulgated by the Order of the President [1992] No.57 on April 3, 1992; amended for the first time according to the Decision on Amending the Labor Union Law of the People's Republic of China passed at the 24th session of the Standing Committee of the 9th National People's Congress on October 27, 2001; and amended for the second time according to the Decision on Amending Certain Laws passed at the 10th session of the Standing Committee of the 11th National People's Congress on August 27, 2009)

第一章 总则

Chapter 1 General Provisions

第一条   为保障工会在国家政治、经济和社会生活中的地位，确定工会的权利与义务，发挥工会在社会主义现代化建设事业中的作用，根据宪法，制定本法。

Article 1 This Law is formulated in accordance with the Constitution in order 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.

第二条   工会是职工自愿结合的工人阶级的群众组织。

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

中华全国总工会及其各工会组织代表职工的利益，依法维护职工的合法权益。

The All-China Federation of Trade Unions and all of its trade union organisations shall represent the interests of employees and protect the legal rights and interests of employees in accordance with the law.

第三条   在中国境内的企业、事业单位、机关中以工资收入为主要生活来源的体力劳动者和脑力劳动者，不分民族、种族、性别、职业、宗教信仰、教育程度，都有依法参加和组织工会的权利。任何组织和个人不得阻挠和限制。

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, genders, occupations, religious beliefs or educations. No organization or individual may obstruct or restrict this right.

第四条   工会必须遵守和维护宪法，以宪法为根本的活动准则，以经济建设为中心，坚持社会主义道路、坚持人民民主专政、坚持中国共产党的领导、坚持马克思列宁主义毛泽东思想邓小平理论，坚持改革开放，依照工会章程独立自主地开展工作。

Article 4 Trade unions must abide by and safeguard the Constitution, regarding the Constitution as the fundamental criteria for their activities, taking economic development as their central work, upholding the socialist road, the people's democratic dictatorship, the leadership of the Chinese Communist Party, Marxism, Leninism, Mao Zedong Thought and Deng Xiaoping Theory, and the policies of reform and opening up, and carrying out their work independently in accordance with their Articles of Association.

工会会员全国代表大会制定或者修改《中国工会章程》，章程不得与宪法和法律相抵触。

The national trade union representatives' assembly shall formulate or amend the Constitution of the All-China Federation of Trade Unions, which shall be prohibited from conflicting in any way with China's Constitution and laws.

国家保护工会的合法权益不受侵犯。

The State shall protect the legal rights and interests of trade unions from infringement.

第五条   工会组织和教育职工依照宪法和法律的规定行使民主权利，发挥国家主人翁的作用，通过各种途径和形式，参与管理国家事务、管理经济和文化事业、管理社会事务；协助人民政府开展工作，维护工人阶级领导的、以工农联盟为基础的人民民主专政的社会主义国家政权。

Article 5 Labor unions shall organize and educate employees to exercise their democratic rights in accordance with the provisions of the Constitution and laws, embody their role as masters of the country by participating through various channels and forms the management of national affairs, economic and cultural institutions and social affairs, assist the people's governments in their work, and uphold the people's socialist democratic dictatorship led by the working classes and based on the worker-peasant alliance.

第六条   维护职工合法权益是工会的基本职责。工会在维护全国人民总体利益的同时，代表和维护职工的合法权益。

Article 6 The basic duty of trade unions is to protect the legitimate rights and interests of 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 workers.

工会通过平等协商和集体合同制度，协调劳动关系，维护企业职工劳动权益。

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

工会依照法律规定通过职工代表大会或者其他形式，组织职工参与本单位的民主决策、民主管理和民主监督。

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

工会必须密切联系职工，听取和反映职工的意见和要求，关心职工的生活，帮助职工解决困难，全心全意为职工服务。

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

第七条   工会动员和组织职工积极参加经济建设，努力完成生产任务和工作任务。教育职工不断提高思想道德、技术业务和科学文化素质，建设有理想、有道德、有文化、有纪律的职工队伍。

Article 7 Labor unions shall mobilize and organize employees to actively participate in economic development, and to endeavor to complete their production and work assignments. To educate the staff and workers to continuously improve their ideological and ethical standards, technical and professional skills and scientific and cultural qualities.

第八条   中华全国总工会根据独立、平等、互相尊重、互不干涉内部事务的原则，加强同各国工会组织的友好合作关系。

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, strengthen its friendly cooperative relations with labor union organizations in other countries.

第二章 工会组织

Chapter 2 Trade Union Organizations

第九条   工会各级组织按照民主集中制原则建立。

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

各级工会委员会由会员大会或者会员代表大会民主选举产生。企业主要负责人的近亲属不得作为本企业基层工会委员会成员的人选。

Trade union committees at the various levels shall be elected democratically 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 grassroots trade union committee of that enterprise.

各级工会委员会向同级会员大会或者会员代表大会负责并报告工作，接受其监督。

Trade union committees at the various 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.

工会会员大会或者会员代表大会有权撤换或者罢免其所选举的代表或者工会委员会组成人员。

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

上级工会组织领导下级工会组织。

Higher level trade union organisations shall lead lower level trade union organisations.

第十条   企业、事业单位、机关有会员二十五人以上的，应当建立基层工会委员会；不足二十五人的，可以单独建立基层工会委员会，也可以由两个以上单位的会员联合建立基层工会委员会，也可以选举组织员一人，组织会员开展活动。女职工人数较多的，可以建立工会女职工委员会，在同级工会领导下开展工作；女职工人数较少的，可以在工会委员会中设女职工委员。

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 two units or more, or an organizer may be elected to organize activities for the members. If the number of female employees is relatively large, a trade union committee for female employees may be established under the leadership of the trade union at the same level. If the number of female employees is relatively small, female employee members may be included in the trade union committee.

企业职工较多的乡镇、城市街道，可以建立基层工会的联合会。

Townships and urban sub-districts with a relatively large number of enterprise employees may establish grassroots trade union associations.

县级以上地方建立地方各级总工会。

A locality at county level or above shall establish a local all-level federation of trade unions.

同一行业或者性质相近的几个行业，可以根据需要建立全国的或者地方的产业工会。

Several enterprises operating in the same industry or in industries of a similar nature may establish a national or local specific industry trade union, depending on their requirements.

全国建立统一的中华全国总工会。

A unified All-China Federation of Trade Unions shall be established.

第十一条   基层工会、地方各级总工会、全国或者地方产业工会组织的建立，必须报上一级工会批准。

Article 11 The establishment of any grassroots labor union, local all-level federation of labor unions or national or local industry-specific labor union must be reported to the immediately superior labor union organization for approval.

上级工会可以派员帮助和指导企业职工组建工会，任何单位和个人不得阻挠。

Higher level trade unions can send out personnel to assist and direct enterprise employees to establish a trade union. No organisation or individual shall obstruct this work.

第十二条   任何组织和个人不得随意撤销、合并工会组织。

Article 12 No organisation or individual shall arbitrarily abolish or merge labour union organisations.

基层工会所在的企业终止或者所在的事业单位、机关被撤销，该工会组织相应撤销，并报告上一级工会。

If a basic-level trade union organization's enterprise terminates its operations or its public institution or administrative organ is dissolved, the said trade union organization shall also be dissolved and the case shall be reported to the trade union at the next higher level.

依前款规定被撤销的工会，其会员的会籍可以继续保留，具体管理办法由中华全国总工会制定。

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.

第十三条   职工二百人以上的企业、事业单位的工会，可以设专职工会主席。工会专职工作人员的人数由工会与企业、事业单位协商确定。

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 labor union full-time staff shall be determined by mutual agreement between the labor union and the enterprise or governmental institution concerned.

第十四条   中华全国总工会、地方总工会、产业工会具有社会团体法人资格。

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.

基层工会组织具备民法通则规定的法人条件的，依法取得社会团体法人资格。

A grassroots labour union organisation which satisfies the legal person criteria stipulated in the General Principles of Civil Law shall obtain social organisation legal person status pursuant to the law.

第十五条   基层工会委员会每届任期三年或者五年。各级地方总工会委员会和产业工会委员会每届任期五年。

Article 15 The term of a primary trade union committee is 3 or 5 years. 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.

第十六条   基层工会委员会定期召开会员大会或者会员代表大会，讨论决定工会工作的重大问题。经基层工会委员会或者三分之一以上的工会会员提议，可以临时召开会员大会或者会员代表大会。

Article 16 Grassroots labor union committees shall periodically convene meetings of their members' assemblies or members' representative congresses to discuss major issues arising from their labor union activities. The general assembly or representative assembly may be held temporarily upon the proposal of the grassroots trade union committee or more than one third of the trade union members.

第十七条   工会主席、副主席任期未满时，不得随意调动其工作。因工作需要调动时，应当征得本级工会委员会和上一级工会的同意。

Article 17 During their terms of office, a trade union chairman and deputy chairman shall not be arbitrarily transferred to other positions. If work requirements necessitate such a move, approval shall be obtained from the respective level trade union committee and higher level trade union.

罢免工会主席、副主席必须召开会员大会或者会员代表大会讨论，非经会员大会全体会员或者会员代表大会全体代表过半数通过，不得罢免。

General assembly or representative assembly must be held to discuss the dismissal of the trade union chairman or deputy chairman, and the chairman or deputy chairman may not be dismissed unless all members of the general assembly or half the representatives of the representative assembly approve the dismissal.

第十八条   基层工会专职主席、副主席或者委员自任职之日起，其劳动合同期限自动延长，延长期限相当于其任职期间；非专职主席、副主席或者委员自任职之日起，其尚未履行的劳动合同期限短于任期的，劳动合同期限自动延长至任期期满。但是，任职期间个人严重过失或者达到法定退休年龄的除外。

Article 18 With effect from the date of appointment of the full-time chairman, deputy chairman or committee member of a grassroots labour union, the labour contract shall be automatically extended and the extension of appointment shall be equivalent to the period of appointment of such full-time chairman, deputy chairman or committee member. Where the unperformed labour contract of a non-full-time chairman, deputy chairman or committee member is shorter than the period of appointment, the labour contract shall be automatically extended up to the expiry of the period of appointment. However, those committing serious negligence or reaching the statutory age for retirement are exceptional.

第三章 工会的权利和义务

Chapter III Rights and Obligations of Trade Unions

第十九条   企业、事业单位违反职工代表大会制度和其他民主管理制度，工会有权要求纠正，保障职工依法行使民主管理的权利。

Article 19 If an enterprise or public institution violates the provisions of the employee representative congress system or any other democratic management system, 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.

法律、法规规定应当提交职工大会或者职工代表大会审议、通过、决定的事项，企业、事业单位应当依法办理。

The enterprise or public institution shall handle pursuant to law the matters that shall be submitted to the employee assembly or employee representative congress for discussion, approval and decision as provided by laws and regulations.

第二十条   工会帮助、指导职工与企业以及实行企业化管理的事业单位签订劳动合同。

Article 20 A trade union shall assist and provide guidance to workers signing labour contracts with an enterprise or public institution managed as an enterprise.

工会代表职工与企业以及实行企业化管理的事业单位进行平等协商，签订集体合同。集体合同草案应当提交职工代表大会或者全体职工讨论通过。

Labor unions shall represent employees in equal negotiations and signing collective contracts with enterprises and institutional organisations that are implementing enterprise style management. A draft collective contract shall be submitted to the employee representatives congress or all employees for discussion and adoption.

工会签订集体合同，上级工会应当给予支持和帮助。

The trade union at the next higher level shall support and assist the trade union in signing the collective contract.

企业违反集体合同，侵犯职工劳动权益的，工会可以依法要求企业承担责任；因履行集体合同发生争议，经协商解决不成的，工会可以向劳动争议仲裁机构提请仲裁，仲裁机构不予受理或者对仲裁裁决不服的，可以向人民法院提起诉讼。

Where an enterprise breaches a collective contract and infringes on the labor rights and interests of its employees, the labor union may, in accordance with the law, demand that the enterprise assume liability; where a dispute arises from the performance of the collective contract and no settlement is reached through consultation, the labor union may submit the dispute to a labor dispute arbitration organization for arbitration, and if the arbitration organization refuses to accept the case or the parties are dissatisfied with the arbitral award, they may institute legal proceedings in a people's court.

第二十一条   企业、事业单位处分职工，工会认为不适当的，有权提出意见。

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.

企业单方面解除职工劳动合同时，应当事先将理由通知工会，工会认为企业违反法律、法规和有关合同，要求重新研究处理时，企业应当研究工会的意见，并将处理结果书面通知工会。

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 the relevant contracts and requests that the case be reinvestigated and handled, the enterprise shall study the trade union's opinions and notify the trade union of the handling result in written form.

职工认为企业侵犯其劳动权益而申请劳动争议仲裁或者向人民法院提起诉讼的，工会应当给予支持和帮助。

Where an employee believes that his rights and interests have been infringed by the enterprise and applies for the arbitration of a labor dispute or files proceedings in a people's court, the labor union shall provide support and assistance.

第二十二条   企业、事业单位违反劳动法律、法规规定，有下列侵犯职工劳动权益情形，工会应当代表职工与企业、事业单位交涉，要求企业、事业单位采取措施予以改正；企业、事业单位应当予以研究处理，并向工会作出答复；企业、事业单位拒不改正的，工会可以请求当地人民政府依法作出处理:

Article 22 Where, in any of the following circumstances, an enterprise or public institution infringes the labor rights and interests of any of its employees in violation of any labor law or regulation, the labor union shall negotiate with the enterprise or public institution on behalf of the employee (s) and demand that it implement remedial measures, and the enterprise or public institution shall reconsider the case and respond to the labor union. Where the enterprise or public institution fails to rectify the matter, the labor union may request that the local people's government handle the case in accordance with the law:

（一）克扣职工工资的；

1. Where the enterprise or governmental institution withholds or reduces an employee's wages;

（二）不提供劳动安全卫生条件的；

(II) failing to provide labor safety and health conditions;

（三）随意延长劳动时间的；

(III) extending the working hours arbitrarily;

（四）侵犯女职工和未成年工特殊权益的；

(IV) infringing upon the special rights and interests of female employees and minors; and

（五）其他严重侵犯职工劳动权益的。

(V) Seriously infringing upon the labor rights and interests of the employees.

第二十三条   工会依照国家规定对新建、扩建企业和技术改造工程中的劳动条件和安全卫生设施与主体工程同时设计、同时施工、同时投产使用进行监督。对工会提出的意见，企业或者主管部门应当认真处理，并将处理结果书面通知工会。

Article 23 A trade union shall, pursuant to state regulations, supervise the concurrent design, concurrent construction, and concurrent use of the working conditions and safety and hygiene facilities with the main part of the project of a newly constructed or expanded enterprise or of an undergoing technological transformation. The enterprise or the authorities in charge shall deal with the opinion of the labour union seriously, and notify the labour union of the handling outcome in writing.

第二十四条   工会发现企业违章指挥、强令工人冒险作业，或者生产过程中发现明显重大事故隐患和职业危害，有权提出解决的建议，企业应当及时研究答复；发现危及职工生命安全的情况时，工会有权向企业建议组织职工撤离危险现场，企业必须及时作出处理决定。

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.

第二十五条   工会有权对企业、事业单位侵犯职工合法权益的问题进行调查，有关单位应当予以协助。

Article 25 A labor union has the right to investigate any alleged infringement of the legitimate rights and interests of employees by an enterprise or public institution; the relevant work unit shall assist with any such investigation.

第二十六条   职工因工伤亡事故和其他严重危害职工健康问题的调查处理，必须有工会参加。工会应当向有关部门提出处理意见，并有权要求追究直接负责的主管人员和有关责任人员的责任。对工会提出的意见，应当及时研究，给予答复。

Article 26 Any investigation into a work-related accident resulting in the death, or injury of an employee, or any other problem seriously endangering the health of employees, must be participated in by the labor union. The labour union shall propose handling opinions to the relevant authorities, and shall have the right to request that the liability of the directly accountable person-in-charge and the relevant accountable personnel be pursued. The opinions given by the trade union shall be studied and replied promptly.

第二十七条   企业、事业单位发生停工、怠工事件，工会应当代表职工同企业、事业单位或者有关方面协商，反映职工的意见和要求并提出解决意见。对于职工的合理要求，企业、事业单位应当予以解决。工会协助企业、事业单位做好工作，尽快恢复生产、工作秩序。

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 a resolution. The enterprise or public institution shall meet the reasonable requirements raised by the employees. Trade unions shall assist the enterprises and public institutions in their work so as to facilitate the restoration of production and work order.

第二十八条   工会参加企业的劳动争议调解工作。

Article 28 A trade union shall participate in mediation work conducted in relation to labour disputes within its enterprise.

地方劳动争议仲裁组织应当有同级工会代表参加。

Local level labour dispute arbitration organisations should include representatives from unions of the same level.

第二十九条   县级以上各级总工会可以为所属工会和职工提供法律服务。

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

第三十条   工会协助企业、事业单位、机关办好职工集体福利事业，做好工资、劳动安全卫生和社会保险工作。

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

第三十一条   工会会同企业、事业单位教育职工以国家主人翁态度对待劳动，爱护国家和企业的财产，组织职工开展群众性的合理化建议、技术革新活动，进行业余文化技术学习和职工培训，组织职工开展文娱、体育活动。

Article 31 Labor unions shall educate employees to do their work and care for the property of the State and enterprises from a standpoint of the nation's master, organize employees to carry out mass campaigns involving rationalization proposals and technological renovation and to undertake after-hours cultural and technical studies and training, and shall organize employees to hold cultural, recreational and sports activities.

第三十二条   根据政府委托，工会与有关部门共同做好劳动模范和先进生产（工作）者的评选、表彰、培养和管理工作。

Article 32 In accordance with government instructions, a labor union shall, jointly with other relevant departments, perform the tasks of selecting, commending, developing and managing model workers and advanced producers (workers).

第三十三条   国家机关在组织起草或者修改直接涉及职工切身利益的法律、法规、规章时，应当听取工会意见。

Article 33 State authorities shall listen to the opinions of labor unions when drafting or amending laws, regulations and rules that directly affect the immediate interests of employees.

县级以上各级人民政府制定国民经济和社会发展计划，对涉及职工利益的重大问题，应当听取同级工会的意见。

The people's governments at the county level or above shall, when formulating the national economic and social development plans, listen to the opinions of the trade unions at the same level on the important issues involving the interests of the employees.

县级以上各级人民政府及其有关部门研究制定劳动就业、工资、劳动安全卫生、社会保险等涉及职工切身利益的政策、措施时，应当吸收同级工会参加研究，听取工会意见。

When the various levels of people's governments at county level or above and their relevant departments formulate policies or measures on employment, wages, work safety and hygiene, social security, and other policies or measures relating to the immediate interests of employees, equivalent level trade unions shall be recruited to participate in the research work and the views of the said trade unions shall be heeded.

第三十四条   县级以上地方各级人民政府可以召开会议或者采取适当方式，向同级工会通报政府的重要的工作部署和与工会工作有关的行政措施，研究解决工会反映的职工群众的意见和要求。

Article 34 Local people's governments at or above the county level may, through meetings or other appropriate means, inform labor unions at the same level of their respective major work plans and administrative measures relating to labor union activities, and shall consider and determine how to handle the opinions and demands of employees as reflected by labor unions.

各级人民政府劳动行政部门应当会同同级工会和企业方面代表，建立劳动关系三方协商机制，共同研究解决劳动关系方面的重大问题。

The labour administration authorities of all levels of People's Governments shall, jointly with the counterpart labour union and the enterprise representatives, establish a tripartite labour relationship consultation mechanism, and jointly study and resolve significant labour relationship issues.

第四章 基层工会组织

Chapter 4 Basic-level Trade Union Organizations

第三十五条   国有企业职工代表大会是企业实行民主管理的基本形式，是职工行使民主管理权力的机构，依照法律规定行使职权。

Article 35 In a state-owned enterprise, the employees' representative congress shall be the basic form through which the enterprise may implement democratic management policy and shall be the body through which employees exercise their democratic management rights in accordance with the provisions of the laws.

国有企业的工会委员会是职工代表大会的工作机构，负责职工代表大会的日常工作，检查、督促职工代表大会决议的执行。

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

第三十六条   集体企业的工会委员会，应当支持和组织职工参加民主管理和民主监督，维护职工选举和罢免管理人员、决定经营管理的重大问题的权力。

Article 36 The labor union committee of a collective enterprise shall support and organize employees to participate in democratic management and supervision activities, and shall safeguard the rights of employees to elect and dismiss administrative personnel and decide on major issues concerning the operation and management of the enterprise.

第三十七条   本法第三十五条、第三十六条规定以外的其他企业、事业单位的工会委员会，依照法律规定组织职工采取与企业、事业单位相适应的形式，参与企业、事业单位民主管理。

Article 37 The labor union committee of any enterprise or institution other than those described in Articles 35 and 36 hereof shall organize employees to participate in the democratic management of the enterprise or institution by means appropriate to the enterprise or institution concerned in accordance with the provisions of the laws.

第三十八条   企业、事业单位研究经营管理和发展的重大问题应当听取工会的意见；召开讨论有关工资、福利、劳动安全卫生、社会保险等涉及职工切身利益的会议，必须有工会代表参加。

Article 38 Enterprises and institutions shall listen to the opinions of labor unions when studying important issues regarding their operations, management and development, and meetings concerning wages, welfare benefits, employee health and safety, social security and any other matter relating to the immediate interests of employees must be participated in by labor union representatives.

企业、事业单位应当支持工会依法开展工作，工会应当支持企业、事业单位依法行使经营管理权。

Enterprises and public institutions shall support labor unions to pursue their activities in accordance with the law, and labor unions shall support enterprises and institutions in their exercise of operating and management powers.

第三十九条   公司的董事会、监事会中职工代表的产生，依照公司法有关规定执行。

Article 39 Employee representatives on the board of directors or board of supervisors of any company shall be elected in accordance with the provisions of the Company Law.

第四十条   基层工会委员会召开会议或者组织职工活动，应当在生产或者工作时间以外进行，需要占用生产或者工作时间的，应当事先征得企业、事业单位的同意。

Article 40 A primary trade union committee convening a meeting or organizing activities for workers 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.

基层工会的非专职委员占用生产或者工作时间参加会议或者从事工会工作，每月不超过三个工作日，其工资照发，其他待遇不受影响。

Where a non-full-time member of a grassroots trade union committee uses production or work hours to attend meetings or undertake trade union work for not more than three working days per month, the said member's wages shall be paid as usual and other benefits shall not be affected.

第四十一条   企业、事业单位、机关工会委员会的专职工作人员的工资、奖励、补贴，由所在单位支付。社会保险和其他福利待遇等，享受本单位职工同等待遇。

Article 41 The wages, bonuses and subsidies of full-time staff members of the labor union committee of any enterprise, institution or authorities shall be paid by their respective work units. With regard to social insurance and other welfare benefits, the same treatment shall apply as received by the said unit's workers.

第五章 工会的经费和财产

Chapter 5 Labor Union Operating Funds and Assets

第四十二条   工会经费的来源:

Article 42 The sources of trade union funds shall be as follows:

（一）工会会员缴纳的会费；

1. Membership dues paid by union members;

（二）建立工会组织的企业、事业单位、机关按每月全部职工工资总额的百分之二向工会拨缴的经费；

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; and

（三）工会所属的企业、事业单位上缴的收入；

(III) Income paid by enterprises and public institutions subordinated to the trade union;

（四）人民政府的补助；

(IV) people's government subsidies; and

（五）其他收入。

(V) Other incomes.

前款第二项规定的企业、事业单位拨缴的经费在税前列支。

Funds allocated by an enterprise or institution as stipulated in item (2) of the preceding paragraph shall be charged on a pre-tax basis.

工会经费主要用于为职工服务和工会活动。经费使用的具体办法由中华全国总工会制定。

Labor union operating funds shall be used primarily to serve employees and for labor union activities. Specific measures for the use of such funds shall be formulated by the All-China Federation of Trade Unions.

第四十三条   企业、事业单位无正当理由拖延或者拒不拨缴工会经费，基层工会或者上级工会可以向当地人民法院申请支付令；拒不执行支付令的，工会可以依法申请人民法院强制执行。

Article 43 Where an enterprise or governmental institution delays or withholds the payment of labor union operating funds without any valid reason, the grassroots labor union or its immediate superior labor union may apply with a local people's court for a payment order. Where the enterprise or governmental institution fails to comply with any such payment order, the labor union may apply to the people's court to have the order enforced in accordance with the law.

第四十四条   工会应当根据经费独立原则，建立预算、决算和经费审查监督制度。

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.

各级工会建立经费审查委员会。

All levels of labour unions shall establish fund audit committees.

各级工会经费收支情况应当由同级工会经费审查委员会审查，并且定期向会员大会或者会员代表大会报告，接受监督。工会会员大会或者会员代表大会有权对经费使用情况提出意见。

The fund income and expenditure situation of trade unions at the various levels shall be investigated by 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.

工会经费的使用应当依法接受国家的监督。

The use of trade union funds shall be subject to the supervision of the State in accordance with the law.

第四十五条   各级人民政府和企业、事业单位、机关应当为工会办公和开展活动，提供必要的设施和活动场所等物质条件。

Article 45 People's governments at the various 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.

第四十六条   工会的财产、经费和国家拨给工会使用的不动产，任何组织和个人不得侵占、挪用和任意调拨。

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.

第四十七条   工会所属的为职工服务的企业、事业单位，其隶属关系不得随意改变。

Article 47 The jurisdictional framework of those enterprises and public institutions servicing workers which are subordinate to trade unions shall not be altered arbitrarily.

第四十八条   县级以上各级工会的离休、退休人员的待遇，与国家机关工作人员同等对待。

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

第六章 法律责任

Chapter 6 Legal Liabilities

第四十九条   工会对违反本法规定侵犯其合法权益的，有权提请人民政府或者有关部门予以处理，或者向人民法院提起诉讼。

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.

第五十条   违反本法第三条、第十一条规定，阻挠职工依法参加和组织工会或者阻挠上级工会帮助、指导职工筹建工会的，由劳动行政部门责令其改正；拒不改正的，由劳动行政部门提请县级以上人民政府处理；以暴力、威胁等手段阻挠造成严重后果，构成犯罪的，依法追究刑事责任。

Article 50 Any party that, in violation of Article 3 or 11 of this Law, obstructs an employee from lawfully participating in or organizing a labor union, or obstructs a labor union at a higher level from assisting or guiding employees to establish a labor union, shall be ordered to take remedial action by the administrative department of labor. Where the party responsible fails to take remedial action, the administrative department of labor shall submit the case to the appropriate people's government at or above the county level to be dealt with. Where the obstruction is in the form of violence, threats, etc., resulting in serious consequences, and constitutes a criminal offence, criminal liability shall be pursued in accordance with the law.

第五十一条   违反本法规定，对依法履行职责的工会工作人员无正当理由调动工作岗位，进行打击报复的，由劳动行政部门责令改正、恢复原工作；造成损失的，给予赔偿。

Article 51 Any party that, in violation of the provisions of this Law, inappropriately transfers a labor union staff member who performs his duties in accordance with the law away from his present position without any valid reason, shall be ordered by the administrative department of labor to take remedial action and restore the staff member to his original position. Where such action results in any loss, compensation shall be paid.

对依法履行职责的工会工作人员进行侮辱、诽谤或者进行人身伤害，构成犯罪的，依法追究刑事责任；尚未构成犯罪的，由公安机关依照治安管理处罚法的规定处罚。

Where any party insults, defames or inflicts personal injury on a labor union staff member who performs his duties in accordance with the law, and such action constitutes a criminal offence, criminal liability shall be pursued. Where the conduct in question does not constitute a criminal offence, the party responsible shall be punished by the public security authorities in accordance with the Law on Penalties for the Violation of Public Security Administration.

第五十二条   违反本法规定，有下列情形之一的，由劳动行政部门责令恢复其工作，并补发被解除劳动合同期间应得的报酬，或者责令给予本人年收入二倍的赔偿:

Article 52 Where any provision of this Law is violated and under any of the following circumstances, the administrative department of labor shall issue an order that the relevant individual's employment be restored and the remuneration he was due to receive during the period of time for which his labour contract was terminated shall be compensated, or the compensation equivalent to twice his annual income shall be ordered to be paid:

（一）职工因参加工会活动而被解除劳动合同的；

1. Where an employee's labor contract is cancelled due to his/her participation in trade union activities; or

（二）工会工作人员因履行本法规定的职责而被解除劳动合同的。

(II) Where a labor union staff member's employment contract is terminated due to his performance of the duties stipulated herein.

第五十三条   违反本法规定，有下列情形之一的，由县级以上人民政府责令改正，依法处理:

Article 53 Where any provision of this Law is violated and under any of the following circumstances, the appropriate people's government at or above the county level shall order that remedial action be taken and shall the matter be handled in accordance with the law:

（一）妨碍工会组织职工通过职工代表大会和其他形式依法行使民主权利的；

1. hindering the trade unions from organizing employees to exercise their democratic rights through the employees' representative assembly or other forms;

（二）非法撤销、合并工会组织的；

2. Illegally canceling or merging trade union organizations;

（三）妨碍工会参加职工因工伤亡事故以及其他侵犯职工合法权益问题的调查处理的；

(III) Where a labor union is obstructed from participating in the investigation and handling of any work-related accident resulting in the death or injury of an employee or of any other infringement of the legitimate rights and interests of employees; or

（四）无正当理由拒绝进行平等协商的。

(IV) refusing to conduct equal negotiation without justified reasons.

第五十四条   违反本法第四十六条规定，侵占工会经费和财产拒不返还的，工会可以向人民法院提起诉讼，要求返还，并赔偿损失。

Article 54 Where any party, in violation of Article 46 hereof, misuses labor union operating funds or other property and fails to return the same, the labor union may institute proceedings in a people's court to demand the return of the property in question and claim compensation for any loss suffered.

第五十五条   工会工作人员违反本法规定，损害职工或者工会权益的，由同级工会或者上级工会责令改正，或者予以处分；情节严重的，依照《中国工会章程》予以罢免；造成损失的，应当承担赔偿责任；构成犯罪的，依法追究刑事责任。

Article 55 Any labor union staff member who, in violation of the provisions of this Law, damages the rights and interests of employees or the labor union, shall either be ordered to take remedial action by a labor union at the same level or by its immediate superior labor union, or be penalized. Where the circumstances are serious, his union membership shall be revoked in accordance with the Constitution of the All-China Federation of Trade Unions. Where any loss is caused, he shall be liable to pay compensation, and where the case constitutes a criminal offence, criminal liability shall be pursued in accordance with the law.

第七章 附则

Chapter 7 Supplementary Provisions

第五十六条   中华全国总工会会同有关国家机关制定机关工会实施本法的具体办法。

Article 56 The All-China Federation of Trade Unions shall, in conjunction with the relevant government authorities, formulate specific measures for the implementation of this Law by labor unions of government authorities.

第五十七条   本法自公布之日起施行。1950年6月29日中央人民政府颁布的《中华人民共和国工会法》同时废止。

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