|  |  |  |
| --- | --- | --- |
| 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 | ：  : | 2018.04.27  2018.04.27 |
| 生效日期  Effective Date | ：  : | 2018.04.27  2018.04.27 |
| 时效性  Effectiveness | ：  : | 现行有效  Current |
| 文号  No. | ：  : | 主席令第四号  Presidential Decree No. 4 |

# 中华人民共和国人民陪审员法

# Law of the People's Republic of China on People's Jurors

中华人民共和国人民陪审员法

Law of the People's Republic of China on People's Jurors

中华人民共和国主席令第四号

Order of the President No.4

《中华人民共和国人民陪审员法》已由中华人民共和国第十三届全国人民代表大会常务委员会第二次会议于2018年4月27日通过，现予公布，自公布之日起施行。

The Law of the People's Republic of China on People's Jurors, adopted at the Second Session of the Standing Committee of the 13th National People's Congress of the People's Republic of China on April 27, 2018, is hereby promulgated, effective as of the date of promulgation.

中华人民共和国主席 习近平

President Xi Jinping

2018年4月27日

27 April 2018

中华人民共和国人民陪审员法

Law of the People's Republic of China on People's Jurors

（2018年4月27日第十三届全国人民代表大会常务委员会第二次会议通过）

(Adopted at the Second Session of the Standing Committee of the 13th National People's Congress on April 27, 2018)

第一条   为了保障公民依法参加审判活动，促进司法公正，提升司法公信，制定本法。

Article 1 This Law is formulated to guarantee citizens' participation in judicial activities according to law, promote judicial justice and boost the credibility of justice.

第二条   公民有依法担任人民陪审员的权利和义务。

Article 2 A citizen is entitled to and obligated to serve as a people's juror according to the law.

人民陪审员依照本法产生，依法参加人民法院的审判活动，除法律另有规定外，同法官有同等权利。

People's assessors shall be appointed in accordance with this Law, participate in judicial activities held by people's courts according to law and enjoy equal rights with the judges, unless otherwise provided by laws.

第三条   人民陪审员依法享有参加审判活动、独立发表意见、获得履职保障等权利。

Article 3 People's jurors are entitled to participate in judicial activities, voice their opinions independently, and receive a guarantee for their duty performance, according to the law.

人民陪审员应当忠实履行审判职责，保守审判秘密，注重司法礼仪，维护司法形象。

People's jurors shall perform their judicial functions in a faithful manner, keep judicial secrets, pay attention to judicial protocol and maintain the judicial image.

第四条   人民陪审员依法参加审判活动，受法律保护。

Article 4 The participation of a people's juror in judicial activities according to the law shall be protected by the law.

人民法院应当依法保障人民陪审员履行审判职责。

People's courts shall, in accordance with the law, ensure that people's jurors are able to perform their judicial functions.

人民陪审员所在单位、户籍所在地或者经常居住地的基层群众性自治组织应当依法保障人民陪审员参加审判活动。

The units to which people's jurors belong and the grassroots mass autonomous organizations at the places of their registered permanent residences or habitual residences shall ensure according to the law that people's jurors can participate in judicial activities.

第五条   公民担任人民陪审员，应当具备下列条件：

Article 5 A citizen serving as a people's juror shall meet the following conditions:

（一）拥护中华人民共和国宪法；

1. uphold the Constitution of the People's Republic of China;

（二）年满二十八周岁；

(II) having reached the age of 28 years old;

（三）遵纪守法、品行良好、公道正派；

(III) Observing disciplines and laws, being of good conduct, and being impartial and upright; and

（四）具有正常履行职责的身体条件。

(IV) Be physically able to perform normal duties.

担任人民陪审员，一般应当具有高中以上文化程度。

A people's juror shall generally have the educational background of senior high school or above.

第六条   下列人员不能担任人民陪审员：

Article 6 None of the following persons shall serve as a people's juror:

（一）人民代表大会常务委员会的组成人员，监察委员会、人民法院、人民检察院、公安机关、国家安全机关、司法行政机关的工作人员；

1. members of the standing committee of a people's congress, and functionaries in supervisory commissions, people's courts, people's procuratorates, public security organs, State security organs or judicial administration organs;

（二）律师、公证员、仲裁员、基层法律服务工作者；

2. lawyers, notaries, arbitrators, and grassroots workers offering legal services;

（三）其他因职务原因不适宜担任人民陪审员的人员。

(III) Other personnel who are not appropriate to serve as people's jurors due to their posts.

第七条   有下列情形之一的，不得担任人民陪审员：

Article 7 A person shall not serve as a people's juror under any of the following circumstances,

（一）受过刑事处罚的；

1. having been subjected to criminal punishment;

（二）被开除公职的；

2. Having been discharged from public employment;

（三）被吊销律师、公证员执业证书的；

(III) Having their practicing certificates for lawyers or notaries revoked;

（四）被纳入失信被执行人名单的；

4. the investor has been included in the list of dishonest parties subject to enforcement;

（五）因受惩戒被免除人民陪审员职务的；

(V) Where the individual has been dismissed from the post as a people's juror for being disciplined; or

（六）其他有严重违法违纪行为，可能影响司法公信的。

(VI) Having any other serious violation of law or discipline that may affect the credibility of justice.

第八条   人民陪审员的名额，由基层人民法院根据审判案件的需要，提请同级人民代表大会常务委员会确定。

Article 8 As to the number of people's jurors, a basic people's court shall, depending on the needs for hearing cases, advance a request to the standing committee of the people's congress at the same level for a decision.

人民陪审员的名额数不低于本院法官数的三倍。

The number of people's assessors shall be no less than three times the number of judges of the court.

第九条   司法行政机关会同基层人民法院、公安机关，从辖区内的常住居民名单中随机抽选拟任命人民陪审员数五倍以上的人员作为人民陪审员候选人，对人民陪审员候选人进行资格审查，征求候选人意见。

Article 9 The judicial administration organ will, in concert with the grassroots people's court and the public security organ, select at random individuals from the list of permanent residents within the jurisdiction, the number of whom shall be over five times the people's jurors to be appointed, as candidates for this post, examine the qualification of such candidates for people's jurors, and seek the opinions of such candidates.

第十条   司法行政机关会同基层人民法院，从通过资格审查的人民陪审员候选人名单中随机抽选确定人民陪审员人选，由基层人民法院院长提请同级人民代表大会常务委员会任命。

Article 10 A judicial administration organ will, in concert with a grassroots people's court, select at random from the list of candidates for people's jurors, who pass the qualification examination, as people's jurors; and the list of the selected people's jurors shall be submitted by the president of the grassroots people's court to the standing committee of the people's congress at the same level for appointment.

第十一条   因审判活动需要，可以通过个人申请和所在单位、户籍所在地或者经常居住地的基层群众性自治组织、人民团体推荐的方式产生人民陪审员候选人，经司法行政机关会同基层人民法院、公安机关进行资格审查，确定人民陪审员人选，由基层人民法院院长提请同级人民代表大会常务委员会任命。

Article 11 Candidates for people's jurors shall be determined by means of personal applications or recommended by the entities to which they belong, grassroots mass autonomous organizations at the place of their registered household residences or habitual residences, or people's groups, if it is necessary for judicial activities; the judicial administration organ will, in concert with the grassroots people's court and the public security organ, look into whether they are qualified for this post and work out a list of people's jurors which will be submitted by the president of the grassroots people's court to the standing committee of the people's congress at the same level for appointment.

依照前款规定产生的人民陪审员，不得超过人民陪审员名额数的五分之一。

People's jurors appointed under the preceding paragraph shall be up to one fifth of the given quota of people's jurors.

第十二条   人民陪审员经人民代表大会常务委员会任命后，应当公开进行就职宣誓。宣誓仪式由基层人民法院会同司法行政机关组织。

Article 12 Once appointed by the standing committee of the people's congress, people's jurors shall take the oath of office in a public manner. The oath-taking ceremony shall be organized by the grassroots people's court in concert with the judicial administration organ.

第十三条   人民陪审员的任期为五年，一般不得连任。

Article 13 The term of office for a people's juror shall be five years, and a people's juror is not allowed to serve for a second term of office in general.

第十四条   人民陪审员和法官组成合议庭审判案件，由法官担任审判长，可以组成三人合议庭，也可以由法官三人与人民陪审员四人组成七人合议庭。

Article 14 Where it is of necessity to have people's jurors and judges form a collegiate panel to hear a case, a three-person collegiate panel may be formed, with a judge acting as the chief judge, or a seven-person collegiate panel may be formed by three judges and four people's jurors.

第十五条   人民法院审判第一审刑事、民事、行政案件，有下列情形之一的，由人民陪审员和法官组成合议庭进行：

Article 15 When trying criminal, civil and administrative cases of first instance, a people's court shall instruct people's jurors and judges to form a collegiate panel, under any of the following circumstances,

（一）涉及群体利益、公共利益的；

1. Where the case involves a group interest or public interest;

（二）人民群众广泛关注或者其他社会影响较大的；

2. Where the case sparks wide public concerns or causes relatively major social impacts;

（三）案情复杂或者有其他情形，需要由人民陪审员参加审判的。

(III) Where the case requires the participation of people's jurors in trials, due to the complicated facts of the case or under other necessary circumstances.

人民法院审判前款规定的案件，法律规定由法官独任审理或者由法官组成合议庭审理的，从其规定。

When the people's court hears a case of any kind as provided in the preceding paragraph, if the laws provide that such case shall be tried solely by a judge or by the collegiate panel made up of several judges, such provisions shall prevail.

第十六条   人民法院审判下列第一审案件，由人民陪审员和法官组成七人合议庭进行：

Article 16 The trial of the following cases of first instance by the people's court shall be conducted by a seven-person collegiate panel composed of people's jurors and judges,

（一）可能判处十年以上有期徒刑、无期徒刑、死刑，社会影响重大的刑事案件；

1. A criminal case with great social impacts in which the suspect is likely to be sentenced to over ten years, life imprisonment or even death;

（二）根据民事诉讼法、行政诉讼法提起的公益诉讼案件；

2. cases of public interest litigation instituted under the Civil Procedure Law or the Administrative Procedure Law;

（三）涉及征地拆迁、生态环境保护、食品药品安全，社会影响重大的案件；

(III) A case with great social impacts which involves the expropriation of land and demolition, eco-environmental protection, or food or drug safety;

（四）其他社会影响重大的案件。

4. other cases with great social influence.

第十七条   第一审刑事案件被告人、民事案件原告或者被告、行政案件原告申请由人民陪审员参加合议庭审判的，人民法院可以决定由人民陪审员和法官组成合议庭审判。

Article 17 Where the defendant in a criminal case of first instance, the plaintiff or defendant in a civil case of first instance, or the plaintiff in an administrative case, applies for the participation of the people's jurors in a collegiate bench for trial, the people's court may decide to instruct the people's jurors and judges to form a collegiate bench for trial.

第十八条   人民陪审员的回避，适用审判人员回避的法律规定。

Article 18 The withdrawal of people's jurors shall be subject to the legal provisions on the withdrawal of judicial officers.

第十九条   基层人民法院审判案件需要由人民陪审员参加合议庭审判的，应当在人民陪审员名单中随机抽取确定。

Article 19 Where the trial of a case by a grassroots people's court needs to be conducted by a collegiate panel with the participation of people's jurors, such people's jurors shall be selected at random from the name list of people's jurors.

中级人民法院、高级人民法院审判案件需要由人民陪审员参加合议庭审判的，在其辖区内的基层人民法院的人民陪审员名单中随机抽取确定。

Where the trial of a case by an intermediate people's court or a high people's court needs to be conducted by a collegiate panel with the participation of people's jurors, such people's jurors shall be selected at random from the name list of people's jurors applicable to the grassroots people's court within its jurisdiction.

第二十条   审判长应当履行与案件审判相关的指引、提示义务，但不得妨碍人民陪审员对案件的独立判断。

Article 20 The chief judge shall perform his guiding and prompting obligations relating to the trial of a case but shall not interfere with the independent judgment of people's jurors over the case.

合议庭评议案件，审判长应当对本案中涉及的事实认定、证据规则、法律规定等事项及应当注意的问题，向人民陪审员进行必要的解释和说明。

Where a collegiate panel is formed to deliberate on a case, the chief judge shall give necessary explanations and illustration of certain matters in the case, such as ascertainment of facts, evidence-related rules and legal provisions, and other noteworthy issues.

第二十一条   人民陪审员参加三人合议庭审判案件，对事实认定、法律适用，独立发表意见，行使表决权。

Article 21 When participating in the trial of a case as a member in a three-person collegiate panel, a people's juror shall independently voice his or her opinions of the ascertainment of facts and the application of laws, and exercise their voting right in this regard.

第二十二条   人民陪审员参加七人合议庭审判案件，对事实认定，独立发表意见，并与法官共同表决；对法律适用，可以发表意见，但不参加表决。

Article 22 When participating in the trial of a case as a member of a seven-person collegiate panel, a people's juror shall independently voice his or her opinions of the ascertainment of facts and exercise their voting right in this regard together with judges; as to the application of laws, the people's juror may voice his or her opinions, but may not cast a vote.

第二十三条   合议庭评议案件，实行少数服从多数的原则。人民陪审员同合议庭其他组成人员意见分歧的，应当将其意见写入笔录。

Article 23 When deliberating a case, a collegial panel shall observe the rule of majority. Where there is a divergence of opinion between a people's juror and other members in the collegial panel, the people's juror's different opinions shall be recorded.

合议庭组成人员意见有重大分歧的，人民陪审员或者法官可以要求合议庭将案件提请院长决定是否提交审判委员会讨论决定。

In the case of a substantial divergence of opinion between members of the collegial panel, the people's juror or the judge may request the collegial panel to submit the case to the president of the people's court and let the president decide whether to deliver the case to the judicial committee for discussion and decision.

第二十四条   人民法院应当结合本辖区实际情况，合理确定每名人民陪审员年度参加审判案件的数量上限，并向社会公告。

Article 24 A people's court shall, in light of the local actualities within its jurisdiction, set a reasonable upper limit for cases in which each people's juror may participate per annum, and announce the same to the general public.

第二十五条   人民陪审员的培训、考核和奖惩等日常管理工作，由基层人民法院会同司法行政机关负责。

Article 25 Routine management work for people's jurors, such as training, assessment, incentives and punishment, shall be undertaken by the grassroots people's court in concert with the judicial administration organ.

对人民陪审员应当有计划地进行培训。人民陪审员应当按照要求参加培训。

The training for people's jurors shall be carried out in a planned way. People's jurors shall participate in the training as required.

第二十六条   对于在审判工作中有显著成绩或者有其他突出事迹的人民陪审员，依照有关规定给予表彰和奖励。

Article 26 People's jurors who have achieved significant successes or other outstanding performance during their judicial work shall be commended and rewarded under applicable rules.

第二十七条   人民陪审员有下列情形之一，经所在基层人民法院会同司法行政机关查证属实的，由院长提请同级人民代表大会常务委员会免除其人民陪审员职务：

Article 27 Where a people's juror falls under any of the following circumstances, which are proved to be true through investigation by the grassroots people's court in which he or she serves in this capacity, together with the judicial administration organ, the president of such grassroots people's court shall request the standing committee of the people's congress at the same level to dismiss the people's juror from service:

（一）本人因正当理由申请辞去人民陪审员职务的；

1. Where the people's juror himself or herself applies to resign from the post of people's juror with justified reasons;

（二）具有本法第六条、第七条所列情形之一的；

2. any of the circumstances stipulated in Articles 6 and 7 of this Law;

（三）无正当理由，拒绝参加审判活动，影响审判工作正常进行的；

(III) Where the people's juror refuses to participate in judicial activities without justified reasons, thus affecting the normal process of the judicial work;

（四）违反与审判工作有关的法律及相关规定，徇私舞弊，造成错误裁判或者其他严重后果的。

(IV) violating laws and relevant provisions on trial work, or playing favoritism and committing irregularities, which results in wrong judgment or other serious consequences.

人民陪审员有前款第三项、第四项所列行为的，可以采取通知其所在单位、户籍所在地或者经常居住地的基层群众性自治组织、人民团体，在辖区范围内公开通报等措施进行惩戒；构成犯罪的，依法追究刑事责任。

Where a people's juror is found to be committing the act as specified in the third or fourth item in the preceding paragraph, certain actions, such as notifying the entity to which the people's juror belongs, or the grassroots mass autonomous organization or the people's group at the place of his or her registered permanent residence or habitual residence, of such behavior, and circulating a notice of such behavior within the local jurisdiction, may be taken to discipline him or her; where a crime is constituted, his or her criminal liability shall be investigated and pursued.

第二十八条   人民陪审员的人身和住所安全受法律保护。任何单位和个人不得对人民陪审员及其近亲属打击报复。

Article 28 The personal safety of a people's juror and the safety of his home shall be protected by the law. No entity or individual may retaliate against any people's juror as well as his close relatives.

对报复陷害、侮辱诽谤、暴力侵害人民陪审员及其近亲属的，依法追究法律责任。

Any party that retaliates against, frames, insults, defames or violently attacks a people's juror as well as his close relatives will be investigated according to the law for legal liability.

第二十九条   人民陪审员参加审判活动期间，所在单位不得克扣或者变相克扣其工资、奖金及其他福利待遇。

Article 29 During the period when a people's juror participates in judicial activities, his employer shall not withhold or withhold in disguised form, his wages, bonuses and other welfare benefits.

人民陪审员所在单位违反前款规定的，基层人民法院应当及时向人民陪审员所在单位或者所在单位的主管部门、上级部门提出纠正意见。

Where the entity to which a people's juror belongs violates the provisions stipulated in the preceding paragraph, the grassroots people's court shall offer a proposal for corrective actions in due time to such entity or the competent authority or the superior department of such entity.

第三十条   人民陪审员参加审判活动期间，由人民法院依照有关规定按实际工作日给予补助。

Article 30 During the period when a people's juror participates in judicial activities, the people's court shall offer subsidies based on the number of actual working days in accordance with applicable rules.

人民陪审员因参加审判活动而支出的交通、就餐等费用，由人民法院依照有关规定给予补助。

With respect to the expenses paid for the transportation and meals by the people's juror in order to participate in judicial activities, the people's court shall offer subsidies in accordance with applicable rules.

第三十一条   人民陪审员因参加审判活动应当享受的补助，人民法院和司法行政机关为实施人民陪审员制度所必需的开支，列入人民法院和司法行政机关业务经费，由相应政府财政予以保障。具体办法由最高人民法院、国务院司法行政部门会同国务院财政部门制定。

Article 31 The subsidies, which people's jurors are entitled to for their participation in judicial activities, and the expenses, which are entailed for the implementation of the people's juror regime by people's courts and judicial administration organs, shall be itemized respectively as the operating expenditures of people's courts and the judicial administrative organs, and the corresponding governments shall guarantee such expenditures. Specific measures shall be formulated by the Supreme People's Court and the judicial administration department under the State Council in conjunction with the finance department under the State Council.

第三十二条   本法自公布之日起施行。2004年8月28日第十届全国人民代表大会常务委员会第十一次会议通过的《全国人民代表大会常务委员会关于完善人民陪审员制度的决定》同时废止。

Article 32 This Law shall go into effect as of the date of promulgation. The Decision of the Standing Committee of the National People's Congress on Improving the People's Juror Regime, adopted at the 11th Session of the Standing Committee of the 10th National People's Congress on August 28, 2004, shall be repealed simultaneously.