|  |  |  |
| --- | --- | --- |
| 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 | ：  : | 2007.12.29  2007.12.29 |
| 生效日期  Effective Date | ：  : | 2008.05.01  2008.05.01 |
| 时效性  Effectiveness | ：  : | 现行有效  Current |
| 文号  No. | ：  : | 主席令第八十号  Presidential Decree No. 80 |

# 中华人民共和国劳动争议调解仲裁法

# Law of the People's Republic of China on Mediation and Arbitration of Labor Disputes

中华人民共和国劳动争议调解仲裁法

Law of the People's Republic of China on Mediation and Arbitration of Labor Disputes

主席令第八十号

Presidential Decree No. 80

《中华人民共和国劳动争议调解仲裁法》已由中华人民共和国第十届全国人民代表大会常务委员会第三十一次会议于2007年12月29日通过，现予公布，自2008年5月1日起施行。

The Law of the People's Republic of China on Mediation and Arbitration of Labor Disputes, adopted at the 31st Meeting of the Standing Committee of the Tenth National People's Congress of the People's Republic of China on December 29, 2007, is hereby promulgated and shall go into effect as of May 1, 2008.

中华人民共和国主席　胡锦涛

President Hu Jintao

2007年12月29日

December 29, 2007

中华人民共和国劳动争议调解仲裁法

Law of the People's Republic of China on Mediation and Arbitration of Labor Disputes

（2007年12月29日第十届全国人民代表大会常务委员会第三十一次会议通过）

(Adopted at the 31st Meeting of the Standing Committee of the Tenth National People's Congress on December 29, 2007)

目　录

Contents

　　第一章　总则

Chapter 1 General Provisions

　　第二章　调解

Chapter 2 Mediation

　　第三章　仲裁

Chapter 3 Arbitration

　　　　第一节　一般规定

Section 1 General Provisions

　　　　第二节　申请和受理

Section 2 Application and Acceptance

　　　　第三节　开庭和裁决

Section 3 Hearings and Awards

　　第四章　附则

Chapter 4 Supplementary Provisions

第一章 总 则

Chapter 1 General Provisions

第一条   为了公正及时解决劳动争议，保护当事人合法权益，促进劳动关系和谐稳定，制定本法。

Article 1 This Law is formulated for the purposes of resolving labour disputes equitably and promptly, protecting the legitimate rights and interests of the parties concerned, and promoting harmonious and stable labour relationships.

第二条   中华人民共和国境内的用人单位与劳动者发生的下列劳动争议，适用本法：

Article 2 This Law shall be applicable to the following labor disputes between employing units and laborers within the territory of the People's Republic of China:

（一）因确认劳动关系发生的争议；

1. disputes arising from the confirmation of labor relations;

（二）因订立、履行、变更、解除和终止劳动合同发生的争议；

2. disputes arising from the conclusion, performance, modification, rescission or termination of labor contracts; and

（三）因除名、辞退和辞职、离职发生的争议；

3. disputes arising from name removal, dismissal, resignation or departure;

（四）因工作时间、休息休假、社会保险、福利、培训以及劳动保护发生的争议；

(IV) Disputes arising out of working hours, rest and vacation, social insurance, welfare, training and labor protection;

（五）因劳动报酬、工伤医疗费、经济补偿或者赔偿金等发生的争议；

(V) disputes arising from labor remunerations, work-related injury medical expenses, economic compensation or damages; and

（六）法律、法规规定的其他劳动争议。

(VI) other labor disputes prescribed by laws and regulations.

第三条   解决劳动争议，应当根据事实，遵循合法、公正、及时、着重调解的原则，依法保护当事人的合法权益。

Article 3 The settlement of a labor dispute shall be based on facts and follow the principle of legality, impartiality, timeliness and mediation-oriented so as to protect the legitimate rights and interests of the parties in accordance with the law.

第四条   发生劳动争议，劳动者可以与用人单位协商，也可以请工会或者第三方共同与用人单位协商，达成和解协议。

Article 4 In the event of a labour dispute, the worker may negotiate with the employer, or request the labour union or a third party to negotiate with the employer and reach a settlement agreement.

第五条   发生劳动争议，当事人不愿协商、协商不成或者达成和解协议后不履行的，可以向调解组织申请调解；不愿调解、调解不成或者达成调解协议后不履行的，可以向劳动争议仲裁委员会申请仲裁；对仲裁裁决不服的，除本法另有规定的外，可以向人民法院提起诉讼。

Article 5 Where a labor dispute arises, the parties are not willing to have a consultation, the consultation fails or the settlement agreement is reached but not performed, an application for mediation may be made to a mediation organization. Where the parties are not willing to mediate, the mediation fails or the mediation agreement is reached but not performed, an application for arbitration may be made to the labor dispute arbitration commission. Where there is objection to the arbitral award, litigation may be initiated to a people's court unless otherwise specified herein.

第六条   发生劳动争议，当事人对自己提出的主张，有责任提供证据。与争议事项有关的证据属于用人单位掌握管理的，用人单位应当提供；用人单位不提供的，应当承担不利后果。

Article 6 Where a labor dispute arises, the parties have the responsibility to provide evidence for their own claims. Where the evidence relevant to the dispute is in the possession and management of the employer unit, the employer unit shall produce the evidence. Where the employer unit refuses to produce it, the unit shall bear the adverse consequence.

第七条   发生劳动争议的劳动者一方在十人以上，并有共同请求的，可以推举代表参加调解、仲裁或者诉讼活动。

Article 7 Where the party in a labour dispute consists of 10 workers or more, and they have a common request, they may elect a representative to participate in mediation, arbitration or litigation activities.

第八条   县级以上人民政府劳动行政部门会同工会和企业方面代表建立协调劳动关系三方机制，共同研究解决劳动争议的重大问题。

Article 8 The labour administration authorities of People's Governments of county level and above shall, jointly with the labour unions and enterprise representatives, establish a tripartite labour relationship coordination mechanism to jointly study and resolve significant labour disputes.

第九条   用人单位违反国家规定，拖欠或者未足额支付劳动报酬，或者拖欠工伤医疗费、经济补偿或者赔偿金的，劳动者可以向劳动行政部门投诉，劳动行政部门应当依法处理。

Article 9 Where an employer, in violation of State regulations, defaults in the payment of labour remuneration or fails to pay it in full, or defaults in the payment of medical expenses for job-related injury, economic compensation or damages, the worker concerned may make a complaint to the administrative department of labour, which shall handle the complaint in accordance with law.

第二章 调 解

Chapter 2 Mediation

第十条   发生劳动争议，当事人可以到下列调解组织申请调解：

Article 10 Where a labor dispute arises, the parties may apply for mediation to the following mediation organizations:

（一）企业劳动争议调解委员会；

1. Enterprise labor dispute mediation commission;

（二）依法设立的基层人民调解组织；

2. grassroots people's mediation organizations established in accordance with the law;

（三）在乡镇、街道设立的具有劳动争议调解职能的组织。

(III) Organizations with the function of labor dispute mediation established in townships or sub-districts.

企业劳动争议调解委员会由职工代表和企业代表组成。职工代表由工会成员担任或者由全体职工推举产生，企业代表由企业负责人指定。企业劳动争议调解委员会主任由工会成员或者双方推举的人员担任。

The enterprise labor dispute mediation commission shall be composed of representatives of employees and of the enterprise. The representatives of employees shall be trade union members or be elected by all employees, and the representatives of the enterprise shall be designated by the responsible person of the enterprise. The chairman of the enterprise labor dispute mediation commission shall be a trade union member or a person recommended by both parties.

第十一条   劳动争议调解组织的调解员应当由公道正派、联系群众、热心调解工作，并具有一定法律知识、政策水平和文化水平的成年公民担任。

Article 11 The mediators of labor dispute mediation organizations shall be adult citizens who are impartial, connected with the masses, enthusiastic in mediation work, and have certain legal knowledge, policy level and cultural level.

第十二条   当事人申请劳动争议调解可以书面申请，也可以口头申请。口头申请的，调解组织应当当场记录申请人基本情况、申请调解的争议事项、理由和时间。

Article 12 To apply for mediation of a labour dispute, the parties may apply in writing or orally. In the case of an oral application, the mediation organisation shall record the basic information of the applicant, the disputed matter for which the mediation application is made, the reason and time on the spot.

第十三条   调解劳动争议，应当充分听取双方当事人对事实和理由的陈述，耐心疏导，帮助其达成协议。

Article 13 When mediating labour disputes, the mediator shall pay full heed to the facts and reasons stated by both parties, persuade them with patience and help them reach an agreement.

第十四条   经调解达成协议的，应当制作调解协议书。

Article 14 Where an agreement is reached upon mediation, a mediation agreement shall be prepared.

调解协议书由双方当事人签名或者盖章，经调解员签名并加盖调解组织印章后生效，对双方当事人具有约束力，当事人应当履行。

The mediation agreement shall be signed or sealed by both parties, and signed by the mediator and sealed by the mediation organisation to take effect. It shall be binding on both parties and performed by them.

自劳动争议调解组织收到调解申请之日起十五日内未达成调解协议的，当事人可以依法申请仲裁。

Where no mediation agreement is reached within 15 days from the date the labour-dispute mediation institution receives the application for mediation, the parties may apply for arbitration in accordance with law.

第十五条   达成调解协议后，一方当事人在协议约定期限内不履行调解协议的，另一方当事人可以依法申请仲裁。

Article 15 After the mediation agreement is reached, if one party fails to perform the agreement within the time limit prescribed in the agreement, the other party may apply for arbitration according to law.

第十六条   因支付拖欠劳动报酬、工伤医疗费、经济补偿或者赔偿金事项达成调解协议，用人单位在协议约定期限内不履行的，劳动者可以持调解协议书依法向人民法院申请支付令。人民法院应当依法发出支付令。

Article 16 Where a mediation agreement is reached on the payment of labor remunerations, work injury medical expenses, economic compensation or damages in arrears and the employer fails to perform the agreement within the time limit prescribed in the agreement, the employee may, on the strength of the mediation agreement, apply to a people's court for a payment order in accordance with the law. The people's court shall issue the payment order in accordance with law.

第三章 仲 裁

Chapter 3 Arbitration

第一节 一般规定

Section 1 General Provisions

第十七条   劳动争议仲裁委员会按照统筹规划、合理布局和适应实际需要的原则设立。省、自治区人民政府可以决定在市、县设立；直辖市人民政府可以决定在区、县设立。直辖市、设区的市也可以设立一个或者若干个劳动争议仲裁委员会。劳动争议仲裁委员会不按行政区划层层设立。

Article 17 Labor dispute arbitration commissions shall be established pursuant to the principles of overall planning, reasonable layout and meeting actual needs. The people's government of a province or autonomous region may decide to set up such an office in the city or county concerned; and the people's government of a municipality directly under the Central Government may decide to set up such an office in the district or county concerned. One or more labor dispute arbitration commissions may also be established in municipalities directly under the Central Government and cities divided into districts. Labor dispute arbitration commissions shall not be set up level by level according to administrative divisions.

第十八条   国务院劳动行政部门依照本法有关规定制定仲裁规则。省、自治区、直辖市人民政府劳动行政部门对本行政区域的劳动争议仲裁工作进行指导。

Article 18 The labour administration department of the State Council shall formulate arbitration rules in accordance with the relevant provisions of this Law. The labour administration authorities of the People's Governments of provinces, autonomous regions and centrally-administered municipalities shall guide labour dispute arbitration work within their administrative region.

第十九条   劳动争议仲裁委员会由劳动行政部门代表、工会代表和企业方面代表组成。劳动争议仲裁委员会组成人员应当是单数。

Article 19 A labour-dispute arbitration commission shall be composed of representatives of the administrative department of labour, the trade unions and the enterprises. The composition of the labor dispute arbitration commission shall be odd in number.

劳动争议仲裁委员会依法履行下列职责：

A labor dispute arbitration commission shall perform the following duties in accordance with the law:

（一）聘任、解聘专职或者兼职仲裁员；

1. appointment and dismissal of full-time or part-time arbitrators;

（二）受理劳动争议案件；

2. Accepting cases of labor disputes;

（三）讨论重大或者疑难的劳动争议案件；

(III) discussing major or difficult labor dispute cases;

（四）对仲裁活动进行监督。

(IV) supervising arbitration activities.

劳动争议仲裁委员会下设办事机构，负责办理劳动争议仲裁委员会的日常工作。

A labour-dispute arbitration commission shall set up an office to handle its day-to-day work.

第二十条   劳动争议仲裁委员会应当设仲裁员名册。

Article 20 Labor dispute arbitration commissions shall have a register of arbitrators.

仲裁员应当公道正派并符合下列条件之一：

Arbitrators shall be impartial and honest, and shall meet one of the following requirements:

（一）曾任审判员的；

1. having served as a judge;

（二）从事法律研究、教学工作并具有中级以上职称的；

(II) engaging in legal research or teaching with a professional title at or above the intermediate level; or

（三）具有法律知识、从事人力资源管理或者工会等专业工作满五年的；

(III) having legal knowledge and engaging in human resources management, labor union work or other professional work for five full years; or

（四）律师执业满三年的。

(IV) the lawyer has been in practice for three full years.

第二十一条   劳动争议仲裁委员会负责管辖本区域内发生的劳动争议。

Article 21 Labor dispute arbitration commissions shall be responsible for the labor disputes occurred in the district under their jurisdiction.

劳动争议由劳动合同履行地或者用人单位所在地的劳动争议仲裁委员会管辖。双方当事人分别向劳动合同履行地和用人单位所在地的劳动争议仲裁委员会申请仲裁的，由劳动合同履行地的劳动争议仲裁委员会管辖。

A labour dispute shall be under the jurisdiction of the labour-dispute arbitration commission at the place where the labour contract is performed or where the employer is located. Where both parties apply for arbitration respectively to the labour-dispute arbitration commission at the place where the labour contract is performed and to the labour-dispute arbitration commission at the place where the employer is located, the labour dispute shall fall within the jurisdiction of the labour-dispute arbitration commission at the place where the labour contract is performed.

第二十二条   发生劳动争议的劳动者和用人单位为劳动争议仲裁案件的双方当事人。

Article 22 The laborer and the employing unit in a labor dispute shall be the parties to the labor dispute arbitration case.

劳务派遣单位或者用工单位与劳动者发生劳动争议的，劳务派遣单位和用工单位为共同当事人。

In the event of a labour dispute between a labour secondment unit or an employer and a worker, the labour secondment unit and the employer shall be the common parties concerned.

第二十三条   与劳动争议案件的处理结果有利害关系的第三人，可以申请参加仲裁活动或者由劳动争议仲裁委员会通知其参加仲裁活动。

Article 23 A third party that has an interest in the result of a labor dispute case may apply for participating in arbitration activities or be notified to participate in arbitration activities by the labor dispute arbitration commission.

第二十四条   当事人可以委托代理人参加仲裁活动。委托他人参加仲裁活动，应当向劳动争议仲裁委员会提交有委托人签名或者盖章的委托书，委托书应当载明委托事项和权限。

Article 24 The parties may appoint agents to participate in arbitration activities. To appoint an agent to participate in arbitration, a letter of appointment signed or sealed by the appointer shall be submitted to the labour-dispute arbitration commission, in which the entrusted matters and the limit of authority shall clearly be stated.

第二十五条   丧失或者部分丧失民事行为能力的劳动者，由其法定代理人代为参加仲裁活动；无法定代理人的，由劳动争议仲裁委员会为其指定代理人。劳动者死亡的，由其近亲属或者代理人参加仲裁活动。

Article 25 A worker who has lost all or part of his/her capacity for civil conduct shall have his/her statutory agent participate in arbitration on his/her behalf; where there is no statutory agent, the labour dispute arbitration committee shall appoint an agent for the worker. Where the worker is dead, his close relative or agent shall participate in arbitration activities.

第二十六条   劳动争议仲裁公开进行，但当事人协议不公开进行或者涉及国家秘密、商业秘密和个人隐私的除外。

Article 26 The arbitration of labor disputes shall be conducted openly, unless the parties agree otherwise or state secrets, trade secrets or personal privacy is involved.

第二节 申请和受理

Section 2 Application and Acceptance

第二十七条   劳动争议申请仲裁的时效期间为一年。仲裁时效期间从当事人知道或者应当知道其权利被侵害之日起计算。

Article 27 The time limit for application for arbitration in labor disputes is one year. The limitation period for arbitration shall run from the date when the parties concerned know or should have known that their rights have been infringed.

前款规定的仲裁时效，因当事人一方向对方当事人主张权利，或者向有关部门请求权利救济，或者对方当事人同意履行义务而中断。从中断时起，仲裁时效期间重新计算。

The limitation period for arbitration as prescribed in the preceding paragraph shall be discontinued when one party claims its rights against the other party or requests the relevant department for remedy, or when the other party agrees to perform its obligations. The limitation period for arbitration shall be recalculated from the time of interruption.

因不可抗力或者有其他正当理由，当事人不能在本条第一款规定的仲裁时效期间申请仲裁的，仲裁时效中止。从中止时效的原因消除之日起，仲裁时效期间继续计算。

Where the parties cannot apply for arbitration within the validity of arbitration as stipulated in Paragraph 1 of this article due to force majeure or other proper reasons, the validity of arbitration is suspended. The period of limitation for arbitration shall continue to run from the date on which the causes for the suspension are eliminated.

劳动关系存续期间因拖欠劳动报酬发生争议的，劳动者申请仲裁不受本条第一款规定的仲裁时效期间的限制；但是，劳动关系终止的，应当自劳动关系终止之日起一年内提出。

In the case of a dispute over arrears of labour remuneration during the validity period of labour relationship, application for arbitration by the worker shall not be restricted by the limitation period for arbitration stipulated in the first paragraph of this Article; however, where the labour relationship is terminated, the application for arbitration shall be made within one year from termination of the labour relationship.

第二十八条   申请人申请仲裁应当提交书面仲裁申请，并按照被申请人人数提交副本。

Article 28 Any applicant who seeks to apply for arbitration shall submit a written arbitration application and submit copies of the application according to the number of respondents.

仲裁申请书应当载明下列事项：

The following particulars shall be specified in an application for arbitration:

（一）劳动者的姓名、性别、年龄、职业、工作单位和住所，用人单位的名称、住所和法定代表人或者主要负责人的姓名、职务；

1. the name, gender, age, occupation, employer and domicile of the worker, the name and domicile of the employer and the name and duties of the legal representative or main responsible person;

（二）仲裁请求和所根据的事实、理由；

(II) the request for arbitration and the facts and reasons on which such request is based; and

（三）证据和证据来源、证人姓名和住所。

(III) evidence and sources of evidence, and the names and domiciles of witnesses.

书写仲裁申请确有困难的，可以口头申请，由劳动争议仲裁委员会记入笔录，并告知对方当事人。

Where there is difficulty in writing an application for arbitration, an oral application may be made and recorded by the labour dispute arbitration commission which informs the other party.

第二十九条   劳动争议仲裁委员会收到仲裁申请之日起五日内，认为符合受理条件的，应当受理，并通知申请人；认为不符合受理条件的，应当书面通知申请人不予受理，并说明理由。对劳动争议仲裁委员会不予受理或者逾期未作出决定的，申请人可以就该劳动争议事项向人民法院提起诉讼。

Article 29 The labour-dispute arbitration commission shall, within five days from the date it receives the arbitration application, accept the application and notify the applicant of its acceptance, if it considers that the application meets the conditions for acceptance; otherwise, it shall notify the applicant in writing and state the reasons. Where the labor dispute arbitration commission does not accept or fails to make a decision within the time limit, the applicant may file a lawsuit with the people's court in respect of such labor dispute.

第三十条   劳动争议仲裁委员会受理仲裁申请后，应当在五日内将仲裁申请书副本送达被申请人。

Article 30 The labour-dispute arbitration commission shall, within five days after accepting an application for arbitration, serve a duplicate of the said application on the respondent.

被申请人收到仲裁申请书副本后，应当在十日内向劳动争议仲裁委员会提交答辩书。劳动争议仲裁委员会收到答辩书后，应当在五日内将答辩书副本送达申请人。被申请人未提交答辩书的，不影响仲裁程序的进行。

The respondent shall, upon receipt of the duplicate of arbitration application, submit a statement of defense to the labor dispute arbitration commission within ten days. The labour-dispute arbitration commission shall, within five days after it receives the statement of defense, serve a copy of the statement of defense on the applicant. Non-submission of a statement of defence by the respondent shall not affect the arbitration proceedings.

第三节 开庭和裁决

Section 3 Hearings and Awards

第三十一条   劳动争议仲裁委员会裁决劳动争议案件实行仲裁庭制。仲裁庭由三名仲裁员组成，设首席仲裁员。简单劳动争议案件可以由一名仲裁员独任仲裁。

Article 31 The award of labor disputes cases by labor dispute arbitration committees adopts the arbitral tribunal system. The arbitral tribunal shall consist of three arbitrators and have a presiding arbitrator. Simple labor dispute cases may be arbitrated solely by one arbitrator.

第三十二条   劳动争议仲裁委员会应当在受理仲裁申请之日起五日内将仲裁庭的组成情况书面通知当事人。

Article 32 The labour-dispute arbitration commission shall, within five days from the date it accepts an application for arbitration, notify the parties in writing of the composition of the arbitral tribunal.

第三十三条   仲裁员有下列情形之一，应当回避，当事人也有权以口头或者书面方式提出回避申请：

Article 33 Where an arbitrator is under any of the following circumstances, he shall withdraw, and the parties also have the right to submit oral or written withdrawal application:

（一）是本案当事人或者当事人、代理人的近亲属的；

1. the judicial officer is a party or a close relative of a party or agent of the case;

（二）与本案有利害关系的；

(II) He is an interested party to the case;

（三）与本案当事人、代理人有其他关系，可能影响公正裁决的；

(III) He has some other kind of relationship with a party to the case or with his agent, which might affect the impartial award; or

（四）私自会见当事人、代理人，或者接受当事人、代理人的请客送礼的。

(IV) privately meets a party or his agent, or accepts a treat or gift from a party or agent thereof.

劳动争议仲裁委员会对回避申请应当及时作出决定，并以口头或者书面方式通知当事人。

The labour-dispute arbitration commission shall, in a timely manner, make a decision on the application for withdrawal and notify the parties of the decision orally or in writing.

第三十四条   仲裁员有本法第三十三条第四项规定情形，或者有索贿受贿、徇私舞弊、枉法裁决行为的，应当依法承担法律责任。劳动争议仲裁委员会应当将其解聘。

Article 34 Where an arbitrator is under the circumstances prescribed in Subparagraph (4) of Article 33 of this Law, or extorts for or accepts bribes, engages in malpractices for personal gain, or perverts the law in making awards, he shall bear legal liability in accordance with law. The labour-dispute arbitration commission shall dismiss him.

第三十五条   仲裁庭应当在开庭五日前，将开庭日期、地点书面通知双方当事人。当事人有正当理由的，可以在开庭三日前请求延期开庭。是否延期，由劳动争议仲裁委员会决定。

Article 35 The arbitration tribunal shall notify both parties of the date and place of the hearing in writing five days before the hearing. Any party may, three days before the first hearing session, request to adjourn the first hearing session on proper grounds. The labor dispute arbitration commission shall make a decision on whether or not to postpone the hearing.

第三十六条   申请人收到书面通知，无正当理由拒不到庭或者未经仲裁庭同意中途退庭的，可以视为撤回仲裁申请。

Article 36 Where the applicant has received the written notification but fails to be present for the hearing without justifiable reasons or, without approval of the arbitral tribunal, withdraws from the hearing before it is over, it may be deemed to withdraw the arbitration application.

被申请人收到书面通知，无正当理由拒不到庭或者未经仲裁庭同意中途退庭的，可以缺席裁决。

Where the respondent, after receiving a written notice, refuses to appear before the arbitral tribunal without any proper reasons or leaves in the course of a hearing session without the consent of the arbitral tribunal, an award by default may be given.

第三十七条   仲裁庭对专门性问题认为需要鉴定的，可以交由当事人约定的鉴定机构鉴定；当事人没有约定或者无法达成约定的，由仲裁庭指定的鉴定机构鉴定。

Article 37 If the arbitration tribunal deems it necessary to authenticate a technical issue, it may submit the issue to the authentication institution agreed upon by the parties for authentication. If there is no agreement between the parties or the parties cannot reach an agreement, the issue shall be authenticated by the authentication institution designated by the arbitration tribunal.

根据当事人的请求或者仲裁庭的要求，鉴定机构应当派鉴定人参加开庭。当事人经仲裁庭许可，可以向鉴定人提问。

At the request of the parties or the arbitral tribunal, the authentication institution shall send an expert to participate in the hearing. Upon the permission of the arbitration tribunal, the parties may ask the expert questions.

第三十八条   当事人在仲裁过程中有权进行质证和辩论。质证和辩论终结时，首席仲裁员或者独任仲裁员应当征询当事人的最后意见。

Article 38 The parties shall have the right in the course of arbitration to cross-examine evidence and debate. Upon completion of cross-examination and debate, the chief arbitrator or sole arbitrator shall seek the final opinion of the parties concerned.

第三十九条   当事人提供的证据经查证属实的，仲裁庭应当将其作为认定事实的根据。

Article 39 Where the evidence provided by the parties is substantiated upon verification, the arbitral tribunal shall make it the basis on which to confirm the facts.

劳动者无法提供由用人单位掌握管理的与仲裁请求有关的证据，仲裁庭可以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。

Where a laborer fails to provide the evidence in relation to the arbitration request under the control and management of the employer, the arbitration tribunal may require the employer to provide such evidence within a prescribed time limit. If the employer fails to do so, it shall bear the adverse consequences.

第四十条   仲裁庭应当将开庭情况记入笔录。当事人和其他仲裁参加人认为对自己陈述的记录有遗漏或者差错的，有权申请补正。如果不予补正，应当记录该申请。

Article 40 An arbitral tribunal shall make a written record of the hearing. Where the parties concerned and other persons participating in the arbitration think there are omissions or errors in the records of their own statements, they are entitled to apply for addition and correction. If no supplementation is made, such application shall be recorded.

笔录由仲裁员、记录人员、当事人和其他仲裁参加人签名或者盖章。

The written record shall be signed or sealed by the arbitrators, recording personnel, the parties and other participants of arbitration.

第四十一条   当事人申请劳动争议仲裁后，可以自行和解。达成和解协议的，可以撤回仲裁申请。

Article 41 After applying for arbitration of a labour dispute, the parties may settle the dispute among themselves through conciliation. Where a settlement agreement is reached, the arbitration application may be withdrawn.

第四十二条   仲裁庭在作出裁决前，应当先行调解。

Article 42 The arbitral tribunal shall mediate before making an award.

调解达成协议的，仲裁庭应当制作调解书。

Where an agreement is reached through mediation, the arbitration tribunal shall make a mediation decision.

调解书应当写明仲裁请求和当事人协议的结果。调解书由仲裁员签名，加盖劳动争议仲裁委员会印章，送达双方当事人。调解书经双方当事人签收后，发生法律效力。

A conciliation statement shall set forth the arbitration claims and the results of the agreement between the parties. The statement of mediation shall be signed by the arbitrators, sealed by the labour-dispute arbitration commission and served on the parties. The mediation agreement shall come into force after both parties sign for it.

调解不成或者调解书送达前，一方当事人反悔的，仲裁庭应当及时作出裁决。

Where mediation is unsuccessful or either party reneges on the agreement before service of the mediation letter, the arbitral tribunal shall promptly make an award.

第四十三条   仲裁庭裁决劳动争议案件，应当自劳动争议仲裁委员会受理仲裁申请之日起四十五日内结束。案情复杂需要延期的，经劳动争议仲裁委员会主任批准，可以延期并书面通知当事人，但是延长期限不得超过十五日。逾期未作出仲裁裁决的，当事人可以就该劳动争议事项向人民法院提起诉讼。

Article 43 Where the arbitral tribunal is to make an award of a labour dispute case, it shall do so within 45 days from the date the labour-dispute arbitration commission accepts the application for arbitration. If an extension is required due to complexity of the case, an extension may be allowed with the approval of the director of the labour-dispute arbitration commission and the parties shall be informed in writing. However, the period of extension may not exceed 15 days. If no arbitral award is made after the time limit, the parties may file a lawsuit with a people's court with respect to the labor dispute.

仲裁庭裁决劳动争议案件时，其中一部分事实已经清楚，可以就该部分先行裁决。

When making an award of a labour dispute case, in which part of the facts are clear, the arbitral tribunal may make an award first on the basis of the said facts.

第四十四条   仲裁庭对追索劳动报酬、工伤医疗费、经济补偿或者赔偿金的案件，根据当事人的申请，可以裁决先予执行，移送人民法院执行。

Article 44 In respect of cases for the recovery of remuneration, medical expenses for work-related injury, economic compensation or damages, the arbitral tribunal may, pursuant to the application of the parties, make an award on advance execution and transfer the award to the people's court for execution.

仲裁庭裁决先予执行的，应当符合下列条件：

Where the arbitral tribunal makes an award on advance execution, the following conditions shall be met:

（一）当事人之间权利义务关系明确；

1. there is a clear relationship of rights and obligations between the parties; and

（二）不先予执行将严重影响申请人的生活。

(II) if there is no advance execution, the living of the applicant will be seriously affected.

劳动者申请先予执行的，可以不提供担保。

Where a laborer applies for advance execution, no security may be provided.

第四十五条   裁决应当按照多数仲裁员的意见作出，少数仲裁员的不同意见应当记入笔录。仲裁庭不能形成多数意见时，裁决应当按照首席仲裁员的意见作出。

Article 45 An award shall be made on the basis of the opinions of the majority of arbitrators, and the different opinions of the minority of arbitrators shall be recorded. When a majority opinion can not be reached by the arbitration tribunal, an award shall be made according to the chief arbitrator's opinion.

第四十六条   裁决书应当载明仲裁请求、争议事实、裁决理由、裁决结果和裁决日期。裁决书由仲裁员签名，加盖劳动争议仲裁委员会印章。对裁决持不同意见的仲裁员，可以签名，也可以不签名。

Article 46 An award shall set out the arbitration claims, the facts in dispute, the reasons for award, the results of award and the date of award. The award shall be signed by arbitrators and sealed by the labour-dispute arbitration commission. An arbitrator with a different view on the award may either sign or not sign the award.

第四十七条   下列劳动争议，除本法另有规定的外，仲裁裁决为终局裁决，裁决书自作出之日起发生法律效力：

Article 47 For the following labor disputes, the arbitral award shall be the final award and the arbitral award shall come into force as of the date of issuance, unless otherwise provided herein:

（一）追索劳动报酬、工伤医疗费、经济补偿或者赔偿金，不超过当地月最低工资标准十二个月金额的争议；

1. disputes in relation to the recovery of labour remuneration, work injury medical treatment expenses, economic compensation or damages which do not exceed 12 months of the local minimum monthly wage standard;

（二）因执行国家的劳动标准在工作时间、休息休假、社会保险等方面发生的争议。

(II) disputes arising over working hours, rest and vacation, and social insurance, etc. in the implementation of state labor standards.

第四十八条   劳动者对本法第四十七条规定的仲裁裁决不服的，可以自收到仲裁裁决书之日起十五日内向人民法院提起诉讼。

Article 48 Where a worker is dissatisfied with the arbitral award as prescribed in Article 47 of this Law, he may, within 15 days from the date he receives the written award, bring a lawsuit to a People's Court.

第四十九条   用人单位有证据证明本法第四十七条规定的仲裁裁决有下列情形之一，可以自收到仲裁裁决书之日起三十日内向劳动争议仲裁委员会所在地的中级人民法院申请撤销裁决：

Article 49 Where an employer has evidence to prove that the arbitral award prescribed in Article 47 hereof is under any of the following circumstances, it may apply for revocation of award to the intermediate people's court at the place where the labor dispute arbitration commission locates within 30 days of the receipt of the award:

（一）适用法律、法规确有错误的；

1. The application of law or regulation is wrong;

（二）劳动争议仲裁委员会无管辖权的；

2. The labor dispute arbitration commission has no jurisdiction;

（三）违反法定程序的；

(III) Statutory procedures are violated;

（四）裁决所根据的证据是伪造的；

(IV) the evidence on which the award is based is forged;

（五）对方当事人隐瞒了足以影响公正裁决的证据的；

(V) the other party has concealed evidence that is sufficient to affect the impartial award; or

（六）仲裁员在仲裁该案时有索贿受贿、徇私舞弊、枉法裁决行为的。

(VI) the arbitrator accepts bribe, practices graft or perverts the law in making the award.

人民法院经组成合议庭审查核实裁决有前款规定情形之一的，应当裁定撤销。

The peoples' court shall rule to cancel the award if the existence of one of the circumstances prescribed in the preceding clause is confirmed by its collegiate bench.

仲裁裁决被人民法院裁定撤销的，当事人可以自收到裁定书之日起十五日内就该劳动争议事项向人民法院提起诉讼。

Where the arbitral award is revoked upon decision by the people's court, the parties may, within 15 days from the date they receive the award, initiate litigation to the people's court with respect to the labour dispute in question.

第五十条   当事人对本法第四十七条规定以外的其他劳动争议案件的仲裁裁决不服的，可以自收到仲裁裁决书之日起十五日内向人民法院提起诉讼；期满不起诉的，裁决书发生法律效力。

Article 50 Where a party is not satisfied with the arbitral award of a labour dispute case other than those prescribed in Article 47 of this Law, it may bring a lawsuit before a people's court within 15 days from the date it receives the award. If it fails to bring a lawsuit within the time limit, the award shall take legal effect.

第五十一条   当事人对发生法律效力的调解书、裁决书，应当依照规定的期限履行。一方当事人逾期不履行的，另一方当事人可以依照民事诉讼法的有关规定向人民法院申请执行。受理申请的人民法院应当依法执行。

Article 51 The parties shall execute the legally effective mediation paper or arbitral award within the specified time limit. If one party fails to do so within the time limit, the other party may, in accordance with the relevant provisions of the Civil Procedure Law, apply to a people's court for execution. The people's court that accepts the application shall execute in accordance with the law.

第四章 附 则

Chapter 4 Supplementary Provisions

第五十二条   事业单位实行聘用制的工作人员与本单位发生劳动争议的，依照本法执行；法律、行政法规或者国务院另有规定的，依照其规定。

Article 52 Where the working personnel on the appointment system of institutions have a labor dispute with the unit, this Law shall be followed; if laws, administrative regulations or the provisions of the State Council provide otherwise, such provisions shall be followed.

第五十三条   劳动争议仲裁不收费。劳动争议仲裁委员会的经费由财政予以保障。

Article 53 Arbitration of labour disputes is free of charge. Funding for labour-dispute arbitration commissions shall be guaranteed by the government.

第五十四条   本法自2008年5月1日起施行。

Article 54 This Law shall go into effect as of May 1, 2008.