

**guide to chinese  
workplace laws  
and regulations**

# contents

<b>Chinese workplace laws and regulations</b>	<b>3</b>
1. Employment is freely chosen	4
2. Freedom of association and the right to collective bargaining	4
3. Health and Safety	5
4. Age of workers	6
5. Wages and benefits	6
6. Hours of Work	7
7. Discrimination	8
8. Contract of employment	8
9. Disciplinary	9
10. Supply Chain management	9
11. Environmental management	9
<b>Appendix</b>	<b>10</b>
Laws used for reference	11
Contacts	13

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# chinese workplace laws and regulations



# chinese workplace laws and regulations

## 1. Employment is freely chosen

- Forced and bonded labour are prohibited by law.
- Employers are not allowed to take deposits from workers upon commencement of work.
- All full-time workers must have written contracts specifying length of contract, job, location, working conditions, wages and discipline. The contract should be provided within one month of the commencement date of employment. Employees are free to terminate employment contract after reasonable notification.
- Overtime work should be voluntary.

## 2. Freedom of association and the right to collective bargaining

- Employees have the right to form and join a trade union, if they so wish and no organisations or individuals may obstruct or restrict them.
- All trade unions must be part of the All-China Federation of Trade Unions (ACFTU).
- Trade Unions should safeguard the legitimate rights and interests of workers and staff. Trade unions shall organise workers and staff members to participate in democratic decision-making and management of and democratic supervision over their own work units.
- A basic-level trade union committee should be set up in an enterprise with a membership of 25 or more.
- Trade union committees should be democratically elected. No close relatives of the chief members of

an enterprise can be candidates for members of the basic-level trade union committee of the enterprise.

- Trade union members should not be discriminated against. No trade union chairperson or deputy chairperson may be dismissed without the approval of more than half of the members of the general assembly or representative assembly.
- Where women employees are relatively large in number, a trade union committee for female workers may be set up. Where they are relatively small in number, there may be a member in charge of the female workers on a trade union committee.
- Trade union organisations at higher levels (e.g. local trade union federations and national or local industrial trade unions) may assist and guide workers and staff at enterprises to set up their trade unions. These efforts may not be obstructed by any units or individuals.
- If a work-stoppage occurs, the trade union shall on behalf of the workers and staff, hold consultations with the enterprise, presenting the opinions and demands of the workers and staff, and putting forward proposals for solutions. The enterprise shall try to satisfy the reasonable demands made by workers and staff.
- The law outlines penalties for transgressions of the Union law including: obstructing the formation of unions, revenge attacks or bullying of union official or their unfair dismissal; obstructing investigations into industrial accidents or refusing to negotiate with unions.
- Employers must make a 2% contribution

- towards union funds.
- Employers' policies and rules "that have a direct bearing on the immediate interest of workers" must be subject to consultation with all employees or an employee representative's congress.

### 3. Health and Safety

#### Management and training

- The factory must have a health and safety management system.
- Workers must receive appropriate health and safety training including fire training, production safety, the correct use of protective equipment and first aid for workers exposed to danger. Workers should be retrained if there are any new techniques, materials or equipment introduced.
- A factory with more than 100 employees must establish a production safety committee or should appoint a full time Safety Officer. If there are less than 100 employees a part-time Safety Officer should be appointed.<sup>1</sup>
- The employer must provide health care facilities for all employees and provide regular check-ups for workers in hazardous jobs.
- Pregnant women must not work with hazardous machinery or hazardous chemicals.
- Women who are pregnant or menstruating must not work in low temperatures or do heavy labour.
- The employer must pay employment injury insurance premiums according to the law.
- The main production site must ensure that any subcontracting units have suitable conditions for safe production. A special agreement with the contractor or leaseholder must be entered into, specifying the duties and functions of each party in the administration of

- production safety. (November 2002)
- Each worker's contract of employment must list any possible occupational diseases associated with the job. If the employer does not do this, the worker is entitled to refuse to perform hazardous tasks, and the employer cannot dismiss the worker on these grounds.
- Workers are allowed to stop work without penalty if the working conditions are unsafe. The factory must truthfully report any production safety accidents.

#### Fire precautions

- Factories must comply with the detailed regulations on fire precautions including the number of fire extinguishers, fire safety signs, fire exits, etc.
- Sufficient fire exits must be provided from all areas of the production site. These must be kept unlocked and clear of obstructions.
- Smoking must be strictly prohibited at work sites where inflammable and explosive substances are used.

#### Safe use of machinery and chemicals

- The employer must ensure that machinery and other equipment is safe.
- The employer must provide appropriate personal protective equipment (PPE) free of charge and must regularly check the equipment (appropriate PPE is specified in the Production personal protective equipment deployment standards 2000).
- Electrical equipment and wires must be safely insulated, equipped with safety fuses and regularly inspected and repaired.
- Clear safety warning signs should be displayed on relevant equipment.
- Equipment that produces harmful steam, gas or dust must be sealed tightly or sufficiently ventilated.
- Raw materials and products must not

<sup>1</sup> Production Safety Law of the People's Republic of China (2014 Amendment), Article 2

- obstruct work or free passage.
- Where hazardous substances are used, relevant supervisions, controls and emergency plans should be provided. Employees must be informed of the relevant emergency measures.
- Hazardous substances should be stored in a separate area to the production site.
- Washing facilities should be provided in areas where acids or other corrosive substances are used.
- Dormitories and toilet facilities must be segregated by sex.
- Workers must have access to clean, running drinking water in dormitories. Dormitories must not be located above production or warehouse areas.
- Dormitories must be a safe distance from areas where hazardous chemicals are used or stored. Fire regulations specify that:
  - there must be enough exits to allow people to leave in an emergency (i.e. two fire exits from each floor)
  - exits must be marked, unlocked and clear of obstructions.

### Hygiene and factory environment

- The work site should be kept clean and neat.
- Workers must have access to clean drinking water.
- Toilet facilities must be provided near the work site and must be segregated by sex.
- Female sanitation rooms should be provided near the work site with hot water, washing tub.
- The work site should be provided with hand-washing facilities if needed, with soap available.
- Number of toilets<sup>2</sup>:
  - Men's: If there are less than 100 male workers, the factory should provide one toilet for every 25 workers. If more than 100 male workers, the factory must provide an additional toilet for every 50 workers. There should also be the same number of urinals as toilets.
  - Women's: If there are less than 100 female workers, the factory should provide one toilet for every 20 workers. If more than 100 female workers, the factory should provide an additional toilet for every 35 workers.

### Accommodation

- Each worker must have sufficient living space, at least 4.0 square metres per worker.

## 4. Age of workers

- The minimum working age is 16 throughout China.
- If a worker under the age of 16 is employed at a factory, the employer is responsible for returning the child to his/her parent or guardian's place of residence and must cover all costs associated with this.
- Young workers (between the ages of 16 and 18) must:
  - be registered with the local labour department
  - not do hazardous work
  - have regular physical examinations.

## 5. Wages and benefits

- The minimum monthly wage varies between region, municipality and is revised at least once per every two years. The correct level for any business can be obtained from the local labour department.
- The minimum wage covers a 174-hour working month (40-hour working week).
- There are differing interpretations of the law covering whether workers must receive the minimum wage after all deductions (e.g. social insurance) have

<sup>2</sup> Industrial enterprise hygiene design standards (GBZ 1-2010)

been taken from wages. Best practice is that workers should receive at least the minimum wage after all deductions.

- Guidance from local labour bureau indicates that the minimum wage does not include any bonuses (e.g. overtime/ shift premiums, attendance or production bonuses) or allowances (e.g. for accommodation or food) or other benefits entitled by laws/regulations.
- Minimum wage does not include any non-currency income such as the employer providing meals, dormitories, etc.

### Overtime premiums

- Overtime (time worked over 8 hours on a normal working day) must be paid at 150% ordinary time.
- Rest day working (if an employee works more than 5 days in a week) must be paid at 200% ordinary time.
- Working on statutory holidays (listed in section 6) must be paid at 300% ordinary time.
- Overtime must be calculated on the basis of the wage stated in each worker's contract.
- Workers paid by the piece must receive overtime at the above rates for work carried out outside ordinary time.

### Social Security benefits

- Social security payments vary by region, municipality and type of enterprise.
- Within 30 days of commencement of employment, workers must be given insurance cover for the following:
  - o Injury/death (covering all costs relating to injury at work)
  - o Pension
  - o Medical/health
  - o Unemployment
  - o Maternity (covering all related medical charges).
- Insurance is funded by employer and

employee contributions. The level of contributions is set by the local labour bureau.

### Deductions

- Deduction can only be made if economic loss to the factory can be proven.
- Deductions must not exceed 20% of the monthly wage.<sup>3</sup>
- The remainder of the wage after deductions must be at least the minimum wage.

### Payslips/contracts

- Workers must have contracts which specify amount of wage.
- Employment contracts must set out details of compensation payable to workers upon termination of the contract (normally, one month of wages per year of employment).
- Workers must receive payslips listing hours worked, wages, deductions, etc. Wages must be paid at least once a month.

## 6. Hours of Work

- Standard hours per day = 8 hours.
- Standard hours per week = 40 hours.

### Overtime

- Workers may work a maximum of 3 hours overtime on any one day and 36 hours per month. Overtime premiums: see section 5.
- Women who are seven or more months pregnant or breast-feeding must not work overtime or at night.

### Time off

- Workers are entitled to two days off per week, on average. Any work on these days off should be paid as overtime.
- Workers must have at least 11 days statutory holiday per year.

3 Interim Provisions on the payment of wages, December 6, 1994. Article 16

1. one-day holiday for New Year (January 1st);
  2. three-day holiday for Spring Festival (first, second and third days of the first month of the lunar year);
  3. one-day holiday for the Tomb-sweeping Festival (lunar Tomb-sweeping Day);
  4. one-day holiday for Labour Day (May 1);
  5. one-day holiday for the Dragon Boat Festival (Dragon Boat Day in the lunar year);
  6. one-day holiday for the Mid-Autumn Festival (Mid-Autumn Day in the lunar year); and
  7. three-day holiday for National Day (October 1, 2, 3).
- Maternity leave: 98 days paid leave includes 15 days before, with 15 additional days for difficult labour or twins. It may vary depends on local regulation
  - After giving birth, women are entitled to one paid working hour per day for baby feeding until the baby is aged 12 months.
  - Workers' entitlement to additional paid leave is set out in local regulations. These cover:
    - o Annual leave: Where an employee has served one full year but less than 10 years accumulatively, he/ she is entitled to five days of annual leave. If he/she has served 10 full years but less than 20 years, annual leave is 10 days. If he/ she has served for 20 full years, annual leave is 15 days. Statutory holidays and rest days shall not be included in the annual leave.
    - o Sick leave: depending on length of service, between 3 and 24 months. Time during prescribed medical treatment and recuperation period must be paid at not less than 80% of the local minimum wage (unless over-ridden by local law which may prescribe a different level of pay). This applies even if the illness or injury is non-work-related.
  - Other paid leave, provisions vary between localities but in general:
    - o Marriage leave: 3 days. 10 days if groom and bride are at least 25 and 23 years old respectively.
    - o Conjugal leave: 30 days annually (if spouses living separately).
    - o Parental leave: 20 days every 4 years (for couples with parents in another province).
    - o Filial leave: 20 days per year or 45 days every 2 years (for single workers whose parents live in another province).
    - o Bereavement leave: 1-3 days.
  - Workers are entitled to normal pay when taking this leave above.

## 7. Discrimination

- There must be no discrimination at work on the grounds of sex, ethnic origin, race or religious belief.
- Females shall enjoy equal rights as males in employment.
- Contracts of employment cannot be terminated due to pregnancy.
- Women have the right to return to their jobs after maternity leave.

## 8. Contract of employment

- Contracts can be fixed term, open-ended, or for the duration of a particular task. Workers should only have two fixed term contracts with an employer and then an open-term contract should be applied should the employment be renewed, or the workers have already served the employer continuously for 10 years.
- All workers must have written contracts within one month of the commencement date of employment.
- Penalties for non-compliance are in place.
- Severance payment should be made to employees upon termination of the employment.

- Contracts cannot be terminated due to loss of ability to work due to occupational diseases or injuries suffered at work or where worker has a possible occupational disease and has not had pre-departure medical to determine whether he/she is suffering from a disease. Contracts cannot be terminated where worker has given at least 15 years continuous service and is less than 5 years from statutory retirement age, or other prescriptive situations by law, e.g. female employees in the pregnancy, confinement and lactation periods.
- Enterprises which discharge pollutants in excess of legal standards must pay a fine and take responsibility for eliminating and controlling the pollution.
- If an enterprise or individual causes a serious environmental pollution accident which results in heavy loss of property or human injuries or deaths, the person responsible will be investigated for criminal responsibility.

## 9. Disciplinary

- Corporal punishment is against the law.
- Factory rules are well consulted and communicated with employees.

## 10. Supply Chain management

- The main production site must ensure that any subcontracting units have suitable conditions for safe production. A special agreement with the contractor or leaseholder must be entered into, specifying the duties and functions of each party in the administration of production safety.

## 11. Environmental management

- All units must protect the environment; comply with national and local laws on environment quality and discharge of pollutants.
- Units that cause environmental pollution and other public hazards must establish a system for environmental protection and adopt effective measures to prevent and control pollution and harm to the environment.
- The production, storage and transportation of toxic chemicals must comply with provisions to prevent pollution.

# appendix

# laws used for reference

## Key Legislation

- Labor Law of the People's Republic of China (2009 Amendment)
- Labor Contract Law of the People's Republic of China (2012 Amendment)
- Production Safety Law of the People's Republic of China (2014 Amendment)
- Environmental Protection Law of the People's Republic of China (2014 Revision)
- Trade Union Law of the People's Republic of China (2009 Amendment)
- Social Insurance Law of the People's Republic of China (2010)

## Age of Workers

- PRC Labour Law, articles 15, 58, 64 and 65
- Regulations for the Special Protection of Juvenile Employees, articles 3, 6 and 9
- Provisions on the Prohibition of Using Child Labor (2002), articles 2, 4, 6 and 10

## Forced Labour

- PRC Constitution, article 37
- PRC Labour Law, article 96
- PRC Labour Contract Law, article 9, 31 and 37

## Hours of Work

- PRC Labour Law, articles 38, 39, 40, 41, 45 and 62
- Regulations of the State Council Governing Working Hours for Employees, article 3
- Special Rules on the Labor Protection of Female Employees (2012), article 3 (maternity leave)
- National Measures for Annual and Commemorative Holidays (2014), article 2

- Regulation on Paid Annual Leave for Employees (2007), article 3

## Wages

- PRC Labour Law, articles 44, 48, 50, 72 and 73
- PRC Social Insurance Law, article 10, 23, 33, 44, 53 and 58
- Provisions on Minimum Wages, article 3 and 12
- Interim Provisions on the payment of wages, article 6, 7, 11, 13, 15 and 16

## Hygiene

- Hygienic Standards for the Design of Industrial Enterprises, Article 6.1.7, 7.2.4, 7.3.4, 7.4.2, 8.1.2 and 8.3

## Accommodation

- PRC Production Safety Law (2009 Amendment), article 39
- PRC Fire Protection Law, article 15
- Code for design of dormitory building JGJ36–2016, article 4.2, 4.3.1
- Code for Fire Protection Design of Buildings GB 50016–2014, article 3.3.5, 3.3.9, 5.5.8 and 5.5.25

## Discrimination

- PRC Labour Law, articles 12, 13, 29(3) and 46
- PRC Protection of Women Right Law article 21, 22, 23 and 24
- Regulations for the Special Labour Protection of Female staff and workers, article 5

## Contract of employment

- PRC Labour Law, articles 16 and 19
- PRC Labour Contract Law, article 10, 16, 17, 18, 37, 38, 39, 46 and 47

### Representation

- PRC Labour Law, article 7
- PRC Trade Union Law, articles 3, 6, 9, 10, 12, 20, 35, 36, 38 and 42

### Disciplinary

- PRC Labour Law, article 50 and 96
- PRC Labour Contract Law, article 4

### Deposits

- PRC Labour Contract Law, article 9

### Health and Safety

- PRC Production Safety Law
- PRC Fire Protection Law
- PRC Labour Law, articles 52, 53, 54, and 55
- PRC Food Safety Law, article 26
- Hygienic Standards for the Design of Industrial Enterprises (GBZ 1-2010)
- Code of Design on Building Fire Protection and Prevention (GB50016-2018 Amendment)
- Code for Design of Extinguisher Distribution in Buildings (GB50140-2005)

### Environmental management

- Environmental Protection Law of the People's Republic of China (2014 Revision)
- Water Pollution Prevention and Control Law of the People's Republic of China (2017 Revision)

### Sources of laws include:

- All China Federation of Trade Unions: [www.acftu.org.cn/labourlaw.htm](http://www.acftu.org.cn/labourlaw.htm)
- Law Info China: [www.lawinfochina.com](http://www.lawinfochina.com)
- Minister of Labour and Social Security, PRC: [www.molss.gov.cn](http://www.molss.gov.cn) (only in Chinese)

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