



DECENT WORK CHECK  
**CHINA** 2025

## WageIndicator Foundation - [www.wageindicator.org](http://www.wageindicator.org)

WageIndicator started in 2001 to contribute to a more transparent labour market for workers and employers by publishing easily accessible information on a website. It collects, compares and shares labour market information through online and face-to-face surveys and desk research. It publishes the collected information on national websites, thereby serving as an online library for wage information, labour law, and career advice, both for workers/employees and employers. The WageIndicator websites and related communication activities reach out to millions of people on a monthly basis. The WageIndicator concept is owned by the independent, non-profit WageIndicator Foundation, established in 2003. The Foundation has offices in Amsterdam (HQ), Ahmedabad, Bratislava, Buenos Aires, Cape Town, Islamabad and Venice.

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The Minimum Wages Database and Labour Law Database are maintained by the global labour law office of the WageIndicator Foundation, i.e., the Centre for Labour Research, Pakistan (Labour Law Research team), together with the country and regional teams. The Labour Law Research team is headed by Iftikhar Ahmad, Global Lead – Labour Law.

## Bibliographical information

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# INTRODUCTION

Decent Work is the type of work to which all of us aspire. It is done under conditions where people are gainfully employed (and there exist adequate income and employment opportunities); the social protection system (labour protection and social security) is fully developed and accessible to all; social dialogue and tripartism are promoted and encouraged; and rights at work, as specified in ILO Declaration on Fundamental Principles and Rights at Work and Core ILO Conventions, are practised, promoted and respected.

WageIndicator Foundation has been working since late 2007 to raise awareness of workplace rights through a unique tool, i.e., Decent Work Check. The Decent Work Check considers different work aspects deemed necessary in attaining “decent work”. The work makes the abstract Conventions and legal texts tangible and measurable in practice.

The Decent Work Check employs a double comparison system. It first compares national laws with international labour standards and scores the national regulations (happy or sad face). If national regulations in a country are not consistent with ILO conventions, it receives a sad face, and its score decreases (and vice versa). It then allows workers to compare their on-ground situation with national regulations. Finally, workers can compare their personal score with the national score and see whether their working conditions are consistent with national and international labour standards. The Check is based on de jure labour provisions, as found in the labour legislation.

A Decent Work Check is beneficial both for employees and employers. It gives them knowledge, which is the first step towards any improvement. It informs employees of their workplace rights while enlightening employers about their obligations. Decent Work Check is also helpful for researchers, labour rights organisations conducting surveys on the situation of rights at work and the general public wanting to know more about the world of work. For example, WageIndicator teams worldwide have found out that workers, small employers and even labour inspectors are not, sometimes, fully aware of the labour law. When you are informed – being a worker, self-employed, employee, employer, policymaker, or labour inspector – there is a greater possibility that you ask for your rights (as a worker), you comply with rules (as an employer), and you strive to enforce these (as a labour inspector).

The work is relevant to the challenges posed to the future of work, especially the effective enforcement of legislation in financially constrained states, a rise in precarious employment and analysis of the impact of regulatory regimes.

# MAJOR LEGISLATION ON EMPLOYMENT AND LABOUR

1. Labour Law, 1994
2. Minimum Wage Regulations, 2004
3. Interim Provisions on Wage Payment, 1994
4. Labour Contract Law, 2007
5. Measures on Annual Holidays for Public Festivals and Memorial Days
6. Regulations on Paid Annual Leave of Employees 2007
7. Implementation Measures for Paid Annual Leave for Enterprise Employees 2008
8. State Council Regulations on the Hours of Work of Employees 1995
9. Labour Union Law 1992
10. Guidelines to Improve Child Care for children under 3 years old, 2019
11. Population and Family Planning Law, 2021
12. Wuhan Employee Maternity Insurance Measures, 2024
13. Women's Rights and Interests Protection Law, 1992
14. Employment Promotion Law, 2007
15. Social Insurance Law, 2010
16. Special Regulations on Labour Protection for Female Employees, 2012
17. National Maternity Insurance Fund
18. Trial Measures for Maternity Insurance for Enterprise Employees 1994
19. Work Safety Law, 2002
20. Law on the Prevention and Control of Occupational Diseases 2001
21. Regulations on Labour Protection in Workplaces Where Toxic Substances are Used 2002
22. Regulation on Labour Security Supervision 2004
23. Measures for the Management of Labour Protection Supervision and Inspectors of Trade Unions 2011
24. Management Measures for Heatstroke Prevention and Cooling Measures 2012
25. Provisions on the Administration of Occupational Health at Workplaces 2020
26. Measures for the Evaluation of Enterprise Labour and Social Security Law-abiding Integrity Levels 2017
27. Opinions of the Ministry of Labour on Several Issues Concerning the Implementation of the Labour Law of the People's Republic of China
28. Regulations on Medical Leave for Enterprise Employees Due to Sickness or Non-Work-Related Injuries, 1994
29. Regulations on Work-related Injury Insurance
30. Interim Measures of the State Council on the Retirement and Resignation of Workers (1978);
31. Notice on Preventing and Correcting Issues Related to Early Retirement of Enterprise Employees in Violation of State Regulations (1999);
32. Decision of the State Council on Improving the Basic Pension

*The text in this document was last updated in January 2025. For the most recent and updated text on Employment & Labour Legislation in China in Chinese, please refer to: <https://wageindicator.cn/>*

- Insurance System for Enterprise Employees (2005)
33. Measures for Application and Payment of Unemployment Insurance Benefits", 2000;
  34. Guangdong Province Unemployment Insurance Regulations, 2002
  35. Fujian Province Unemployment Insurance Regulations, amended 2022
  36. Notice of the Guangdong Provincial Department of Human Resources and Social Security and the Guangdong Provincial Department of Finance on Issues Concerning the Trial Implementation of Basic Pension Insurance Sickness and Disability Allowances for Enterprise Employees, 2022
  37. Notice of the Sichuan Provincial Department of Human Resources and Social Security on Issues Concerning Disability Benefits, 2006
  38. Constitution of the People's Republic of China, 1982
  39. Law on Protection of Rights and Interests of Women, 2022
  40. Labour Protection for Female Employees 2012
  41. Law on the Protection of Persons with Disabilities 2008
  42. Regulations on the Employment of Persons with Disabilities 2007
  43. Minor Protection Law 1991
  44. Regulations on Banning Child Labour
  45. Provisions on the Prohibition of Using Child Labour 2002
  46. Compulsory Education Law, 1986
  47. Criminal Law, 1979
  48. Trade Union Law, amended in 2021
  49. Company Law 1993, amended in 2023
  50. Provisions on Collective Contracts 2004
  51. Trial Measures for Collective Wage Negotiation, 2000
  52. Civil Servant Law of the People's Republic of China. 2005

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# 01/13 WORK & WAGES

## **ILO Conventions**

Minimum wage: Convention 131 (1970)

Regular pay & wage protection: Conventions 95 (1949) and 117(1962)

**China has not ratified the Conventions 95, 117 and 131.**

### ***Summary of Provisions under ILO Conventions***

The minimum wage must cover the living expenses of the employee and their family members. Moreover, it must relate reasonably to the general level of wages earned and the living standard of other social groups. Wages must be paid regularly on a daily, weekly, fortnightly or monthly basis.

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## Regulations on work and wages:

- Labour Law, 1994, amended in 2018
- Minimum Wage Regulations, 2004
- Interim Provisions on Wage Payment, 1994
- Labour Contract Law, 2007

## Minimum Wage

Minimum wage is defined as the minimum labour remuneration paid by the employer required by law on the condition that the labourers have provided normal labour during the legal working hours or working hours agreed by the labour contract.

In accordance with the Labour Law, the state has to implement a system of guaranteed minimum wage. Minimum wage can be fixed by provincial, regional or municipal governments and is reported to the State Council for record. Labour Law requires that wages paid to the labourers by employing units should not be less than the local standards on minimum wages.

Minimum wages in China are determined region wise (for 31 provinces) and the highest monthly minimum wage is in the Shanghai (2,690 yuan/month) while the lowest minimum wage are in Jilin and Qinghai provinces (1,880 yuan/month). Minimum wages in different regions are determined and adjusted with reference to the following factors: (i) living expense; (ii) the average wage level in the society; (iii) labour productivity; (iv) employment situation; and (v) different levels of economic development between regions.

“The "Minimum Wage Regulations" were introduced by the Ministry of Labour and Social Security of the People's Republic of

China on January 20, 2004. These regulations serve as the fundamental guidelines for establishing minimum wage standards. In compliance with the "Labour Law" and the "Minimum Wage Regulations," 31 provinces, autonomous regions, and municipalities directly under the Central Government have developed their own minimum wage regulations and local wage standards.

In some regions, industries have also signed collective contracts through consultation and established industry minimum wage standards. Here are examples:

- In 2022, a unique collective wage agreement was introduced in the industrial machinery industry in Dalian, Liaoning Province. This agreement set minimum wage criteria and raised the rates for 16 technical job categories within the industry.
- In 2023, during the collective contract negotiation for the construction industry in Wuhan, Hubei Province, specific daily minimum wage standards were established for various types of work.
- In 2024, the agreement reached by the courier services industry in Liupanshui City, Guizhou Province, specified that the minimum monthly wage for workers in this sector would be set at 2,800 yuan.
- In 2024, a collective contract was signed for the housekeeping industry in Fancheng District, Xiangyang City, Hubei Province. The contract clarified the minimum wage standards and hourly minimum wage standards for the five major positions in the industry.

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The minimum wage standard is set and updated in line with the "Minimum Wage Regulations" by the labour and social security administrative department of the provincial, autonomous regional, and directly governed municipality's people's government, in coordination with trade unions, enterprise federations, and entrepreneur associations at the same level. The proposed plan is then submitted to the Labour Security Department.

According to the law, once the minimum wage standards are set and implemented, they need to be promptly adjusted if any factors used to determine them change. The minimum wage standards must be reviewed and modified at least once every two years to ensure they accurately reflect the prevailing conditions.

According to the Labour Contract Law, the labour administrative departments of local governments at or above the county level must supervise and inspect employers' compliance with minimum wage standards.

Enforcement of all labour legislation, including minimum wage provisions, is entrusted to the labour departments of the local governments. Individual workers also have the right to file a complaint with a labour inspectorate or seek arbitration or litigation. A trade union may also supervise the implementation of a law and report violations to the labour inspectorate. The Labour Contract Law provides that if an employing unit fails to comply with the provisions of a labour contract or provisions by the State and fails to timely pay a full amount of labour remuneration to a labourer; or pays lower than the local minimum wage, the competent labour department should order the employing unit to pay the

outstanding amount. If these payments are delayed, a compensation equivalent to 50%-100% of these payments must be paid in addition to the due payments.

The "Minimum Wage Regulations" state that regular wages should not include overtime pay or additional pay for working during mid-shifts, night shifts, in high or low temperatures, underground, or in toxic and hazardous conditions. Additionally, the allowances, benefits, and welfare provided under laws and regulations should not be less than the minimum wage set by the local authorities.

The Regulation of Minimum Wages also provides that where a violation is established, the employer is ordered to pay the difference within a specified period and damages of up to 5 times the outstanding amount.

**Sources:** §48-49 of the Labour Law 1994; § 3, 6,8,10, 12 and 13 of the Regulations on Minimum Wages 2004; §74,85 of the Labour Contract Law 2007

[The current minimum wage rates can be found in Minimum Wage Section.](#)

## Regular Pay

The "Interim Provisions on Wage Payment" specify that wages are the remuneration provided to workers by their employer in various forms as stipulated in the labour contract. It is required that wages must be paid in cash and cannot be substituted with goods or securities. The agreed-upon payment date between the employer and employee must be honoured. On holidays or rest days, wages should be paid beforehand on the next working day. Wages are typically paid on a

monthly basis, but in cases where a weekly, daily, or hourly wage system is in place, payments can be made accordingly.

Employers are required to pay workers who complete one-time temporary labour or a specific job as agreed upon in their contracts. Part-time employees should receive their wages within fifteen days of completing their tasks.

When the employer and the employee mutually agree to end their working relationship, or when the employment contract is terminated in accordance with the law, the employer is responsible for fully compensating the employee for their wages.

Employers are only permitted to deduct wages from workers for personal income tax, social insurance fees, court-ordered alimony, and other deductions permitted by laws and regulations.

If an employee is responsible for financial losses to the employer due to their own

actions, the employer can request the employee to compensate for the losses as outlined in their employment contract. The compensation may be deducted from the employee's salary, but the monthly deduction cannot exceed 20% of the employee's monthly salary. If after the deduction, the remaining salary is less than the local monthly minimum wage, the employee will be paid the minimum wage.

**Sources:** §50 of the Labour Law 1994; §30 & 72 of the Labour Contract Law 2007; §5 of the Regulations on Minimum Wages 2004; §3,5,7-9,15-16 of Interim Regulations on Wage Payment

# 02/13 COMPENSATION & WORKING HOURS

## ILO Conventions

Compensation overtime: Convention 01 (1919)

Night work: Convention 171 (1990)

**China has not ratified any of the above-mentioned Conventions.**

### *Summary of Provisions under ILO Conventions*

Working overtime is to be avoided. Whenever it is unavoidable, extra compensation is at stake - minimally the basic hourly wage plus all additional benefits you are entitled to. In accordance with ILO Convention 1, the overtime pay rate should not be less than one and a quarter-time (125%) of the regular rate.

Night work means all work which is performed during a period of not less than seven (07) consecutive hours, including the interval from midnight to 5 a.m. A night worker is a worker whose work requires the performance of a substantial number of hours of night work which exceeds a specified limit (at least 3 hours). Convention 171 requires that night workers be compensated with reduced working time or higher pay or similar benefits. Similar provisions are found in the Night Work Recommendation No. 178 of 1990.

If a worker has to work on a national/religious holiday or a weekly rest day, he/she should be entitled to compensation. Not necessarily in the same week, provided that the right to a paid compensation is not.

If a worker has to work during the weekend, they should thereby acquire the right to a rest period of 24 uninterrupted hours instead. Not necessarily in the weekend, but at least in the following week. Similarly, if a worker has to work on a public holiday, they must be given a compensatory holiday. A higher rate of pay for working on a public holiday or a weekly rest day does not take away the right to a holiday/ rest.

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## Regulations on Compensation & Working Hours:

- Labour Law, 1994, amended in 2018

### Overtime Compensation

In accordance with the Labour Law, normal working hours are 8 hours a day and 40 hours a week on average. In case of piecework, employing unit rationally fixes quotas of work and standards of piecework remuneration in accordance with the normal working hours.

The employing unit may extend working hours due to production or business needs after due consultation with workers and trade union. The extended working hours (overtime) is usually limited to 1 hour per day but it may be up to 3 hours in certain circumstances. However, total overtime hours in a month must not exceed 36 hours (around 9 hours in a week). The overtime limit is not applicable in the event of natural disaster; accidents; if the life and health of labourers or the safety of property is in danger; in need of urgent dealing; breakdown of production equipment, transportation lines or public facilities, production and public interests are affected; repair that must be done without any delay; or other circumstances stipulated by laws, administrative rules and regulations.

According to the "Regulations on the Prohibition of Child Labour", employers are prohibited from recruiting children under the age of 16, so there are no working hours regulations for child labour.

The Labour Law does not separately stipulate the working hours of minor workers, so they have the same working

hours as adult workers. However, according to Article 17 of the "Regulations on the Management of Internships for Vocational School Students (2021)," except for internship arrangements that have special requirements for relevant majors and internship positions and have been reported to the superior authority for record in advance, students are not allowed to do internships on rest days or statutory holidays, and students are not allowed to work overtime or night shifts.

The compensation for overtime work is at least 150% of the normal hourly wage rate.

**Sources:** §36, 37, 41-44 of the Labour Law 1994

### Night Work Compensation

There is no clear provision in labour law on premium pay for night workers; however, sectoral provisions and some regional/provincial examples can be found.

In 2006, the Labour Department adjusted the night shift allowance for workers who work underground in coal mines. They formulated the "Notice on Adjusting the Subsidy for Difficult Positions Underground in Coal Mines" (Labour and Social Affairs Bureau (2006) No. 24). According to the notice, the subsidy for the night shift before and after the night shift is 6 to 10 yuan per worker, and the late-night shift allowance is 8 to 12 yuan per worker.

There is currently no national law that clearly mandates whether employers who schedule night shifts for employees need to pay night shift allowances. However, some provinces and cities have specified different payment standards for night shift allowances. These payment standards vary

by location and have not been adjusted for many years.

In 2005, the Hunan Province issued a notice regarding the adjustment of reference standards for mid night shift subsidies in enterprises. According to the notice, the subsidy for mid- and late-night shifts (16:00 to 24:00) was adjusted to 4-10 yuan per employee per shift. Additionally, the allowance for the evening shift (0:00 to 8:00) was adjusted to 5-12 yuan per employee per shift.

In 2008, Hebei Province set night shift allowance standards. For shift production and operation roles, the night shift receives 10 yuan/shift, late night shift receives 12 yuan/shift, and continuous work for over 10 hours receives 20 yuan/night. On-duty positions receive 10 yuan/shift.

In 2011, Shaanxi Province issued the "Notice of the Provincial Department of Human Resources and Social Security and the Provincial Department of Finance on Increasing the Night Shift Subsidy Standard for Enterprise Employees". The notice specifies that employees working before midnight are entitled to a subsidy of 8-12 yuan per shift, while those working after midnight are entitled to a subsidy of 12-16 yuan per shift. In the apparel and coal mining industries, employees working before midnight are entitled to a subsidy of 10-12 yuan per shift, and those working after midnight are entitled to a subsidy of 14-16 yuan per shift.

Some regions had previously set regulations regarding night shift allowance standards, but these regulations are now considered invalid, for instance, in Shanghai.

Based on our observation, while there is no national law stipulating the payment of

night shift allowances in industries other than coal mining, most factories provide workers with night shift allowances or shift subsidies. The monthly night shift allowance typically ranges between 100 and 300 yuan.

## Compensatory Holidays / Rest Days

In extraordinary circumstances, workers may perform work on weekly rest days and public holidays. Instead of getting higher wages for working on weekly rest day, workers get a compensatory day off in lieu of the rest day during the following week. However, if it is not possible to give compensatory day-off, workers may be paid at the premium rate of at least 200% of the normal hourly wage rate for working on a weekly set day. There is no provision for compensatory holiday for workers working on a public holiday.

**Sources:** §44 of the Labour Law 1994

## Weekend / Public Holiday Work Compensation

Workers may be required to work on weekly rest days and public holidays. In such circumstances when employees have to work on official holidays, they are entitled to receive wages at a premium rate of 300% of the normal hourly wage rate. Premium pay of 200% of the normal hourly wage rate is paid for working on weekly rest day only in case when it is not possible to give a compensatory day-off.

**Sources:** §44 of the Labour Law 1994

## Flexible Work Hour System and Comprehensive Work Hour System

The "Labour Law" states that if an enterprise cannot implement standard working hours due to production characteristics, it may implement other working and rest methods with the approval of the labour administrative department. The "Measures on Approving Working Hours System" formulated in 1994 clarified that if an enterprise cannot implement standard working hours, it can implement other work and rest methods such as irregular working hours or comprehensively calculated working hours. Provincial labour departments should develop approval procedures for flexible working hours and other work and rest methods, and submit them to the State Council for recording.

The irregular work schedule is implemented based on the scope of work. This includes senior managers, field staff, sales staff, on-duty personnel, as well as other employees whose work cannot be measured by standard working hours. It also covers long-distance transport personnel, taxi drivers, loading and unloading personnel in railways, ports, and warehouses, along with employees who require flexible working arrangements due to the nature of their work. Under the irregular working hours system, workers generally do not need to participate in attendance checks and can freely arrange their working hours. As a result, units are not required to pay overtime in accordance with the "Interim Provisions on Wage Payment". Unlike the standard working time system and the comprehensive calculated working time system, which calculate labour based on working hours, the irregular working time system directly

determines the amount of labour based on employees' work.

There are specific regulations regarding the comprehensive calculation of working hours. This applies to employees in sectors such as transportation, railways, post and telecommunications, water transportation, aviation, fishery, and other industries where continuous work is necessary due to the nature of their work. Additionally, employees in industries affected by seasonal and natural conditions, such as geology and resource exploration, construction, salt production, sugar production, and tourism, are also covered by these regulations.

The comprehensive working hours system allows businesses to calculate working hours based on weeks, months, quarters, and years. However, the average daily working hours and average weekly working hours should align with the legal standard working hours. This means that the system allows for flexibility in the daily working hours (not exceeding 8 hours) and weekly working hours (not exceeding 40 hours), as long as the total working hours within a calculation period do not exceed the legal limits. Any hours worked beyond the standard working hours are considered extended working hours, for which the employer must pay overtime wages in accordance with the law. However, employees under this system should not exceed an average of 36 hours of overtime per month.

Enterprises that implement comprehensive calculations for regular and irregular working hours must first seek approval from the Labour and Social Security administrative department.

To sum up, although the comprehensively

calculated working time system and the irregular working time system are both more flexible than the standard working time system, there are obvious differences between the two in terms of implementation scope, applicable objects, and employee rights protection. In particular, the comprehensive calculated working hours system is mainly applicable to manual workers. While taking care of the special needs of enterprise production, it should also protect the rights and interests of workers, so strict legal distinctions are necessary.

There are concerns about the abuse of comprehensive working hour calculations, as it allows employers to adjust employees' working hours at will. For instance, if employees work on weekends, they should receive 200% overtime pay. However, under the comprehensive working hour system, weekend work may be considered normal shift hours without overtime pay. Additionally, workers with irregular hours may struggle to receive appropriate overtime pay. If the law does not distinguish between the comprehensive working hours system and irregular working hours, it can be challenging to protect workers' rights and interests.

# 03/13 ANNUAL LEAVE & HOLIDAYS

## **ILO Conventions**

Convention 132 (1970) on Holidays with Pay Convention  
Conventions 14 (1921), 47 (1935) and 106 (1957) for weekly rest days.  
In addition, different Conventions apply to several industries.

**China has ratified the Convention 14 only.**

### ***Summary of Provisions under ILO Conventions***

An employee is entitled to at least 21 consecutive days of paid annual leave, excluding national and religious holidays. Collective agreements must provide at least one day of annual leave on full remuneration for every 17 days the employee worked or was entitled to be paid.

A worker should be entitled to paid leave during national and officially recognized public holidays.

Workers should enjoy a rest period of at least twenty-four consecutive hours every 7 days, i.e., a week.

## Regulations on annual leave and holidays:

- Labour Law, 1994
- Measures on Annual Holidays for Public Festivals and Memorial Days
- Regulations on Paid Annual Leave of Employees 2007
- Implementation Measures for Paid Annual Leave for Enterprise Employees 2008
- Labour Contract Law 2007
- State Council Regulations on the Hours of Work of Employees 1995

## Paid Vacation / Annual Leave

Article 45 of the Labour Law provides that the state implements a paid annual leave system. In 2007, the State Council promulgated the "Regulations on Paid Annual Leave for Employees" (State Council Order No. 514), which stipulates that employees of state organs, groups, enterprises, institutions, private non-enterprise units, individual industrial and commercial households who have worked continuously for more than one year will enjoy paid annual leave.

In 2008, the "Implementation Measures for Paid Annual Leave for Enterprise Employees" further stipulated that employees who have worked continuously for more than 12 months are entitled to paid annual leave.

The length of annual leave depends on his/her cumulative working time—not just the length of service with the current employer. Length of annual of annual leave (5-15 days) depends on the cumulative length of service as follows:

- 5 days of paid annual leave for

workers who have worked for cumulative 1-10 years;

- 10 days of paid annual leave for workers who have worked for cumulative 10-20 years; and
- 15 days of paid annual leave for workers who have worked for cumulative more than 20 years.

The employer, with the worker's consent, determines the dates of annual leave according to the actual production and work situation. Annual leave may be taken at once, in parts, or accrued for next year. In case the employer is unable to provide annual leave, the worker is entitled to 300% of the daily wage in lieu of compensation for each day of the annual leave due and not taken.

When an employer and an employee terminate the labour contract, if the employer has not arranged for the employee to take all the annual leave days the employee is entitled to that year, the employer should calculate the number of untaken annual leave days based on the time the employee has worked that year, and pay the employee the wages for those untaken annual leave days. However, if the calculated number of untaken days is less than one full day, the employer does not need to pay the wages for that partial day.

Any dispute over annual leave is handled in accordance with the related laws and administrative regulations.

Many provincial and autonomous regional governments have created their own provincial implementation measures for paid annual leave, in line with the "Regulations on Paid Annual Leave for Employees" and the "Implementation Measures for Paid Annual Leave for Enterprise Employees". Although the

number of annual leave days is consistent nationwide, provinces have their own specific regulations, including:

In 2009, the Zhejiang Provincial Department of Labour and Social Security issued "Several Opinions on the Implementation of the Paid Annual Leave System for Enterprise Employees". According to Article 11, employees approved to work under a flexible-hour system are exempt from the requirement to receive three times their salary for untaken annual leave. This means that workers under the flexible-hour system in Zhejiang Province are not entitled to paid annual leave.

In 2009, the Sichuan Provincial Department of Labor and Social Security issued a notice regarding the implementation of the "Implementation Measures for Paid Annual Leave for Enterprise Employees."

According to Article 1, full-time employees are entitled to paid annual leave in accordance with the "Regulations on Paid Annual Leave for Employees" of the State Council and the "Implementation Measures for Paid Annual Leave for Enterprise Employees" of the Ministry of Human Resources and Social Security. The rest and vacation arrangements for part-time employees are to be negotiated between the employer and the employee.

In 2009, the Department of Labor and Social Security of the Inner Mongolia Autonomous Region issued "Several Opinions on the Implementation of the Paid Annual Leave System for Enterprise Employees." According to Article 11, the employer must collaborate with the trade union or employee representatives to establish rules and regulations for annual leave for the employees. This is to ensure that employees can enjoy their right to annual

leave while also maintaining the smooth operation of the company.

In 2012, the "Opinions of the People's Government of Shaanxi Province on Further Implementing the Paid Annual Leave System for Employees" mandated the establishment and improvement of the annual leave system as part of the labour contract. It requires that relevant provisions of the annual leave system be included in labour contracts and collective contracts to ensure that employees have the right to enjoy annual leave.

In 2013, the Shanxi Provincial Department of Human Resources and Social Security, along with the Shanxi Provincial Federation of Trade Unions, Shanxi Provincial Enterprise Federation/Entrepreneurs Association, and Shanxi Provincial Federation of Industry and Commerce, issued a notice to further implement the Paid Annual Leave System for Enterprise Employees.

According to Article 3 of the notice, enterprises, private non-enterprise units, and individual industrial and commercial households with employees in Shanxi Province must include the relevant provisions of the unit's annual leave system in labour contracts and collective contracts and ensure their strict implementation. This is to ensure that employees can fully enjoy their annual leave rights.

Article 4 stipulates that trade union organizations at all levels must protect employees' annual leave rights in accordance with the law and utilize the workers' congress to play an active role. The content of the enterprise's workers' congress should be standardized, and the paid annual leave system plan should be included in the special proposals of the

workers' congress. Additionally, it is necessary to mediate labour disputes between employers and employees during the implementation of paid annual leave, effectively safeguard the legitimate rights and interests of employees, and build harmonious labour relations.

Finally, in 2015, the "Notice of the General Office of the People's Government of Hebei Province on Issuing the Implementation Rules for Paid Annual Leave for Employees in Hebei Province" was issued. According to Article 9, labour contracts and collective contracts between enterprises or other employers and their employees should specify details about annual leave and related matters. If the annual leave entitlement, wages, and remuneration as outlined in the contracts or employer's regulations exceed the legal standard, the employer must follow the agreed upon terms or regulations.

**Sources:** § 45 of the Labour Law 1994; §3-8 of Regulations on Paid Annual Leave of Employees 2007; §3-12 Implementation Measures for Paid Annual Leave for Enterprise Employees 2008

## Pay on Public Holidays

Workers are entitled to paid holidays during Festival holidays. These are usually 13 in number.

Public holidays are regulated under the Measures on Annual Holidays for Public Festivals and Memorial Days. These include Gregorian New Year (1 January), Chinese New Year or Spring Festival (Eve of New Year and 1-3 of the first month of the Lunar calendar), International Labour Day (1-2 May), National Day (1-3 October), Mid-autumn day, Dragon boating day and Tomb

Sweeping Day. In addition, on Women's Day (March 8), women have half a day off.

The date for the Chinese festivals is determined by the Chinese lunar calendar. If a public holiday falls on a Saturday or Sunday, it is moved to the following work day. The public holidays for religious minorities in China are determined by the local government in each district in accordance with the customs.

Employers shall pay wages to workers on public holidays in accordance with the law.

**Sources:** §40 & 51 of Labour Law 1994; §2 & 3 Measures on Annual Holidays for Public Festivals and Memorial Days

## Weekly Rest Days

Workers are entitled to at least one day of rest per week after at most 6 continuous working days. The weekly rest period is reckoned as a paid time.

The State Council Regulations on the Hours of Work of Employees however prescribe 2 days off per week. Weekly rest days are usually Saturday and Sunday for state organs and institutions. Enterprises and public institutions that cannot implement unified working hours may flexibly arrange weekly rest days based on actual conditions.

There is no clear provision in the law on rest breaks (during working hours) and daily rest periods. These are determined under the employment contract.

**Sources:** §3 & 38 of Labour Law 1994; §17 of the Labour Contract Law 2007; §7 of State Council Regulations on the Hours of Work of Employees 1995

# 04/13 CONTRACTS & DISMISSALS

## **ILO Conventions**

Convention 158 (1982) on employment termination

**China has not ratified the Convention 158.**

### ***Summary of Provisions under ILO Convention***

The questions under this section measure the security or even flexibility or precariousness of an employment relationship. Although these are not clearly mentioned in a single convention (severance pay and notice requirements are provided in the Termination of Employment Convention No. 158) however, the best practices in the field require that employees be provided with a written contract of employment; workers on fixed-term contracts should not be hired for tasks of permanent nature; a reasonable probation period (ideally lower than or equal to 6 months) may be followed to assess the suitability of an employee; a period of notice must be specified in an employment contract before severing the employment relationship; and workers be paid severance allowance on termination of employment relationship.

A contract of employment may be oral or written; however, workers should be provided with a written statement of employment at the start of their employment.

Fixed Term Contract workers must not be hired for permanent tasks as it leads to precarious employment.

A reasonable probation period must be allowed for workers to learn new skills. During this period, a newly hired employee may be fired without any negative consequences.

Depending on the length of service an employee has, an employer may require a reasonable notice period before severing the employment relationship.

Employers may be required to pay a severance allowance on termination of employment (due to redundancy or any other reason except for lack of capacity or misconduct).

## Regulations on employment security:

- Labour Law, 1994
- Labour Contract Law, 2007
- Labour Union Law 1992

## Written Employment Particulars

Individual employment contract may be concluded for definite period (fixed term), indefinite period (non-fixed term) and project-based labour contract based on the completion of a specific amount of work.

According to the labour law and labour contract law, in order to establish a labour relationship, a written contract has to be signed between the worker and employer. It must be concluded within a month of commencement of employment. If an employer fails to provide the employment contract within a month, the worker is entitled to double salary starting from the second month of employment until a contract is concluded or on the one-year anniversary of the commencement of employment. If an employer fails to conclude a written labour contract with an employee after a year of employment, the employment contract is considered to be an open term contract. The employment contract can be oral but only in case of part-time employment. However, even in such a case, if either party requests a written employment contract, a written contract must be concluded. Part time workers are those are working up to 4 hours per day and 24 hours per week.

The written employment contract must include provisions detailing the following items: name, registered address and legal representative or person in charge of the employing entity; name, home address, and resident identity card number (or other

valid identity document number) of the employee; term of the employment contract; job description and place of work; working hours, rest, and leave; remuneration; social insurance; and work protection, work conditions and protection against occupational hazards. An employer and worker may also agree to provisions regarding a probationary period, a training and service period, confidentiality and non-compete obligations, and supplementary benefits. Employment contract with both the local and foreign workers must be concluded in Chinese. A foreign language version may be provided to the worker for reference only.

If a written labour contract is not entered into, the remuneration for the worker would be in accordance with the provisions of collective labour contract. And if the collective contract is not available, worker would be paid equal pay for equal work. A labour contract has clauses on particulars of employer & employee, term (duration) of the labour contract, job description, remuneration, etc.

**Sources:** §10-17, 69, 82 of Labour Contract Law

## Fixed Term Contracts

According to the Chinese labour law labour contract law, fixed-term contracts are divided into fixed-term labour contracts and fixed-term contracts, which are based on the completion of of a certain work task. A fixed term contract is a labour contract whose termination date is agreed upon by the employer and the worker. Law does not prescribe maximum duration of a single fixed term contract however after 10 years of continuous service or 2 renewals of fixed term contracts, the renewal of the labour

contract must be non-fixed term contract. Fixed term contract for foreign workers cannot exceed five years, can be renewed after completing the approval procedures by the labour administration department and the public security department.

**Sources:** §20 of Labour Law; §12 - 15 of Labour Contract Law

## Probation Period

Employment Contract Law specifies that the probation period must be determined in the employment contract but it may not exceed 6 months. Length of probationary period depends upon the term/duration of a contract. Probationary period is:

- one month for an employment contract ranging between 3 months to 1 year;
- 2 months for an employment contract ranging between 1 year to 3 years; and
- 6 months for an employment contract of duration more than 3 years or indefinite/non-fixed term contracts

Probation periods are not allowed for project-based contracts or if the term of a contract is less than three months. It also requires that a worker may not be appointed under probation twice with the same employer. Above referred probationary periods are the maximum periods. Probationary period cannot be extended even with the employee's consent unless the total period is within the maximum limit set under the law.

The wage of a probationary worker cannot be less than the minimum wage level for the same job in the enterprise or cannot be less than 80% of the wage agreed upon in the labour contract and cannot be less than the minimum wage in the locality

where enterprise is located.

**Sources:** § 19-21 of Labour Contract Law

## Notice Requirement

The Labour Contract Law requires written termination notice before terminating a worker's services. However, if the worker commits a negligent act specified by labour law at work, the employer may not give notice before terminating the employment contract.

These are different types of contract termination:

1. The employer and employee can mutually end the employment contract.
2. The employee can terminate the labour contract by notifying the employer in writing 30 days in advance or three days in advance during the probation period.
3. The employer can terminate the labour contract after notifying the employee thirty days in advance or paying the employee one month's salary in lieu of notice.
4. The employee can unilaterally terminate the labour contract if the employer has the following circumstances:
  - a. Failure to provide labour protection or working conditions in accordance with the labour contract;
  - b. Failure to pay labour remuneration in full and on time;
  - c. Failure to pay social insurance premiums for employees in accordance with the law;
  - d. The rules and regulations of the employer violate the provisions of

laws and regulations and infringe on the rights and interests of employees;

- e. The labour contract is invalid due to the circumstances specified in the first paragraph of Article 26 of this Law;
  - f. Other circumstances where laws and administrative regulations provide that the employee can terminate the labour contract.
5. The employer may terminate the labour contract if the employee commits any of the following faults:
- (i) It is proved that the employee does not meet the employment conditions during the probation period;
  - (ii) The employee seriously violates the rules and regulations of the employer;
  - (iii) The employee seriously neglects his/her duties, engages in malpractice for personal gain, and causes major damage to the employer;
  - (iv) The employee establishes a labour relationship with other employers at the same time, which seriously affects the completion of the work tasks of the unit, or refuses to correct the situation after being proposed by the employer;
  - (v) The labour contract is invalid due to the circumstances specified in the first paragraph of Article 26 of this Law;
  - (vi) The employee is held criminally liable in accordance with the law.

A fixed-term contract terminates at the end of its term or by cancellation by either of the parties or if the labourer does not agree to renew the contract even if the Unit proposes to renew the labour contract.

Either party can terminate an indefinite-term employment contract by serving a notice or paying in lieu thereof. According to Chapter IV of the Labour Contract Law, either party may terminate the employment contract after giving 30 days' written notice. The valid grounds for dismissal include worker's conduct, worker's capacity (incompetence and inability to work due to some injury) and economic reasons.

On account of gross misconduct, an employer may terminate employment contract without notice and without paying the severance pay to the employees: serious violation of employer's rules and regulations; serious dereliction of duty or graft resulting in major harm to the employer's interests; use of coercion by employee in making the employer sign the contract, etc.

Lay-offs are regulated under the Labour Contract Law. Lay-off occurs when an employer needs to reduce its workforce by 20 or more persons or by a number of persons that is fewer than 20 but is equal to at least 10% of the workforce of the enterprise.

Certain employees are protected from termination based on lay-off or individual termination requiring notice: employees suffering from occupational disease or those who have sustained an employment injury; employee is receiving medical treatment because of non-occupational injury; pregnant employees for the period of pregnancy and breastfeeding period; employee has worked at least 15 years for the same employer and is only 5 years far from legal retirement age; employee is a trade union office bearer; etc.

An employer may pay one month's wage in

lieu of notice. It is obligatory for an employer to notify the relevant trade union in advance if employer plans to unilaterally terminate employee contracts. Workers employed on a part-time basis may be terminated at any time without cause.

In case of wrongful termination, the dispute arises and party has to apply for mediation. If a party is not willing to follow through with mediation, the other party may apply for arbitration. Parties disagreeing with arbitration awards are permitted to bring actions in district courts.

Statutory remedies for wrongful termination are payment of back wages, penalties, and reinstatement or twice statutory severance pay.

**Sources:** §36-50 of Labour Contract Law  
§21 of the Labour Union Law 1992

## Severance Pay

The Labour Contract Law provides severance pay to the workers on termination of employment contract but not in cases where the employer has grounds for the summary dismissal of the worker. Severance pay may also need to be paid at the end of a fixed term contract, unless the worker is given the opportunity to renew the contract and refuses. Workforce reductions by mass layoffs also require severance pay.

Amount of Economic Compensation/ Severance Pay is based on the number of years a labourer has worked in a unit. It is equivalent to one month's wages for every year of service. If a worker has worked in a unit for more than 6 months but less than

1 year, he will get severance pay for one year. On the other hand, if a worker has worked for less than 6 months, he will get half-month's wage as severance pay.

Monthly wages refer to an employee's average wages for the twelve months before the labour contract is terminated.

If a worker's wage exceeds 300% of the average monthly wage in his locality, his average monthly wage for severance purposes will be capped at 300% of the local average monthly wage. As a severance payment, he would be entitled to a maximum of 12 months' wages

If an employment contract is terminated and the employee is not paid the due economic compensation as per the labour contract law, the labour administrative department will instruct the employer to make the payment within a specified time period. If the payment is not made within the specified time period, the employer will be required to pay additional compensation to the employee at a rate of no less than 50% but no more than 100% of the amount due.

Employees may receive an additional 100% on top of their severance pay if the employer breaches the contract without reasonable cause.

**Sources:** § 46-47 & 85 of Labour Contract Law

# 05/13 FAMILY RESPONSIBILITIES

## **ILO Conventions**

Convention 156: Workers with Family Responsibilities Convention (1981) Recommendation 165: Workers with Family Responsibilities (1981)

**China has not ratified the Convention 156 and 165.**

### ***Summary of Provisions under ILO Convention***

Paternity leave is for new fathers around the time of childbirth and is usually of shorter duration.

Recommendation (No. 165) provides for parental leave as an option available to either parent to take a long leave of absence (paid or unpaid) without resigning from work. Parental leave is usually taken once the maternity and paternity leave have been exhausted. For working parents, laws may define the portion of parental leave that has to be compulsorily taken by fathers or mothers.

Flexible Work Option for Parents / Work-Life Balance Recommendation 165 asks employers to look into the measures for improving general working conditions through flexible work arrangements.

## Regulations on family responsibilities:

- Labour Law, 1994, amended in 2018
- Guidelines to Improve Child Care for children under 3 years old, 2019
- Population and Family Planning Law, 2021
- Wuhan Employee Maternity Insurance Measures, 2024

## Paternity Leave

There is no national labour regulation requiring employers to provide paternity leave. Availability of paternity leave varies across jurisdictions.

Length of Paternity Leave	Regions
10 days	Shanghai
15 days	Beijing, Tianjin, Hebei Province, Heilongjiang Province, Jiangsu Province, Zhejiang Province, Fujian Province, Shandong Province, Hubei Province, Guangdong Province, Guizhou Province, Shaanxi Province, Qinghai Province, Hainan Province, Shanxi Province
20 days	Liaoning Province, Hunan Province, Sichuan Province, Autonomous Region of Xinjiang, Chongqing
25 days	Inner Mongolia Autonomous Region, Guangxi Zhuang Autonomous Region,

	Ningxia Hui Autonomous Region
30 days	Anhui Province, Jiangxi Province, Yunnan Province, Gansu Province
1 month	Henan Province

In addition, there are additional particularities in the two regions.

- Article 27 of the "Population and Family Planning Regulations of the Guangxi Zhuang Autonomous Region" stipulates that for couples with children in compliance with laws and regulations, the man shall enjoy five days of prenatal check-up and accompanying leave during the woman's pregnancy.
- Article 45 of the "Shaanxi Provincial Population and Family Planning Regulations"

If the husband and wife live in different places, the husband is entitled to twenty days of nursing leave. If a female employee gives birth to three children, the husband's nursing leave will be extended by ten days.

The Regulations on the Population and family planning require employers to treat paternity leave according to normal standards, including normal pay and benefits.

Several provinces and cities stipulate that male employees who participate in maternity insurance can receive nursing leave allowances during childbirth. For example, the "Wuhan Employee Maternity Insurance Measures" stipulates that maternity insurance funds are used to pay nursing leave allowances. Male employees whose spouses give birth in compliance with laws and regulations will enjoy 15 days of nursing leave allowances. The medical

security agency shall allocate funds to the employer in accordance with the standards stipulated in the Measures. If the amount allocated is lower than the employee's own salary and welfare standards, the difference shall be made up by the employer; if the amount is higher than the employee's own salary and welfare standards, the balance shall be included in the Employee welfare fees of the workplace where the employee works.

**Sources:** Wuhan Employee Maternity Insurance Measures, 2024

## Parental Leave

The "Population and Family Planning Law" states that the state supports the implementation of parental leave where conditions allow. In 2021, many provinces, cities, and autonomous regions in China started revising their population and family planning regulations to include parental leave provisions. Most new regional regulations state that each parent of an infant under three years old is entitled to ten days of parental leave per year. During this leave, wages, bonuses, benefits, and other entitlements from their employer remain unchanged.

In Shanghai and Beijing, each parent of an infant under three years old is entitled to five days of parental leave per year. Further, according to the "Beijing Population and Family Planning Regulations," both spouses can adjust the leave allocation for extended parental leave with the employer's consent. If the woman voluntarily shortens or extends her maternity leave, the man's paternity leave can be increased by the same number of days. The combined parental leave for both spouses cannot exceed ten working days.

In the Tibet Autonomous Region, Shanxi, Qinghai, and Gansu, each parent is entitled to 15 days of parental leave for couples with children under three years old, in compliance with laws and regulations.

The "Yunnan Provincial Population and Family Planning Regulations" state that if a family has two or more children under the age of 3, each parent will be entitled to an additional five days of parental leave.

The "Anhui Provincial Population and Family Planning Regulations" stipulate that each parent will be given ten days of parental leave each year before the child reaches six.

According to the 'Chongqing Population and Family Planning Regulations,' employees who have given birth in accordance with the law can, with their employer's approval, have one spouse take parental leave until the child is one year old after the maternity or nursing leave ends. Both spouses can also take five to ten days of parental leave per year until the child is six years old.

If a spouse takes parental leave before the child turns one year old, their monthly salary during the leave period should be at least 75% of their basic salary before the leave and should not be lower than the local minimum wage standard for that year. Employees who take a total of five to ten days of parental leave each year will receive the same treatment as on-the-job employees during this period.

The "Shanxi Provincial Population and Family Planning Regulations" state that if a child is born in compliance with the regulations and is under three years old, the couple's employer must pay a monthly

infant and child care fee of at least 200 yuan for each child.

The "Guangdong Provincial Population and Family Planning Regulations" require employers to share labour costs during childcare leave according to national and provincial rules. In 2023, the "Notice on Further Implementing the Leave Related to the "Guangdong Provincial Population and Family Planning Regulations" emphasised that employers must update their employment rules, specify wages and benefits during parental and nursing leave, engage in collective wage negotiation, negotiate with employees to determine wages during parental and nursing leave, and sign a collective agreement. Employers should pay wages for parental and nursing leave according to incentive and paternity leave standards. Wages and benefits during this time should not fall below the local minimum wage.

## Flexible Work Option for Parents / Work-Life Balance

On July 25, 2022, a total of 17 Chinese government departments released a guideline on fertility-friendly policies. Article 7 clearly establishes a fertility-friendly employment environment, and clearly encourages the implementation of flexible working methods (Article 16). Based on production and actual work conditions, employers may consult with employees to adopt flexible commuting, working from home, and other methods to accommodate employees who need to take their children to and from school or take care of sick family members. This is done in order to provide work conveniences to employees with children at home and other needs, and to help employees overcome childcare difficulties.

In addition, cities, provinces, and regions issued similar guidelines to encourage local employers to implement these measures.

In addition, several provinces have also addressed the issue of work-life balance in local regulations.

The population and family planning regulations of Shandong Province, Guangxi Zhuang Autonomous Region, and Shanghai City all state that employers should consider adopting flexible leave and work measures to support employees in caring for infants and young children, and to encourage family fertility and parenting.

The Population and Family Planning Regulations of Jiangsu Province and Fujian Province both stipulate that employers have a social responsibility to support fertility-friendly measures. Employers are encouraged to create policies that help employees balance work and family responsibilities. They should negotiate and offer flexible work arrangements and time off to support the care of infants and young children in accordance with the law.

The "Guangdong Provincial Population and Family Planning Regulations" encourage employers to negotiate with employees according to the law to establish flexible leave and working arrangements that support the care of infants and young children. This includes measures such as adjusting working hours, reducing hours, and implementing remote working to provide convenient conditions for caring for family infants and young children.

# 06/13 MATERNITY & WORK

## **ILO Conventions**

An earlier Convention (103 from 1952) prescribed at least 12 weeks maternity leave, 6 weeks before and 6 weeks after birth. However, a later convention (No. 183 from year 2000) requires that maternity leave be at least 14 weeks of which a period of six weeks compulsory leave should be after childbirth.

**China has not ratified the Conventions 103 and 183.**

### ***Summary of Provisions under ILO Convention***

A worker should be entitled to medical and midwife care during pregnancy and maternity leave without additional cost.

During pregnancy and while breastfeeding, a worker should be exempt from work that might bring harm to you or your baby.

The total maternity leave should last at least 14 weeks.

During maternity leave, a worker's income should amount to at least two-thirds of your preceding salary.

During pregnancy and maternity leave, a worker should be protected from dismissal or any other discriminatory treatment.

Workers have the right to return to the same or equivalent position after availing maternity leave.

After childbirth and re-joining work, a worker must be allowed paid nursing breaks for breast-feeding the child.

## Regulations on maternity and work:

- Labour Law, 1994
- Women's Rights and Interests Protection Law, 1992
- Employment Promotion Law, 2007
- Social Insurance Law, 2010
- Special Regulations on Labour Protection for Female Employees, 2012
- National Maternity Insurance Fund
- Trial Measures for Maternity Insurance for Enterprise Employees 1994
- Labour Contract Law, 2007

## Pregnancy Testing / Inquiry in Recruitment

The "Employment Promotion Law" and the "Women's Rights and Interests Protection Law" emphasise the principle of protecting women's equal employment rights and opposing employment discrimination. In the "Employment Promotion Law", it is pointed out that the state guarantees that women enjoy equal labour rights with men. When recruiting personnel, except for the types of jobs or positions that are not suitable for women as prescribed by the state, the employer shall not refuse to hire women or raise the salary for women on the grounds of gender. Recruitment standards for women. When recruiting female employees, labour contracts shall not stipulate any restrictions on female employees' childbearing.

The "Law on the Protection of Women's Rights and Interests" states that employers are not allowed to inquire about female job applicants' marriage and childbearing status during the recruitment process unless required explicitly by the state.

Additionally, they cannot use pregnancy tests as part of the pre-employment physical examination or set restrictions related to marriage or childbirth as conditions for employment. When hiring female employees, the employer must sign a labour contract or service agreement with them in accordance with the law, which should include special protection clauses for female employees. These agreements should not restrict female employees from getting married or having children. If an employer violates these provisions, the human resources and social security department can order them to make corrections and impose fines ranging from 10,000 to 50,000 yuan if the violation is serious or if the employer refuses to make the necessary corrections.

In other words, women workers are not required to inform their employers of their pregnancy before starting a job. Employers cannot conduct pregnancy tests on female applicants as it would violate women's equal employment rights. If an employer cancels recruitment after learning that an applicant is pregnant, it constitutes gender discrimination in employment and the employer should bear legal liability for their actions.

**Sources:** §27 & 68 of Employment Promotion Law 2007 §43-44, 83 & 85 of Women's Rights and Interests Protection Law 1992

## Free Medical Care

The "Social Insurance Law" stipulates that employers shall pay maternity insurance premiums for employees to participate in maternity insurance in accordance with national regulations, and employees shall not pay maternity insurance premiums. If the employer has paid maternity insurance

premiums, its employees shall enjoy maternity insurance benefits; the unemployed spouses of employees shall enjoy maternity medical expense benefits in accordance with national regulations. The scope of China's maternity insurance covers all employers and their employees, and has been extended to the unemployed spouses of employer employees.

Maternity insurance benefits include maternity medical expenses and maternity allowances, which are paid from the maternity insurance fund. If the employer fails to pay maternity insurance, the employee's maternity insurance benefits will be borne by the employer.

As per the "Trial Measures for Maternity Insurance for Enterprise Employees," the maternity insurance fund covers the examination, delivery, surgery, hospitalisation, and medicine fees for female employees' childbirth. Any medical service fees and drug costs that exceed the regulations, including self-paid and nutritional drugs, are the responsibility of the individual employees. After discharge from the hospital following childbirth, the maternity insurance fund covers medical expenses for childbirth-related conditions, while medical expenses for other conditions are handled according to the provisions of medical insurance benefits. Once the maternity leave ends, female employees requiring rest and treatment due to illness are eligible for sick leave benefits and medical insurance benefits in accordance with the relevant provisions.

**Sources:** National Maternity Insurance Fund; §53-55 Social Insurance Law; §6 of Trial Measures for Maternity Insurance for Enterprise Employees 1994; §8 of Special Regulations on labour protection for female employees 2012

## No Harmful Work

Labour Law and Special Provisions on Labour Protection for Female Employees, 1994 prohibit employment of pregnant workers or that nursing their children (of less than one year of age) to work with Grade III physical labour intensity as stipulated by the State. Overtime and night shifts are also prohibited to pregnant workers (with seven months of pregnancy) and women workers breast-feeding their children (under the age of 1 year). In case, these women workers are unable to do their original work, lighter or other work should be assigned to them according to the medical certification.

The "Special Regulations on Labour Protection of Female Employees" lists the scope of tasks that female employees are prohibited from engaging in during pregnancy and lactation.

The scope of work prohibited for pregnant female employees includes exposure to toxic substances, production of certain drugs, contact with radioactive materials, high-altitude and cold-water operations, and operations with high physical labour intensity.

Female employees during lactation are prohibited from (1) engaging in certain tasks prohibited during pregnancy and (2) working in environments where levels of toxic substances exceed national occupational health standards.

**Sources:** §61 & 63 of Labour Law 1994; §4 and 6 of Special Regulations on labour protection for female employees 2012

## Maternity Leave

Female employees are entitled to 98 days of maternity leave including 15 days of prenatal leave under the national maternity policy. Maternity leave may be extended by fifteen days under special circumstances such as dystocia/difficult birth, multiple births (15 days leave for each additional infant) and miscarriage that occurred in the first 4 months of pregnancy. This leave is 42 days if miscarriage occurred after the first 4 months.

In addition, a Chinese female employee who gives birth to her first child at age 24 or older is regarded as a case of 'late childbirth,' and thereby will be entitled to an additional 'late maternity leave' of roughly 30 days (this may vary widely by location, e.g., 45 days in Dalian).

**Sources:** §7 Regulations on Special Labour Protection for Female Employees 2012

## Income

According to the "Social Insurance Law" and the "Special Regulations on Labour Protection of Female Employees", the maternity allowance during maternity leave for female employees who have participated in maternity insurance shall be paid by the maternity insurance fund based on the employer's average monthly salary of employees in the previous year; for those who have not participated in maternity insurance, if insured, the employer will pay the female employee's salary before maternity leave.

In reality, different regions have varying levels of economic development and specific conditions, leading to different payment standards for maternity allowances. There are mainly four methods

used: first, payment based on the salary standard of female employees before giving birth; second, payment based on the average monthly salary of employees of the unit in the previous year; third, payment based on the base of social insurance premiums paid by employees; fourth, payment based on the social average wages and calculated and paid according to standard.

**Sources:** §54 & 56 Social Insurance Law; §8 of Special Regulations on labour protection for female employees 2012

## Protection from Dismissals

Protection from dismissals during pregnancy and maternity leave is guaranteed under Labour Code.

A woman worker can't be dismissed during the period of her pregnancy, maternity leave and nursing periods.

If a worker gets pregnant during the term of her fixed-term contract, and the contract ends during the pregnancy, the contract is automatically extended (through a renewed end date or a second contract) until the end of the breast-feeding period.

**Sources:** §29 of the Labour Law 1994; §42 (4) & 45 of the Labour Contract Law; §5 of Special Regulations on Labour Protection for Female Employees 2012

## Right to Return to Same Position

There is no express provision regarding the right to return to the same position; however, it is implied under section 29 of Labour Law that a woman worker can't be dismissed during the term of her maternity leave.

Article 58 of the "Labour Law" states that the state provides special labour protection for female employees and underage workers. According to Article 5 of the "Special Provisions on Labor Protection for Female Employees," employers are prohibited from reducing wages, dismissing, or terminating the employment contracts of female employees due to pregnancy, childbirth, or breastfeeding. Female employees have the right to return to work after maternity leave.

In accordance with Article 48 of the "Law on the Protection of Women's Rights and Interests," employers are prohibited from reducing the wages and benefits of female employees due to marriage, pregnancy, maternity leave, breastfeeding, or other related reasons. Additionally, they are not allowed to hinder female employees from receiving promotions and evaluations for professional and technical positions or dismiss them. Furthermore, employers cannot unilaterally terminate labour contracts or service agreements. Female employees also have the right to return to their original positions after taking maternity leave.

**Sources:** §29 & 58(1) of the Labour Law 1994; Women's Rights and Interests Protection Law 1992

## Breastfeeding

In accordance with article 9 of Regulations on Special Labour Protection for Female Employees, 2012, female workers are entitled to one hour nursing breaks per day for new mothers to breastfeed their child(ren) until a child is twelve (12) months old. The breast-feeding/nursing breaks are in addition to the normal breaks an employee receives during the working day.

Additional one-hour break is provided for each additional infant to be nursed.

According to article 9 of the Regulations, the employers with a relatively large number of female employees (without specifying the actual number) shall, based on their demand, establish facilities such as clinics for female employees, lounges for pregnant women and nursing/feeding rooms, and shall properly resolve the physiological, health and feeding difficulties encountered by their female employees.

**Sources:** §9 & 10 Special Regulations on labour protection for female employees 2012

# 07/13 HEALTH & SAFETY

## **ILO Conventions**

Most ILO OSH Conventions deal with very specific Occupational Safety hazards, such as asbestos and chemicals.

Convention 155 (1981) is the relevant general convention here.

Labour Inspection Convention: 81 (1947)

**China has ratified the Convention 155 only.**

### ***Summary of Provisions under ILO Conventions***

The employer, in all fairness, should make sure that the work process is safe.

The employer should provide protective clothing and other necessary safety precautions for free.

Workers should receive training in all work-related safety and health aspects and must have been shown the emergency exits.

In order to ensure workplace safety and health, a central, independent and efficient labour inspection system should be present.

## Regulations on health and safety:

- Labour Law, 1994
- Labour Contract Law, 2007
- Work Safety Law, 2002
- Law on the Prevention and Control of Occupational Diseases 2001
- Regulations on Labour Protection in Workplaces Where Toxic Substances are Used 2002
- Regulation on Labour Security Supervision 2004
- Measures for the Management of Labour Protection Supervision and Inspectors of Trade Unions 2011
- Management Measures for Heatstroke Prevention and Cooling Measures 2012
- Special Rules on the Labour Protection of Female Employees 2012
- Provisions on the Administration of Occupational Health at Workplaces 2020
- Measures for the Evaluation of Enterprise Labour and Social Security Law-abiding Integrity Levels 2017

## Employer Cares

According to the "Labour Law" and "Labour Contract Law," workers have the right to labour safety and health protection. When signing a written labour contract, labour and occupational disease protection clauses must be included. The contract should also stipulate that the employee and the employer can enter into a special collective labour safety and health collective contract. The "Work Safety Law" also stipulates that labour contracts should specify matters related to ensuring the labour safety of employees and preventing occupational hazards. Production and

business units are prohibited from making agreements with employees to exempt or decrease their legal responsibility for employees' injuries resulting from production safety accidents. When hiring employees, an employer must truthfully inform them about any occupational diseases or hazards that may occur during work, including their consequences and emergency protective measures. This information should be clearly stated in the labour contract, and the employer should not conceal or deceive workers about these risks.

Employees have the right to refuse any illegal instructions or forced operations that do not have adequate measures for occupational disease protection without it being considered a violation of the labour contract. If the employer fails to provide labour protection or conditions as specified in the labour contract, the employee may terminate the labour contract. In case the employer forces the employee to work using violence, threats, or illegal constraints on personal freedom, or if the employer violates rules and orders by forcing risky work that endangers the employee's personal safety, the employee may terminate the labour contract immediately without informing the employer in advance.

When employees discover an emergency that directly threatens personal safety, they have the right to stop work or evacuate the workplace after taking possible emergency measures.

Labour safety and health are matters that directly involve the employees' vital interests. When developing or updating rules and regulations on relevant issues, the employer must discuss them at a workers' congress or with all employees.

They should propose plans and suggestions and negotiate with the trade union or employee representatives on an equal basis to reach a decision. During the implementation of major decisions, the trade union or employees can propose modifications to the employer if they find the decisions unsuitable. Employers must communicate decisions on rules, regulations, and significant matters affecting employees' vital interests. Employees have the right to express concerns, report issues, and raise allegations regarding working conditions that pose a risk to life, safety, and physical health.

The "Work Safety Law" requires trade unions to oversee work safety according to the law. The trade union of a production and operation unit must legally organise employees to participate in the democratic management and supervision of the unit's production safety work and protect the legitimate rights and interests of employees in production safety. When a production and business operation unit create or revise rules and regulations related to production safety, the trade union's opinions must be considered.

The "Occupational Disease Prevention and Control Law" requires trade unions to support and assist employers in promoting occupational health awareness through campaigns, education, and training. They have the right to share their opinions and suggestions on employers' efforts to prevent and control occupational diseases. Trade unions can also negotiate specific agreements on labour safety and health with employers on behalf of workers. They are responsible for working with employers to address workers' reports of occupational disease prevention and control issues and ensure their resolution. Employers must

take into account the viewpoints of trade union organizations when creating or updating rules and regulations concerning the prevention and management of occupational illnesses. Unions can demand corrections when employers violate laws on safety and workers' rights. They also have the right to demand protective measures in cases of severe occupational hazards. If a production or business unit is found to have issued orders in violation of regulations, engaged in risky operations, or endangered potential accidents, employees have the right to propose solutions. The unit must promptly review and respond to these suggestions. If a situation threatens workers' life and health, employees have the right to advise the employer to organise a safe evacuation and immediate response. In the event of production safety accidents or occupational hazards, employees have the right to participate in investigations, provide input on handling, and demand accountability from relevant personnel.

Workers exposed to hazardous substances or high temperatures shall receive statutory job allowances. Employers must provide a work environment that complies with national health standards and ensures workers' safety.

These include:

- Follow national health standards for workplace hazards.
- Provide facilities to protect workers from occupational disease hazards;
- Organise the work area to separate harmful and harmless processes.
- Offer changing rooms, bathing facilities, and sanitary rooms for pregnant women.
- Use equipment and facilities that protect workers' physical and mental health.

The employer should take the following measures for occupational disease prevention and management:

- 1) Establish an occupational health management agency
- 2) Create and implement prevention plans
- 3) Develop and implement health management systems and procedures
- 4) Maintain worker health monitoring files
- 5) Implement a monitoring system for workplace hazard factors
- 6) Establish emergency rescue plans for occupational disease hazards

Employers with hazards related to occupational diseases must display relevant information in a visible area for all employees. This encompasses rules, procedures, emergency protocols for occupational disease hazards, and findings of hazard factor tests. In workplaces with significant occupational disease risks, warning signs and instructions in Chinese must be placed in easy-to-see locations. These materials must include information about the types, consequences, prevention, and emergency measures for occupational disease hazards.

In workplaces where toxic or harmful substances may lead to acute occupational injuries, the employer must install alarm devices and provide on-site first aid supplies, flushing equipment, emergency evacuation routes, and designated hazard relief areas. In radiation workplaces and situations involving the transportation and storage of radioactive isotopes, employers must provide protective equipment and alarm devices to ensure that workers exposed to radiation wear personal dosimeters.

Employers must monitor occupational disease hazard factors daily and ensure the

monitoring system usually operates with dedicated personnel. Employers must also regularly test and assess workplace occupational disease hazards, following the regulations of the State Council's health administrative department. Testing and evaluation results are stored in the employer's occupational health files, regularly reported to the local health administrative department, and disclosed to workers.

The "Regulations on Labour Protection in Workplaces Using Toxic Substances" state that employers conducting operations with highly toxic substances must employ full-time or part-time occupational health doctors and nurses. If an organisation does not have the resources to hire full-time or part-time occupational health doctors and nurses, they should sign a contract with an occupational health technical service agency that is qualified and certified according to the law to provide occupational health services. Employers in workplaces with highly toxic substances must conduct poisoning hazard factor testing at least monthly and hazard control effectiveness evaluation at least every six months. Employers must, as per regulations, rotate workers handling highly toxic substances.

Employers shall conduct regular health examinations for workers and underage workers engaged in operations with occupational hazards, including occupational health examinations before starting work, during work, and when leaving work, and notify workers in writing of the results of the inspections. The employer is responsible for covering the cost of occupational health examinations. Employers shall not arrange for workers who have not undergone pre-job occupational health examinations to

engage in operations that expose them to occupational disease hazards; they shall not arrange workers with pre-conditions to work in dangerous environments. Workers whose health is damaged must be transferred from their original jobs and properly placed; workers who have not undergone a pre-departure occupational health examination shall not terminate or terminate the labour contract concluded with them.

Employers shall establish occupational health surveillance files for workers and properly preserve them within the specified period. Occupational health surveillance files should include workers' occupational history, exposure history to occupational disease hazards, occupational health examination results, occupational disease diagnosis and treatment and other relevant personal health information. When employees depart from the company, they are entitled to request a copy of their occupational health surveillance file. The employer must provide it truthfully and free of charge, and sign the copy provided.

Employers should prioritise using new technologies, processes, equipment, and materials that help prevent and treat occupational diseases and protect workers' health. They should gradually stop using technologies, processes, equipment, and materials that create serious health risks for workers.

Employers should also implement heatstroke prevention and cooling measures. This can include establishing and improving a heatstroke prevention and cooling system and taking effective measures to enhance labour protection in high-temperature work environments to ensure the safety and health of workers. In extreme weather conditions, if the daily

maximum temperature reaches above 40°C, outdoor open-air work should be stopped for that day. When the daily maximum temperature exceeds 37°C, outdoor open-air work time should be shortened, and workers should be reasonably arranged to rest.

Employers are encouraged to actively seek input from trade union organisations when formulating or revising rules and regulations related to the prevention and control of occupational diseases.

Production and business units must establish an occupational safety and health system, adhere strictly to national occupational safety and health standards and implementation regulations, provide employees with occupational safety and health education, prevent accidents during production, and minimise occupational injuries. Effective safety accountability systems must be established to ensure employee safety and improve employee working conditions in production and business units.

**Sources:** §3,17,19,33,52-56,92-93 Labour Law 1994; §4,8,32,38,52,88 Labor Contract Law, 2007; § 7,52-60,97 of the Work Safety Law, 2002; §4, 14-15, 20, 22-26,34-40 Law on the Prevention and Control of Occupational Diseases 2001; §17,26,28The Regulations on Labor Protection in Workplaces Where Toxic Substances 2002; §8 Management Measures for Heatstroke Prevention and Cooling Measures 2012

## Free Protection

The "Work Safety Law" requires all production and business units to provide employees with labour protection supplies that meet national or industry standards.

They must also ensure that employees wear and use these supplies according to the specified rules. In addition, production and business units should allocate funds to provide labour protection supplies and conduct production safety training.

“The Occupational Disease Prevention and Control Law” stipulates that employers must adopt effective occupational disease protection facilities and provide workers with occupational disease protective equipment for personal use. Employers must provide workers with occupational disease protective equipment that meets the requirements for preventing and treating occupational diseases. It should not be used if the equipment doesn't meet the requirements. Employers are responsible for carrying out regular maintenance, repairs, and testing to ensure the equipment and supplies are in good condition. Additionally, they shouldn't be dismantled or stopped from being used without authorization. Employers should also train workers on the proper use of this equipment and supplies.

If an employer violates the provisions of the law regarding the provision of personal protective equipment for occupational diseases, the health administrative department will issue a warning and order corrective actions within a specified time frame. If the necessary corrections are not made within the specified time limit, a fine of no less than RMB 50,000 but no more than RMB 200,000 will be imposed. In case of serious circumstances, the establishment will be required to make the necessary corrections within a given time frame. Operations that result in occupational health hazards will be stopped, or the relevant local government will be requested to issue an order for closure in accordance with the authority

specified by the State Council.

**Sources:** § 45,47,49 of the Work Safety, 2002; §22, 25, 34, 39, 72 of Law on the Prevention and Control of Occupational Diseases 2001

## Training

There are three types of occupational safety and health training. The first type is for personnel in special operating positions, such as electricians, welders, workers at heights, refrigeration and air-conditioning workers, mining workers, hazardous chemicals safety workers, and metallurgical workers. Gas operators, fireworks and firecracker operators, and others are also included. According to the "Labour Law" and the "Work Safety Law," workers who engage in special operations must undergo special training and obtain special operation qualifications before they can work.

The second type of training includes pre-job and on-the-job training. According to the "Work Safety Law" and the "Occupational Disease Prevention and Control Law," employers are required to provide workers with pre-job occupational health training and regular on-the-job safety production and occupational health training. They must also ensure workers have the necessary knowledge for their jobs, including work safety and occupational health knowledge. Workers should be encouraged to comply with laws, regulations, rules, and operating procedures on occupational disease prevention and control. Additionally, they should be guided to correctly use occupational disease protection equipment and personal occupational disease protection supplies to enhance

their awareness of occupational safety, prevent accidents, and improve their ability to respond to emergencies. Employees who have not received safety production education and training are not permitted to work.

The third type of training is provided when production and business units adopt new processes, technologies, materials, or equipment. In these cases, employees need to be educated and trained to understand and master the safety technical characteristics, take effective safety protection measures, and receive specialised safety production education and training.

According to the "Law on the Prevention and Control of Occupational Diseases", if employers fail to provide occupational health training as required by regulations or fail to supervise and guide workers in protecting themselves from occupational diseases, the health administrative department will issue a warning and order them to make corrections within a specified time period. If the necessary corrections are not made within this time limit, they could face a fine of up to 10,000 yuan. The "Safety Production Law" also states that failure to record safety education and training information accurately could result in an order to make corrections within a time limit and a fine of up to 100,000 yuan. If the corrections are not made within the specified time period, the business may be ordered to suspend its operations for rectification and face a fine ranging from 100,000 yuan to 200,000 yuan. Additionally, the person directly in charge and other responsible personnel may be fined between 20,000 and 50,000 yuan.

**Sources:** §28-30,45,58,97 of the Work Safety Law, 2002; §34,39,41,70 of Law on

the Prevention and Control of Occupational Diseases 2001

## Labour Inspection System

Ministry of Labour's circular (1994) provides for a vibrant labour inspection system however it is not in line with the requirements of ILO Convention 081.

The administrative departments of labour under the People's governments at or above the county level, in accordance with the law, supervise and inspect the implementation of laws, rules and regulations on labour by the employing unit, and have the power to stop any acts that run counter to laws, rules and regulations on labour and order the rectification thereof.

The inspectors from the administrative departments of labour have the right to enter into the employing units to make investigations about the implementation of laws, rules and regulations on labour, consult the necessary data and interview anyone. The labour inspectors can make correction on the spot or may require correction within a specified time limit of violations of law on work safety discovered in the inspection; and for acts subject to administrative punishment in accordance with law, making decisions to impose administrative punishment in accordance with the Law and other relevant laws and administrative regulations.

The inspector may order immediate elimination of accident risks discovered in the inspection; ordering evacuation of workers from dangerous areas and ordering suspension of production or business or suspension of use if safety cannot be guaranteed before or during the

elimination of major accident risks and allowing resumption of production or business or use upon examination after elimination of major accident risks. The inspector may also seize or impound facilities, equipment and devices which do not meet the national or industry standards for work safety protection as determined based on evidence, and making a decision on the handling of the case within 15 days in accordance with law.

The inspectors must produce their papers while performing public duties, enforce laws impartially, and abide by the relevant regulations. They must keep a written record of an inspection, including the time, place and contents of the inspection, the problems discovered in the inspection and the handling of such problems, which are signed by the inspectors and the persons in charge of the inspected entity. If the persons in charge of the inspected entity refuse to sign, the inspectors record it and report it to the departments responsible for work safety supervision and administration.

The employer and its associates must cooperate with the inspector, conduct joint inspection if possible and take timely action if any safety problem comes up.

According to the "Regulations on Labour and Social Security Supervision," the labour and social security administrative departments of the people's governments at the county, district, and city levels may entrust organisations that meet the conditions for supervision and law enforcement to carry out labour and security supervision.

Labour and social security inspectors and organisations must undergo assessments for recruitment.

At least two labour and social security inspectors should conduct investigations and inspections. They must be identifiable by wearing the labour and social security inspection logo and carrying their labour and social security inspection certificates. If a labour and social security inspector is involved in matters directly affecting them or their close relatives, they should excuse themselves from the case.

The labour and social security administrative departments are responsible for implementing labour and social security inspections. Their main responsibilities include:

1. Publicizing labour and social security laws, regulations, and rules, and urging employers to implement them.
2. Inspecting employers' compliance with labour and social security laws, regulations, and rules.
3. Accepting reports and complaints about violations of labour and social security laws, regulations, or rules.
4. Correcting and investigating violations of labour and social security laws, regulations, and rules in accordance with the law.

The Labour and Social Security Administration Department is responsible for conducting labour and Social Security inspections on the following matters:

1. The formulation of internal labour security rules and regulations by the employer.
2. The process by which labour contracts were terminated.
3. The employer's compliance with the prohibition of child labour.
4. The employer's compliance with special labour protection regulations for female employees and underage workers.
5. The employer's compliance with

regulations on working hours, rest, and vacations.

6. The employer's payment of workers' wages and implementation of minimum wage standards.
7. The employer's participation in various social insurances and payment of social insurance premiums.
8. Compliance of employment agencies, vocational skills training institutions, and vocational skills assessment appraisal agencies with national regulations on job introduction, vocational skills training, and vocational skills assessment and appraisal.
9. Other labour security supervision matters stipulated by laws and regulations.

Employers must follow labour and social security rules. Inspectors check employers' records regularly and take reports and complaints. The department or organisation in charge of inspections must provide a mailbox and phone number for reporting and complaints.

The labour inspection complaint hotline is 12333.

In 2017, the Ministry of Human Resources and Social Security started implementing the "Measures for the Evaluation of Enterprise Labour and Social Security Law-abiding Integrity Levels." The local human resources and social security administrative departments at or above the county level are in charge of evaluating corporate compliance with labour and social security laws within the scope of labour and social security supervision. The labour and social security supervision agencies are responsible for organizing and conducting annual evaluations. Employers now receive an annual grade (A, B or C) for

their compliance with labour law in any given year based on the inspections (routine and random) of the local authority, review of employer's employment records and investigations of complaints filed with the authority.

The following criteria are considered while assessing compliance with labour legislation:

- i. internal labour rules and regulations;
- ii. compliance with all labour and employment legislation;
- iii. minimum, working hours, rest time in line with the legislation;
- iv. female and underage worker protection; and
- v. enrolment and participation/ payment of contribution in social insurance programs

Employers with C grade will be monitored more frequently through routine and random inspections. The labour authority will publish the key information of the employer for seriously violating labour law. When publishing these labour law decisions, the following information will be released to the public (with exceptions for national security, trade secrets or individual privacy):

- The employer's full name, integrated social credit code/registration number, and address
- The name of the legal representative or the person-in-charge
- The details of the violation
- The decision made by the authorities including fines imposed

**Sources:** §85-86 of the Labour Law 1994; §4,10-11,14,16 of the Regulation on Labor Security Supervision 2004; §4,6-10 of Measures for the Evaluation of Enterprise Labour and Social Security Law-abiding Integrity Levels 2017

# 08/13 SICK LEAVE & EMPLOYMENT INJURY BENEFIT

## ILO Conventions

Convention 102 (1952), Conventions 121 (1964) and 130 (1969) concerning Social Security, Employment Injury Benefits and Medical Care and Sickness Benefits

**China has not ratified the Convention 102, 121 and 130.**

### ***Summary of Provisions under ILO Conventions***

A worker's rights to work and income should be protected when illness strikes. The national labour law may provide that sickness benefits may not be paid during the first 3 days of your absence. Minimally, a worker should be entitled to an income during the first 6 months of illness. This income should be at least 45 per cent of the minimum wage. (Countries are free to opt for a system which guarantees 60 per cent of the last wages during the first 6 months of illness or even during the first year). A worker must be entitled to paid sick leave.

A worker should be entitled to medical care without any additional cost during illness. Employees and their family members should have access to the necessary minimal medical care at an affordable cost.

During the first 6 months of illness, a worker should not be fired.

If a worker is disabled due to an occupational disease or accident, they must receive a higher benefit. In the case of temporary or total incapacity/disability, a worker may at least be provided 50% of his average wage, while in the case of fatal injury, the survivors may be provided 40% of the deceased worker's average wage in periodical payments

The text in this document was last updated in January 2025. For the most recent and updated text on Employment & Labour Legislation in China in Chinese, please refer to: <https://wageindicator.cn/>

## Regulations on sick leave & Employment Injury Benefits:

- Labour Law, 1994
- Social Insurance Law, 2010
- Opinions of the Ministry of Labour on Several Issues Concerning the Implementation of the Labour Law of the People's Republic of China
- Labour Contract Law, 2007
- Regulations on Medical Leave for Enterprise Employees Due to Sickness or Non-Work-Related Injuries, 1994
- Regulations on Work-related Injury Insurance

## Income

Article 59 of the "Opinions of the Ministry of Labour on Several Issues Concerning the Implementation of the Labour Law of the People's Republic of China" states that the company must pay an employee's sick leave or illness wages during their medical treatment according to relevant regulations. Sick pay or sickness benefits may be paid below the local minimum wage, but not less than 80% of the minimum wage.

In accordance with the "Regulations on the Medical Leave for Employees of Enterprises due to Illness or Non-Work-Related Injuries" and the "Notice on the Implementation of the 'Regulations on the Medical Leave for Employees of Enterprises due to Illness or Non-Work-Related Injuries'," if an employee becomes sick or injured outside of work, they will be entitled to a medical leave period of 3 to 24 months, based on their length of service and tenure with the company. For employees with specific illnesses, such as cancer, mental illness, paralysis, etc., who

are unable to be cured within 24 months, the medical treatment period can be extended with the approval of the company and the local labour department.

The specific provisions for paid sick leave are as follows:

- (1) If the length of actual total service is less than 10 years:
  - 3 months of medical treatment/paid sick leave for those who have worked for less than 5 years;
  - 6 months for those worked for 5 years or more
- (2) If the length of actual service is 10 years or more:
  - (i) 6 months of medical treatment for those with less than 5 years of service;
  - (ii) 9 months for those with more than 5 years but less than 10 years of service;
  - (iii) 12 months for those with more than 10 years but less than 15 years of service;
  - (iv) 18 months for those with more than 15 years but less than 20 years of service; and
  - (v) 24 months for those with 20 years or longer years of service

Various provinces, cities, and autonomous regions across the country have introduced local sick leave pay policies and payment standards based on local conditions. The regulations on the payment of sick leave wages vary from place to place. Some provinces and cities require employers to pay sick leave wages according to local laws. Additionally, some provinces and cities stipulate that sick leave wages must be paid in accordance with the labour contract or collective contract, but the amount cannot be lower than 80% of the local minimum wage.

**Sources:** § 59 and §76, "Opinions of the Ministry of Labour on Several Issues Concerning the Implementation of the Labour Law of the People's Republic of China"

## Medical Care

In accordance with the Labour Law and Social Insurance Law, the state has established a basic medical insurance system to protect citizens' right to receive financial assistance from the state and society in case of illness.

Employees are required to participate in the basic medical insurance programme, with both the employer and employees contributing to the premiums as per national regulations. This requirement also extends to individual industrial and commercial households without employees, part-time employees who have not previously participated in the employer's basic medical insurance program, and other individuals with flexible employment. These individuals must personally pay the basic medical insurance premiums in accordance with national regulations.

Expenses for approved medical services are covered by medical insurance according to national regulations.

Moreover, each province, region, and city have its own set of regulations.

**Sources:** §70, 73 Labour Law; §2, 23, and 28 of the Social Insurance Law

## Job Security

Following the "Labour Law," "Labour Contract Law," and "Regulations on

Medical Leave for Enterprise Employees Due to Sickness or Non-Work-Related Injuries," the medical leave period applies to the duration in which employees refrain from work for medical treatment and rest due to illness or non-work-related injuries, and should not result in the termination of the labour contract.

The "Labour Law" and "Labour Contract Law" stipulate that if an employee is sick or injured due to non-work-related injuries and is unable to return to their original job after the prescribed medical treatment period, or to perform alternative work arranged by the employer, the employer is entitled to give the employee a 30-day notice. The employment contract can be terminated by providing written notice to the employee or by paying an additional month's salary to the employee.

**Sources:** §26, 29 of Labour Law 1994; §40, 42 of Labour Contract Law, 2007; §2, 6 and 7 of the Regulations on Medical Leave for Enterprise Employees Due to Sickness or Non-Work-Related Injuries, 1994

## Disability / Work Injury Benefit

According to the Labour Law and Social Insurance Law, the state has established a work-related injury insurance system to protect citizens' rights in the event of work-related injuries. All employees must be enrolled in work-related injury insurance, and the employer will cover the cost of the insurance premiums. Hence, employees will not be responsible for any premium payments related to work-related injury insurance.

If an employee is injured in an accident or suffers from an occupational disease and is recognised as a work-related injury, they

are entitled to work-related injury insurance benefits. According to China's "Regulation on Work-related Injury Insurance," if an employee suffers a work-related injury and, after treatment, the injury becomes relatively stable and results in a disability that affects their ability to work, a labour ability appraisal shall be conducted.

Labour capacity assessment involves grading the extent of labour disability and self-care impairment. Labour dysfunction is categorised into ten disability levels, with Level 1 being the most severe and Level 10 being the mildest. The ability to perform self-care is divided into three levels: being unable to take care of oneself at all, being unable to take care of oneself in most aspects of life, and being unable to take care of oneself in certain aspects of life. Individuals who have lost the ability to work after a labour ability assessment will be eligible for disability benefits.

If an employee is unable to work due to a work-related injury and needs to receive medical treatment, their original salary and benefits will remain unchanged, and the employer will pay them monthly during the suspension period. The normal leave period is up to 12 months. In special cases or for serious injuries, the leave may be extended for up to 12 months with approval from the local labour capacity appraisal committee. Still, the total extension period cannot exceed 12 months.

If an employee is injured at work and has been assessed with a disability, and confirmed by the Labour Capacity Appraisal Committee as needing daily care, the daily nursing fee will be paid monthly from the work-related injury insurance fund. The fees for long-term care are determined based on three levels of need:

those who are unable to care for themselves at all, those who are unable to care for most of their needs, and those who are unable to care for some of their needs. The fees are set at 50%, 40%, or 30% of the average monthly salary of employees in the specific area for the previous year, depending on the level of need.

If an employee gets disabled at work and is classified as having a first to fourth-level disability, they will keep their job, leave their current position, and receive the following benefits:

1. A one-time disability subsidy will be paid from the work-related injury insurance fund based on the disability level: First-level disability is 27 months of personal salary, second-level disability is 25 months of personal salary, third-level disability is 23 months of personal salary, and fourth-level disability is 21 months of personal salary.
2. Monthly disability allowances will be paid from the work-related injury insurance fund according to the disability level:
  - Level 1 of work disability: 90% of the employee's salary
  - Level 2 of work disability: 85% of the employee's salary
  - Level 3 of work disability: 80% of the employee's salary
  - Level 4 of work disability: 75% of the employee's salary

In the case of individuals with a level 5 or level 6 disability due to work, they qualify for a one-time disability subsidy from the work-related injury insurance fund, based on the severity of the disability.

- Level 5 of work disability: 18 months of salary
- Level 6 of work disability: 16 months of salary

If the actual disability allowance is lower than the local minimum wage, the shortfall will be covered by the work-related injury insurance fund.

Additionally, if it's difficult for the employer to arrange work for the disabled individual, the employer will provide a monthly disability allowance. This allowance is calculated as 70% of the employee's salary for a level 5 disability and 60% of the employee's salary for a level 6 disability.

The employer is also responsible for paying various social insurance premiums in compliance with regulations. If the actual disability allowance is lower than the local minimum wage, the employer must make up the difference. If an injured employee chooses to end the employment relationship with the employer, they have the right to do so. In this situation, the work-related injury insurance fund will provide a one-time medical subsidy for work-related injuries, and the employer will offer a one-time disability employment subsidy.

If an employee is disabled due to a work-related injury and is assessed as having a disability of grade seven to ten, they are entitled to the following benefits: (1) A one-off disability allowance paid from the work injury insurance fund according to the disability grade: for grade seven disability, the amount is equivalent to 13 months of the employee's own wage; for grade eight, 11 months; for grade nine, 9 months; and for grade ten, 7 months. (2) When the employment or labour contract expires and is terminated, or if the employee personally requests to terminate the contract, a one-off work injury medical subsidy will be paid by the work injury insurance fund, and a one-off disability employment subsidy is to be paid by the employer.

In case of a fatal injury, the dependents (widow/widower, children, parents, grandparents, brothers, and sisters) are entitled to a survivors' pension. The widow(er) receives 40% of the deceased worker's last monthly wage, while each additional dependent receives 30%. The law also includes provisions for a death allowance, which is a lump sum of 20 times the national urban per capita disposable income, and a funeral grant, which is a lump sum of six months of the local average wage. The total benefits for survivors cannot exceed the last monthly wage of the deceased worker.

If an employer fails to pay work-related injury insurance premiums as required by law, and a work-related injury accident occurs, the employer is responsible for paying work-related injury insurance benefits. If the employer does not pay, the benefits will be paid first from the work-related injury insurance fund.

**Sources:** §2, 33-36 and 41 of the Social Insurance, 2010; §21-22, 33-39, 62 of the Regulations on Work-related Injury Insurance

# 09/13 SOCIAL SECURITY

## ILO Conventions

Social Security (minimum standards): Convention 102 (1952). For several benefits somewhat, higher standards have been set in subsequent Conventions  
Employment Injury Benefits: Conventions 121 (1964),  
Invalidity, Old age and survivors' benefits: Convention 128(1967)  
Medical Care and Sickness Benefits: Convention 130 (1969)  
Unemployment Benefits: Convention 168 (1988).

**China has not ratified any of the above-mentioned Conventions.**

### ***Summary of Provisions under ILO Conventions***

In the normal circumstances, the pensionable age may not be set higher than 65 years of age. If retirement age is fixed above 65 years, it should give “due regard to the working ability of elderly persons” and “demographic, economic and social criteria, which shall be demonstrated statistically”. Pension can be set as a percentage of the minimum wage or a percentage of the earned wage.

When the breadwinner has died, the spouse and children are entitled to a benefit, expressed as a percentage of the minimum wage, or a percentage of the earned wage. This must at least be 40% of the reference wage.

For a limited period of time, the unemployed has a right to unemployment benefit set as a percentage of the minimum wage or a percentage of the earned wage.

Invalidity benefit is provided when a protected person is unable to engage in a gainful employment, before standard retirement age, due to a non-occupational chronic condition resulting in disease, injury or disability. Invalidity Benefit must at least be 40% of the reference wage.

## Regulations on social security:

- Social Insurance Law, 2010
  - Interim Measures of the State Council on the Retirement and Resignation of Workers (1978);
  - Notice on Preventing and Correcting Issues Related to Early Retirement of Enterprise Employees in Violation of State Regulations (1999);
  - Decision of the State Council on Improving the Basic Pension Insurance System for Enterprise Employees (2005)
  - Measures for Application and Payment of Unemployment Insurance Benefits", 2000;
  - Guangdong Province Unemployment Insurance Regulations, 2002
  - Fujian Province Unemployment Insurance Regulations, amended 2022
  - Notice of the Guangdong Provincial Department of Human Resources and Social Security and the Guangdong Provincial Department of Finance on Issues Concerning the Trial Implementation of Basic Pension Insurance Sick and Disability Allowances for Enterprise Employees, 2022
  - Notice of the Sichuan Provincial Department of Human Resources and Social Security on Issues Concerning Disability Benefits, 2006

## Pension Rights

China's current retirement age regulations are mainly based on the 1978 "Interim Measures of the State Council on the Retirement and Resignation of Workers" and the 1999 "Notice on Preventing and Correcting Issues Related to Early

Retirement of Enterprise Employees in Violation of State Regulations." The specific provisions are as follows:

The normal retirement age varies based on gender and occupation. Male employees can retire at 60, while female managers, professionals, and technical personnel can retire at 55. Female workers, on the other hand, can retire at 50.

According to the "Decision of the Standing Committee of the National People's Congress on Implementing the Gradual Postponement of the Statutory Retirement Age," starting from January 1, 2025, over a period of fifteen years, the statutory retirement age for male employees will be gradually raised from the original 60 years old to 63 years old, and the statutory retirement age for female employees will be gradually raised from the original 50 and 55 years old to 55 and 58 years old, respectively.

Employees engaged in underground, high-altitude, or high-temperature work, particularly heavy physical labour or other work harmful to health, can retire at the age of 55 for men and 45 for women. Finally, employees who have been certified by the hospital and confirmed by the Labour Capacity Appraisal Committee as having completely lost their ability to work can retire at 50 for men and 45 for women.

Employers and employees are both required to contribute to basic pension insurance premiums together. However, self-employed individuals, part-time workers, and employees not covered by their employer, as well as those in flexible employment arrangements, have the opportunity to participate in basic pension insurance and make contributions individually.

Employers must pay basic pension insurance premiums based on a percentage of their employees' total wages, as determined by the state. The payment percentage varies by location but is usually around 20%. These premiums are then deposited into the basic pension insurance pooling fund.

Meanwhile, employees are required to contribute 8% of their wages to the basic pension insurance premiums as stipulated by the state and should be recorded in their personal accounts.

For individuals who run their own businesses or work part-time without participating in basic pension insurance, the payment base is the average local employee salary for the previous year, with a payment ratio of 20%, out of which 8% is allocated to the individual's personal account. Upon retirement, the basic pension will be calculated and paid according to the standard method for enterprise employees.

People who are in the basic pension insurance program and have paid into it for a total of fifteen years by the time they reach the official retirement age will be eligible to receive a monthly basic pension. If individuals have not contributed for a total of fifteen years by the time they reach the official retirement age, they have the option to pay for an additional fifteen years in order to receive basic pensions on a monthly basis. Alternatively, they can switch to the new rural social pension insurance or urban resident social pension insurance and receive the corresponding pension benefits according to the regulations of the State Council.

The basic pension insurance fund is composed of contributions from both

employers and individuals, as well as government subsidies. In cases where the fund does not have enough funds, the government will provide subsidies. It is not permitted to withdraw funds from personal accounts before retirement. If an individual passes away, the remaining balance in the personal account can be inherited.

Ever since the "Decision of the State Council on Establishing a Unified Basic Pension Insurance System for Enterprise Employees" was introduced in 1997, individuals who have worked and made contributions for 15 years (including any deemed payment periods) will receive a basic pension comprising basic and personal pension account components. Upon retirement, the monthly pension is calculated based on the average monthly salary of local employees in the previous year and the average indexed monthly contribution salary of the employee. Each full year of payment contributes 1% to the pension. As for the personal accounts, the monthly pension standard remains the same. The deposit amount is divided by the number of payment months, determined based on the employee's retirement age, the life expectancy of the urban population, interest rates, and other relevant factors.

Individuals who were employed before the establishment of the unified basic pension insurance system for enterprise employees in 1997 and who have made contributions for a total of 15 years will receive basic pensions and personal account pensions as part of a transitional pension.

The basic pension for retirees from enterprises is adjusted by the State Council regularly, taking into account changes in employee wages and prices. Each locality is responsible for proposing specific adjustment plans based on local conditions

and submitting them to the Ministry of Labor and Social Security and the Ministry of Finance for approval before implementation.

**Sources:** §10-16, Social Insurance Law of the People's Republic of China 2010; §1 of the Interim Measures of the State Council on the Retirement and Resignation of Workers (1978); §1 of the Notice on Preventing and Correcting Issues Related to Early Retirement of Enterprise Employees in Violation of State Regulations (1999); §6-7 of the Decision of the State Council on Improving the Basic Pension Insurance System for Enterprise Employees (2005)

## Dependents' / Survivors' Benefit

If a person covered by basic pension insurance, according to the Social Insurance Law, passes away from illness or non-work-related causes, eligible family members may receive funeral benefits and pensions.

Under the "Interim Measures for the Benefits of Survivors of Enterprise Employees' Basic Pension Insurance," eligible survivors are entitled to a one-time payment. The necessary funds for this payment are allocated from the enterprise's basic pension insurance coordination fund. The standard for funeral subsidies is twice the monthly per capita disposable income of urban residents in the province in the previous year when the insured person died.

The pension amount is determined based on the number of years the insured has made payments, as follows:

- In the event of an employee's death, the duration of the payment period is determined by the length of the

employee's service. The payment period is three months if the employee has served for less than five years.

- If the service period is more than five years but less than ten years, the payment period extends to 6 months.
- For employees with a service period of 10 years but not exceeding 15 years, the payment period is nine months.
- In cases where the employee has served for more than 15 years, the payment period increases by one month for each additional year of service, with a maximum payment period of 24 months.

When a retiree passes away, the maximum number of months of payment to their beneficiaries is calculated based on the number of years the retiree received payments while working. The basic pension is decreased by one month for each year of receipt, with the minimum payment duration being nine months.

**Sources:** §17 of the "Social Insurance Law"; §3-6 of the "Interim Measures for the Benefits of Survivors of Enterprise Employees' Basic Pension Insurance"

## Unemployment Benefits

According to the Social Insurance Law, employees are required to participate in unemployment insurance, with the employer and employees both contributing to the premiums in accordance with national regulations.

To be eligible for unemployment insurance benefits, individuals must meet the following criteria:

1. Both the employer and the individual must have paid unemployment insurance premiums for at least one

year prior to the end of the individual's employment.

2. The termination of employment must not be voluntary on the part of the individual.
3. Individuals must be registered as unemployed and actively seeking employment.

In accordance with the Social Insurance Law, workers are entitled to unemployment benefits depending upon the length of coverage/contributions paid by the worker and employer provided that the worker has at least 12 months of covered employment. The benefit is paid for up to one year with less than five years of coverage, for up to 18 months with at least five but less than 10 years of coverage, and up to 24 months with 10 or more years of coverage. Workers should apply for this benefit within 60 days of unemployment. The unemployment benefit is lower than the local minimum wage.

The amount of unemployment insurance benefits is decided by the local governments of provinces, autonomous regions, and municipalities directly under the Central Government. The benefits should not be lower than the minimum standard for urban residents' living security. While receiving unemployment insurance benefits, unemployed individuals are also covered by basic medical insurance and can avail of its benefits. The premiums for basic medical insurance are paid from the unemployment insurance fund, and individuals are not required to pay these premiums.

If an individual passes away while receiving unemployment insurance benefits, a one-time funeral subsidy and pension will be provided to their surviving family members according to the local regulations for active

employees who have passed away. The necessary funds will be paid from the Unemployment Insurance Fund.

The standards for unemployment insurance benefits, as well as unemployment insurance benefits such as medical subsidies, funeral benefits, pensions, vocational training and job introduction subsidies, shall be implemented in accordance with the relevant regulations of the people's governments of each province, autonomous region, and municipality directly under the Central Government.

For instance, the "Regulations on Unemployment Insurance of Guangdong Province" state that social insurance agencies will pay unemployment insurance benefits monthly. The amount will be set at 90% of the minimum wage standard at or above the prefecture level where the benefits are being received. The provincial people's government may, in accordance with national regulations, make appropriate adjustments to unemployment insurance benefits.

The "Fujian Province Unemployment Insurance Regulations" specify that unemployment insurance benefits will be calculated starting from the date the unemployed individual is terminated from their job or the labour relationship comes to an end. The monthly payment standards are outlined as follows:

If the total employment duration is more than one year but less than ten years, the salary will be paid at 70% of the local legal minimum wage. If the total employment duration is more than ten years but less than twenty years, the salary will be paid at 75% of the local legal minimum wage. If the total employment duration is more than 20 years, the salary will be paid at 80% of the

local legal minimum wage.

**Sources:** §16 of the "Measures for Application and Payment of Unemployment Insurance Benefits", 2000; §19-20 of "Guangdong Province Unemployment Insurance Regulations" (2002) revised in 2022; §20, of "Fujian Province Unemployment Insurance Regulations", amended 2022

## Invalidity Benefits

The Social Insurance Law provides for invalidity benefit in the case of non-occupational accident/injury/disease resulting into permanent invalidity. To be eligible for invalidity benefit, a worker must be assessed with a total incapacity for work and not eligible for an early old-age pension. The minimum invalidity pension is set by the provincial and local governments according to the local standard of living.

In Guangdong Province, people who have paid into the system for 15 years or more (including deemed payment years) and have not yet reached the monthly basic pension age may qualify for disability benefits if they cannot work due to illness or non-work-related issues. To be eligible, the individual must have been insured at or above the prefecture level in their last insured place. If the Municipal Labour Capacity Appraisal Committee determines that the individual has completely lost their ability to work, and they are receiving benefits in Guangdong Province, the monthly disability allowance will be at least 105% of the minimum living security standard for urban residents at or above that level.

In Sichuan Province, disability allowances are calculated as 25% of the monthly per capita disposable income of urban residents from the previous year. These allowances are funded from the basic pension insurance fund. Any adjustments to disability allowances are made based on changes in the per capita disposable income of urban residents from the previous year.

**Sources:** §17 of the "Social Insurance Law"; §1-2 of the 2022 "Notice of the Guangdong Provincial Department of Human Resources and Social Security and the Guangdong Provincial Department of Finance on Issues Concerning the Trial Implementation of Basic Pension Insurance Sickness and Disability Allowances for Enterprise Employees"; §2 of the Notice of the Sichuan Provincial Department of Human Resources and Social Security on Issues Concerning Disability Benefits, 2006

# 10/13 FAIR TREATMENT

## **ILO Conventions**

Convention 111 (1958) lists the discrimination grounds which are forbidden.

Convention 100 (1952) is about Equal Remuneration for Work of Equal Value.

Convention 190 (2019) is about elimination of violence and harassment in the world of work.

**China has ratified the Conventions 100 and 111.**

### ***Summary of Provisions under ILO Conventions***

At workplaces, equal pay for men and women for work of equal value is a must, regardless of marital status. Pay inequality based on race, colour, sex, religion, political opinion, national extraction/place of birth or social origin is also forbidden. A transparent remuneration system and a clear matching of pay and position should be in place to help prevent wage discrimination.

Convention No. 190 recognises the right of everyone to a world of work free from violence and harassment. It defines violence and harassment as “a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aims at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment”. This definition covers physical abuse, verbal abuse, bullying and mobbing, sexual harassment, threats and stalking, among other things.

An employer can't discriminate against a worker in any aspect of employment (appointment, promotion, training and transfer) on the basis of union membership or participation in union activities, filing of a complaint against an employer, race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin, temporary absence due to illness, age, trade union membership, disability/HIV-AIDS, or absence from work during maternity leave. (Conventions 111, 156, 158, 159 and 183)

People have the right to work and there can't be occupational segregation on the basis of gender.

## Regulations on fair treatment:

- Constitution of the People's Republic of China, 1982
- Labour Law, 1994
- Law on Protection of Rights and Interests of Women, 2022
- Labour Protection for Female Employees 2012
- Employment Promotion Law 2007
- Law on the Protection of Persons with Disabilities 2008
- Regulations on the Employment of Persons with Disabilities 2007

## Equal Pay

The constitution of the People's Republic of China recognizes the principle of equal pay for equal amount of work. Labour Law, 1994 also requires employers to follow the equal pay for equal work principle.

The Protection of Rights & Interests of Women Law last amended in 2022, requires equal pay for equal work for men and women. Women also have to enjoy equal rights in receiving welfare benefits.

**Sources:** § 48 of the Constitution of the People's Republic of China 1982; § 46 of Labour Law 1994; § 45 of the Protection of Rights & Interests of Women Law amended in 2005 and 2022

## Sexual Harassment

The Protection of Rights & Interests of Women Law last amended in 2022 prohibits sexual harassment and the victim is entitled to complain to her employer and the relevant government bodies as well as bringing a civil suit in a court of law against the perpetrator. Special Provisions on

Labour Protection for Female Employees, 2012 require employers to prevent and stop sexual harassment of female employees.

Employers should take the following measures to prevent and stop sexual harassment of women:

1. Formulate rules and regulations prohibiting sexual harassment.
2. Clarify the responsible agency or person.
3. Carry out education and training activities to prevent and stop sexual harassment.
4. Take necessary safety and security measures to prevent sexual harassment from happening.
5. Set up complaint channels, such as telephone numbers and mailboxes, to facilitate complaint submissions.
6. Establish and improve investigation and handling procedures, handle disputes promptly, and protect the privacy and personal information of parties involved.
7. Support and assist victims in safeguarding their rights in accordance with the law, and provide psychological counselling to victims when necessary.
8. Implement additional appropriate measures to prevent and address incidents of sexual harassment

**Sources:** §23,25 of the Protection of Rights & Interests of Women Law amended in 2005 and 2022; § 11 of the Labour Protection for Female Employees 2012

## Non-Discrimination

In accordance with the Chinese Constitution, all Chinese citizens are equal before law. Discrimination is prohibited on the grounds of ethnic community, race,

sex, religious belief as well as disability. Prohibited grounds for dismissing workers are: marital status; pregnancy; maternity leave; temporary work injury or illness; race; sex; religion; nationality/national origin; age; trade union membership and activities; disabilities; ethnic origin.

Labour law also prohibits discrimination in employment on the basis of ethnic group, race, sex, or religious belief. Women enjoy equal rights with men with regard to work and social security.

In accordance with the Employment Promotion Law, workers have the right to equal employment and to choose job on their own initiative in accordance with the law. Workers seeking employment cannot be subject to discrimination based on factors such as ethnicity, race, gender, religious belief, etc. employers are prohibited from engaging in any kind of discrimination. Employers are restricted from refusing to recruit women workers or increase the threshold for recruitment of women workers under the excuse of gender. Employment Promoting Law further prohibits employment discrimination on the ground of ethnicity, disability, disease and rural worker status.

If an employer violates above provisions, he/she may lodge a complaint the People's Court. If someone violates the law by impairing the legitimate rights and interests of workers and causing property loss or damage, he has to face civil liabilities and, in some case, also criminal liabilities.

It is prohibited to discriminate against persons with disabilities in employment related matters. It requires employers to provide employees with jobs and posts that are suitable for them. The Law prohibits discrimination against disabled employees in their "recruitment, employment, change

to permanent status, promotion, evaluation, remuneration, fringe benefits, work insurance, etc.". It further requires employers to provide disabled employees with work conditions and work protections appropriate to the special characteristics of their disability. Employers are required to hire persons with disabilities (PWDs) as 1.5% of its total workforce. If the percentage of employed PWDs is less than 1.5% of an enterprise's workforce, it must make contribution to the state run "disabled persons' employment protection fund".

**Sources:** §33 of the Constitution of the People's Republic of China 1982; §12 of the Labour Law 1994; §242,46-49 of Protection of Rights & Interests of Women Law amended in 2022; §3, 256-31, 62 & 68 of the Employment Promotion Law 2007, amended in 2015; §30-40 of the Law on the Protection of Persons with Disabilities 2008, amended in 2018; Regulations on the Employment of Persons with Disabilities 2007

## Equal Choice of Profession

Women cannot work in the same industries as men as it is prohibited to arrange female workers to engage in work down the pit of mines, or work with Grade IV physical labour intensity as stipulated by the State, or where the load is carried more than six times per hour and the load exceeds 20 kilograms each time, or the load is carried intermittently, and the load exceeds 25 kilograms each time. Similar provisions are made part of the Special Provisions on Labour Protection.

**Sources:** §59 of the Labour Law 1994; §4 of the Labour Protection for Female Employees 2012

# 11/13 MINORS & YOUTH

## **ILO Conventions**

Minimum Age: Convention 138 (1973)

Worst Forms of Child labour: Convention 182 (1999)

**China has ratified the Conventions 138 and 182.**

### ***Summary of Provisions under ILO Conventions***

At workplaces, children may not be forced to perform work that could harm their health and hampers their physical and mental development.

All children should be able to attend school. Once this is safeguarded, there is no objection against children performing light jobs between the ages of 12 and 14. The general minimum age is 15 years; however, developing countries may set this at 14 years. The minimum age for hazardous work, which is likely to jeopardise young persons' health, safety or morals, is 18 years. It can also be set at a lower level of 16 years under certain circumstances

Children should not be employed in a work that is likely to harm their health, safety, or morals. It is considered one of the worst forms of child labour. The minimum age for such hazardous work is 18 years.

## Regulations on minors and youth:

- Labour Law, 1994, amended in 2018
- Labour Law, 1994, amended in 2018
- Minor Protection Law 1991
- Regulations on Banning Child Labour
- Provisions on the Prohibition of Using Child Labour 2002
- Compulsory Education Law, 1986

## Minimum Age for Employment

Minimum age for employment is 16 years and no employing unit is allowed to hire worker workers under the age of 16 years.

Institutions that recruit minors under the age of 16 must go through the formalities of examination and approval in accordance with the relevant provisions of the State and guarantee their right to compulsory education. These include institution of literature and art, physical culture, and special arts and crafts. On illegal hiring of minors under the age of 16, the administrative department of labour orders to make corrections and imposes a fine thereon. If the circumstances are serious, the administrative department for industry and commerce shall revoke its business license.

In accordance with the Minor Protection Law, no organization may hire a minor under the age of 16 years. The Regulations on Banning Child Labour not only prohibit employment of children under 16 but also restrict children from engaging in private business activities. Employers are required to check the identity papers of minors before hiring them and maintain record of such employees.

Parents/guardians of minors under 16 should protect their physical and mental

well-being, ensure their right to receive compulsory education and not allow them to be illegally employed.

According to the "Compulsory Education Law", the country implements a nine-year compulsory education system. Compulsory education begins at the age of six. Children who are six years old or older must be sent to school by their parents or legal guardians to receive compulsory education. In areas where conditions are not met, education can be postponed until the child is seven years old.

**Sources:** §15 & 94 of the Labour Law 1994, amended in 2018; §28 of the Minor Protection Law 1991, amended in 2024; Regulations on Banning Child Labour; §2-7 Provisions on the Prohibition of Using Child Labour 2002; §2, 11, 14 of Compulsory Education Law of the People's Republic of China, 1986, amended in 2018

## Minimum Age for Hazardous Work

Minimum Age for Hazardous Work is set as 18 years and juvenile workers (between the age of 16 to 18 years) may not be engaged to work in the mines, work with Grade IV physical labour intensity, poisonous & harmful work and any other work that they should avoid.

The employer must provide regular physical examination to juvenile workers.

**Sources:** § 64-65 of the Labour Law 1994, amended in 2018

# 12/13 FORCED LABOUR

## **ILO Conventions**

Forced labour: Conventions 29 (1930)

Abolition of Forced labour: Conventions 105 (1957)

Forced labour is the work one has to perform under threat of punishment: forfeit of wages, dismissal, harassment or violence, even corporal punishment. Forced labour means violation of human rights.

**China has ratified both Conventions 29 & 105.**

### ***Summary of Provisions under ILO Conventions***

Except for certain cases, forced or compulsory labour (exacted under the threat of punishment and for which you may not have offered voluntarily) is prohibited.

Employers must allow workers to look for work elsewhere. If a worker is looking for work elsewhere, he/she should not be shortened on wages or threatened with dismissal. (In the reverse cases, international law considers this forced labour.)

If the total working hours, inclusive of overtime exceed 56 hours per week, the worker is considered to be working under inhumane working conditions..

## Regulations on forced labour:

- Labour Law, 1994
- Criminal Law, 1979
- Labour Contract Law, 2007

## Prohibition on Forced and Compulsory Labour

Forced Labour is prohibited under the Labour Law and Labour Contract Law. The labour contract must be agreed upon or changed while respecting the worker's freedom of choice and following the principles of legality, equality, voluntariness, consensus, and good faith. During the implementation of the labour contract, the employer must adhere strictly to the labour quota standard and must not compel or disguise it. Furthermore, employees who work overtime as per regulations must receive overtime pay. If an employing unit compels workers to do work by means of violence, giving orders in violation of regulations or pressuring employees to perform risky tasks that endanger their personal safety; intimidation or illegal restriction of personal freedom; or humiliate, impose corporal punishment upon, beat, illegally search, or detain labourers; or cause serious physical or mental injury to labourers due to poor quality working conditions or a seriously polluted working environment, the responsible persons in the employment unit can be punished by the public security organ with a detention of 15 days or less, or a fine, or a warning; and where the case constitutes a crime, persons who are held responsible are investigated for criminal responsibility according to law.

Under the “Criminal law”, forced labour is defined as coercing individuals to work

using violent means, threats, or constraints on their personal freedom. Perpetrators could face imprisonment of up to three years or criminal detention, along with fines. In severe cases, the punishment may range from three to ten years of imprisonment, along with fines." Any individuals who knowingly recruit or transport people for forced labour, or assist others in committing forced labour crimes, will be punished accordingly. If a business entity is involved, it will be fined, and the individuals directly responsible will face prescribed penalties.

**Sources:** §32,96 of the Labour Law 1994, amended in 2018; §31,38,88 of Labour contract law; §244 of Criminal Law 1979, amended in 2023

## Freedom to Change Jobs and Right to Quit

The Labour Law stipulates that workers have equal rights to employment and choice of occupation. Additionally, the Labour Contract Law outlines the conditions for ending labour contracts. If both the employer and employee reach an agreement through discussions, they can terminate the employment contract. Furthermore, the employee may terminate the employment contract by providing written notice to the employer at least thirty days in advance. During the probation period, the employee has the right to terminate the employment contract by giving the employer three days' notice. If the employer is in any of the following circumstances, the employee may terminate the labour contract:

- (1) Failure to adhere to the specified labour protection measures or provide the agreed-upon labour conditions as outlined in the employment contract.

- (2) Failure to pay labour remuneration in full and on time; including but not limited to salaries, overtime, and other related payments as stipulated by the employment agreement or local labour laws."
- (3) Failure to pay social insurance premiums for workers in accordance with the law;
- (4) The employer's rules and regulations violate the existing laws and regulations, harming the workers' rights and interests.
- (5) The employer uses fraud, coercion, or takes advantage of others' vulnerability to induce the other party to enter into or modify a labour contract against their true intentions; the employer absolves itself from legal responsibilities and denies workers' rights; violates laws and administrative regulations, rendering the labour contract invalid."

**Sources:** §3 of the Labour Law, 1994, amended in 2018; § 26,36-50 of Labour Contract Law

## Inhumane Working Conditions

Working time may be extended beyond normal working hours of forty-four hours per week and eight hours a day. Total hours of work inclusive of overtime must not exceed 9-11 hours per day for workers hired in work of an intermittent nature. However, overtime hours must not exceed 36 hours per month.

For more information on this, please refer to the section on compensation.

**Sources:** §36, 37, 41-44 of the Labour Law 1994

# 13/13 TRADE UNION

## ILO Conventions

Freedom of association and protection of the right to organize: Convention 87 (1948)

Right to Organize and Collective Bargaining: Convention 98 (1949)

**China has not ratified both Conventions 87 & 98.**

### ***Summary of Provisions under ILO Conventions***

Freedom of association means freedom to join a trade union. This is part of the fundamental human rights. Employees may not be disadvantaged when they are active in the trade union outside of working hours. The list of exclusions for sectors of economic activity and workers in an organisation should be short.

Trade unions are entitled to negotiate with employers on terms of employment without hindrance. The freedom of a trade union to negotiate with employers to try to conclude collective agreements is protected. (The ILO has a special procedure for handling complaints from unions about violations of this principle.)

Workers have the right to strike to defend their social and economic interests. This right is incidental and corollary to the right to organize provided in ILO Convention 87

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## Regulations on trade unions:

- Constitution of the People's Republic of China, 1982
- Labour Law, 1994
- Trade Union Law, amended in 2021
- Company Law 1993, amended in 2023

## Freedom to Join and Form a Union

The Constitution of the People's Republic of China guarantees fundamental freedoms such as speech, press, assembly, and association, but it doesn't explicitly outline the rights of employees to form and participate in trade unions. The "Labour Law" asserts that workers have the right to join and establish trade unions in accordance with the law. Additionally, the "Trade Union Law" in China mandates that all workers in enterprises, institutions, and social organizations who primarily earn a salary must participate in a trade union according to the law. This requirement extends to workers of all ethnicities, races, genders, occupations, religious beliefs, and education levels.

The "Company Law" of the People's Republic of China also specifies that employees have the right to form trade unions as per the regulations outlined in the "Trade Union Law." These trade unions are responsible for protecting the lawful rights and interests of the company's employees. Additionally, the company must provide the necessary resources and support to enable the trade unions to carry out their activities effectively.

The only recognised trade union in China is the All-China Federation of Trade Unions (ACFTU). Both government agencies and private industry employees have the right to form and join trade unions, but they

must operate within the framework of the ACFTU. The ACFTU exclusively represents the interests of employees and safeguards their legitimate rights and interests in accordance with the law.

**Sources:** §35 of Constitution of the People's Republic of China; §7 & 88 of the Labour Law 1994; §2-3 Trade Union Law 1992; §17 of Company Law 1993, amended in 2023

## Freedom of Collective Bargaining

The "Labour Law" stipulates that workers shall, in accordance with legal provisions, participate in democratic management through employee representatives' meetings, workers' congresses or other forms or negotiate on an equal footing with employers to protect workers' legitimate rights and interests. This can be achieved through employees' representatives' meetings, workers' congresses, or other similar forums, where they are empowered to negotiate on an equal footing with their employers to protect their rightful interests. Furthermore, the Labour Contract Law mandates trade unions to provide assistance and guidance to both workers and employers in the formulation and execution of labour contracts in compliance with the law. Additionally, it calls for creating a collective negotiation mechanism with employers to ensure the protection of workers' legitimate rights and interests.

An employment agreement, signed by both employees and the employer, can cover a wide range of topics. These may include, but are not limited to, salaries, working hours, rest periods, vacation time, workplace safety, health benefits, and

insurance coverage. Additionally, collective agreements can be negotiated to address wage issues, work hours, breaks, workplace safety and health, insurance and welfare benefits, special protections for female and underage workers, vocational training, management of labour contracts, incentives and disciplinary actions, layoffs, duration of collective contracts, modifications, procedures for terminating collective contracts, negotiation and dispute resolution methods, as well as responsibilities for breaching collective contracts and other special collective contracts. At levels below the county, trade unions and company representatives can negotiate industrial or regional collective contracts in the construction, mining, and catering industries.

The draft collective contract shall be submitted to the workers' congress or all workers for discussion and approval. The collective contract is an agreement negotiated and signed by the trade union representing the employees of a company and the employer. In cases where an employer does not have a trade union, a higher-level trade union assists the workers' elected representatives in reaching an agreement with the employer.

The primary role of trade unions is to protect workers' rights and interests within the law's boundaries. They also monitor the employer's compliance with individual employment contracts and collective agreements. If an employer breaches labour laws, regulations, individual contracts, or collective agreements, the trade union is empowered to voice concerns and request corrective actions. The trade union may

offer assistance and legal aid to workers seeking arbitration or pursuing legal action.

As per the "Collective Contract Provisions," a collective negotiation representative is a person designated through legal procedures to conduct collective negotiations for their party's interests. Both parties must have an equal number of representatives in the collective consultation, with at least three representatives from each party. Additionally, a chief representative must be appointed for each party.

If a trade union has not been established, it must be democratically recommended by the unit's employees and approved by more than half of them. The chief representative of the employees is the chairman of the unit's labour union. The trade union chairman may appoint other negotiating representatives in writing to act as the chief representative. If the union chairman is vacant, the chief representative shall be the main person in charge of the union. If a trade union has not been established, the chief representative of the employees shall be democratically elected from among the consultation representatives. The representatives of both parties in collective bargaining may, in writing, authorise external professionals to act as their negotiators. The number of consultants should not exceed one-third of representatives, and the chief representative should not be from outside the unit.

According to the Trade Union Law," trade unions are mandated to represent employees in negotiations with enterprises, public institutions, and social organizations" that are involved in

enterprise management. Trade unions are also responsible for signing collective contracts in accordance with the law.

The "Civil Servant Law" stipulates that the state shall implement a salary system uniformly prescribed. The salary system for civil servants follows the principles of fair distribution based on factors such as job responsibilities, work performance, and qualifications. It also maintains reasonable salary discrepancies among different leadership positions and ranks. The state has established a standard mechanism for increasing salaries for civil servants and provides welfare benefits in line with national regulations. Civil servants' welfare benefits are improved based on economic and social development, and as a result, employees in government departments are not involved in collective bargaining or collective contracts.

The "Labour Contract Law" stipulates that the labour administrative departments of the people's governments at or above the county level and representatives of trade unions and enterprises should set up and enhance a tripartite mechanism for coordinating labour relations. They should also work together to study and address significant major issues related to labour relations.

The Trade Union Law ensures that government agencies consider the opinions of trade unions when creating or revising laws, regulations, and rules that directly impact the well-being of workers. Additionally, trade unions have input in the development of national economic and social plans at the county level and above, particularly on issues impacting employees. Furthermore, trade unions at these levels are consulted on matters

regarding labour, employment, wages, safety and health, and social insurance that significantly affect the workforce.

In 2002, the Ministry of Labor and Social Security, the All-China Federation of Trade Unions (ACFTU), the China Enterprise Confederation, and the China Entrepreneurs Association jointly issued the "Guiding Opinions on Establishing and Improving a Tripartite Coordination Mechanism for Labor Relations." This required all provinces, autonomous regions, and municipalities to establish a tripartite coordination mechanism for labour relations at the provincial level, involving labour and social security administrative departments, trade union organizations, and enterprise representative organizations.

The provincial tripartite coordination mechanism is generally responsible for the following aspects of work:

- 1) Research and analyse the impact of economic system reform policies and social and economic development plans on labour relations, and provide policy opinions and suggestions.
- 2) Inform and discuss issues related to labour relations, analyse the current status and trends, and negotiate major labour-related matters.
- 3) Provide input on labour relations laws, regulations, and policies and oversee their implementation.
- 4) Offer advice and guidance to local governments on setting up coordination mechanisms between workers, employers, and the government. Help businesses conduct fair negotiations, sign collective contracts, and make necessary adjustments in labour relations. Review the current labour dispute resolution system and assist in local

labour dispute resolution efforts. Share and promote successful practices.

- 5) Investigate and study collective labour disputes and mass incidents that have a significant impact. Provide opinions and suggestions for resolution and prevention.
- 6) Carry out publicity work on labour laws, regulations and rules.

The coordination mechanism involving three parties needs to be formalized and standardized, with regular meetings being held. Meeting minutes and materials should be sent to the National Tripartite Conference Office for Coordination of Labour Relations, and major issues promptly reported to the National Tripartite Conference on Coordination of Labour Relations.

**Sources:** §8, 33-35 of the Labour Law 1994; §6, 21 & 34 of the Trade Union Law 1992; § 5-6, 51-53, 78 of Labour Contract Law 2008, amended in 2012; § 2-3, 19-24 of Provisions on Collective Contracts 2004; §2 of Trial Measures for Collective Wage Negotiation 2000; §79, 82 of Civil Servant Law of the People's Republic of China 2005, amended in 2018

## Right to Strike

The Chinese Constitution does not clearly stipulate the legality of strikes. However, it also does not explicitly prohibit strikes by employees other than civil servants. The relevant provisions of Labour Law, Labour Contract Law, and Trade Union Law suggest that strikes can be considered legal behaviour under certain circumstances. It's important to note, however, that not all strikes are legal.

The Labour Law and the Labour Contract Law stipulate that workers are entitled to refuse to follow illegal instructions or perform hazardous tasks imposed by their employers. They also have the right to voice criticism, report, and make accusations against any actions that jeopardise their safety and health." If an employee declines illegal directives from the employer's management team or refuses to engage in risky work, it is not considered a breach of the labour contract.

Essentially, workers have the right to strike when employers violate the Labour Contract Law, which is generally considered lawful. However, workers must adhere to legal provisions and regulations when exercising their right to strike and to avoid disrupting social order or public properties.

In case of work suspension or slowdown, the trade union should negotiate on behalf of employees to address their concerns and propose solutions, as per the "Trade Union Law". Enterprises, institutions, and social organisations are responsible for addressing their employees' legitimate needs. According to the law, trade unions should play a crucial role in supporting both sides to effectively manage their operations and swiftly reinstate normal production and working conditions.

The Civil Servant Law is more straightforward on the matter. It states that civil servants must adhere to laws and regulations and must refrain from organising or participating in illegal organisations or strikes.

**Sources:** §56 of the Labour Law 1994; §28 of the Trade Union Law 1992; §32 of Labour Contract Law 2008, amended in 2012; §59 of

Civil Servant Law of the People's Republic  
of China 2005, amended in 2018

# QUESTIONNAIRE

*The text in this document was last updated in January 2025. For the most recent and updated text on Employment & Labour Legislation in China in Chinese, please refer to: <https://wageindicator.cn/>*

## DECENTWORKCHECK.ORG

Check

Decent Work Check China is a product of Wageindicator.org  
and [www.wageindicator.cn](http://www.wageindicator.cn)



National Regulation exists



National Regulation does not exist

## 01/13 Work &amp; Wages

	NR	Yes	No
1. I earn at least the minimum wage announced by the Government		<input type="checkbox"/>	<input type="checkbox"/>
2. I get my pay on a regular basis. (daily, weekly, fortnightly, monthly)		<input type="checkbox"/>	<input type="checkbox"/>

## 02/13 Compensation

3. Whenever I work overtime, I always get compensation <i>(Overtime rate is fixed at a higher rate)</i>		<input type="checkbox"/>	<input type="checkbox"/>
4. Whenever I work at night, I get higher compensation for night work		<input type="checkbox"/>	<input type="checkbox"/>
5. I get compensatory holiday when I have to work on a public holiday or weekly rest day		<input type="checkbox"/>	<input type="checkbox"/>
6. Whenever I work on a weekly rest day or public holiday, I get due compensation for it		<input type="checkbox"/>	<input type="checkbox"/>

## 03/13 Annual Leave &amp; Holidays

7. How many weeks of paid annual leave are you entitled to?*		<input type="checkbox"/> 1 <input type="checkbox"/> 2	<input type="checkbox"/> 3 <input type="checkbox"/> 4+
8. I get paid during public (national and religious) holidays		<input type="checkbox"/>	<input type="checkbox"/>
9. I get a weekly rest period of at least one day (i.e. 24 hours) in a week		<input type="checkbox"/>	<input type="checkbox"/>

## 04/13 Employment Security

10. I was provided a written statement of particulars at the start of my employment		<input type="checkbox"/>	<input type="checkbox"/>
11. My employer does not hire workers on fixed terms contracts for tasks of permanent nature <i>Please tick "NO" if your employer hires contract workers for permanent tasks</i>		<input type="checkbox"/>	<input type="checkbox"/>
12. My probation period is only 06 months		<input type="checkbox"/>	<input type="checkbox"/>
13. My employer gives due notice before terminating my employment contract (or pays in lieu of notice)		<input type="checkbox"/>	<input type="checkbox"/>
14. My employer offers severance pay in case of termination of employment <i>Severance pay is provided under the law. It is dependent on wages of an employee and length of service</i>		<input type="checkbox"/>	<input type="checkbox"/>

## 05/13 Family Responsibilities





15. My employer provides paid paternity leave <i>This leave is for new fathers/partners and is given at the time of child birth</i>		<input type="checkbox"/>	<input type="checkbox"/>
16. My employer provides (paid or unpaid) parental leave <i>This leave is provided once maternity and paternity leaves have been exhausted. Can be taken by either parent or both the parents consecutively.</i>		<input type="checkbox"/>	<input type="checkbox"/>
17. My work schedule is flexible enough to combine work with family responsibilities <i>Through part-time work or other flex time options</i>		<input type="checkbox"/>	<input type="checkbox"/>

## 06/13 Maternity &amp; Work





18. I get free ante and post natal medical care		<input type="checkbox"/>	<input type="checkbox"/>
19. During pregnancy, I am exempted from nightshifts (night work) or hazardous work		<input type="checkbox"/>	<input type="checkbox"/>
20. My maternity leave lasts at least 14 weeks		<input type="checkbox"/>	<input type="checkbox"/>

\* On question 7, only 3 or 4 working weeks is equivalent to 1 "YES".





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- |     |   |   |                          |                          |
|-----|---|---|--------------------------|--------------------------|
| 21. | During my maternity leave, I get at least 2/3rd of my former salary   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 22. | I am protected from dismissal during the period of pregnancy<br><i>Workers can still be dismissed for reasons not related to pregnancy like conduct or capacity</i> |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 23. | I have the right to get same/similar job when I return from maternity leave   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 24. | My employer allows nursing breaks, during working hours, to feed my child   |  | <input type="checkbox"/> | <input type="checkbox"/> |





## 07/13 Health & Safety

- |     |  |   |                          |                          |
|-----|--|---|--------------------------|--------------------------|
| 25. | My employer makes sure my workplace is safe and healthy  |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 26. | My employer provides protective equipment, including protective clothing, free of cost   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 27. | My employer provides adequate health and safety training and ensures that workers know the health hazards and different emergency exits in the case of an accident |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 28. | My workplace is visited by the labour inspector at least once a year to check compliance of labour laws at my workplace  |  | <input type="checkbox"/> | <input type="checkbox"/> |









## 08/13 Sick Leave & Employment Injury Benefits

- |     |   |   |                          |                          |
|-----|---|---|--------------------------|--------------------------|
| 29. | My employer provides paid sick leave and I get at least 45% of my wage during the first 6 months of illness |    | <input type="checkbox"/> | <input type="checkbox"/> |
| 30. | I have access to free medical care during my sickness and work injury                                       |   | <input type="checkbox"/> | <input type="checkbox"/> |
| 31. | My employment is secure during the first 6 months of my illness   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 32. | I get adequate compensation in the case of an occupational accident/work injury or occupational disease     |  | <input type="checkbox"/> | <input type="checkbox"/> |

## 09/13 Social Security

- |     |   |   |                          |                          |
|-----|---|---|--------------------------|--------------------------|
| 33. | I am entitled to a pension when I turn 60   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 34. | When I, as a worker, die, my next of kin/survivors get some benefit   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 35. | I get unemployment benefit in case I lose my job  |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 36. | I have access to invalidity benefit in case I am unable to earn due to a nonoccupational sickness, injury or accident |  | <input type="checkbox"/> | <input type="checkbox"/> |

## 10/13 Fair Treatment

- |     |  |   |                          |                          |
|-----|--|---|--------------------------|--------------------------|
| 37. | My employer ensure equal pay for equal/similar work (work of equal value) without any discrimination                                     |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 38. | My employer take strict action against sexual harassment at workplace  |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 39. | I am treated equally in employment opportunities (appointment,promotion, training and transfer) without discrimination on the basis of:* |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Sex/Gender   |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Race   |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Colour   |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Religion   |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Political Opinion  |  | <input type="checkbox"/> | <input type="checkbox"/> |

\* For a composite positive score on question 39, you must have answered "yes" to at least 9 of the choices.

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	Nationality/Place of Birth	😊	<input type="checkbox"/>	<input type="checkbox"/>
	Social Origin/Caste	😊	<input type="checkbox"/>	<input type="checkbox"/>
	Family responsibilities/family status	😊	<input type="checkbox"/>	<input type="checkbox"/>
	Age	😊	<input type="checkbox"/>	<input type="checkbox"/>
	Disability/HIV-AIDS	😊	<input type="checkbox"/>	<input type="checkbox"/>
	Trade union membership and related activities	😊	<input type="checkbox"/>	<input type="checkbox"/>
	Language	😞	<input type="checkbox"/>	<input type="checkbox"/>
	Sexual Orientation (homosexual, bisexual or heterosexual orientation)	😞	<input type="checkbox"/>	<input type="checkbox"/>
	Marital Status	😊	<input type="checkbox"/>	<input type="checkbox"/>
	Physical Appearance	😞	<input type="checkbox"/>	<input type="checkbox"/>
	Pregnancy/Maternity	😊	<input type="checkbox"/>	<input type="checkbox"/>
40	I, as a woman, can work in the same industries as men and have the freedom to choose my profession	😞	<input type="checkbox"/>	<input type="checkbox"/>

## 11/13 Minors & Youth

41.	In my workplace, children under 15 are forbidden	😊	<input type="checkbox"/>	<input type="checkbox"/>
42.	In my workplace, children under 18 are forbidden for hazardous work	😊	<input type="checkbox"/>	<input type="checkbox"/>

## 12/13 Forced Labour

43.	I have the right to terminate employment at will or after serving a notice	😊	<input type="checkbox"/>	<input type="checkbox"/>
44.	My employer keeps my workplace free of forced or bonded labour	😊	<input type="checkbox"/>	<input type="checkbox"/>
45.	My total hours of work, inclusive of overtime, do not exceed 56 hours per week	😊	<input type="checkbox"/>	<input type="checkbox"/>

## 13/13 Trade Union Rights

46.	I have a labour union at my workplace	😊	<input type="checkbox"/>	<input type="checkbox"/>
47.	I have the right to join a union at my workplace	😊	<input type="checkbox"/>	<input type="checkbox"/>
48.	My employer allows collective bargaining at my workplace	😊	<input type="checkbox"/>	<input type="checkbox"/>
49.	I can defend, with my colleagues, our social and economic interests through "strike" without any fear of discrimination	😊	<input type="checkbox"/>	<input type="checkbox"/>

# DECENTWORKCHECK.ORG

## Results

Your personal score tells how much your employer lives up to national legal standards regarding work. To calculate your DecentWorkCheck, you must accumulate 1 point for each YES answer marked. Then compare it with the values in Table below:



is your amount of "YES" accumulated.

China scored 45 times "YES" on 49 questions related to International Labour Standards

### If your score is between 1 - 18

This score is unbelievable! Does your employer know we live in the 21st century? Ask for your rights. If there is a union active in your company or branch of industry, join it and appeal for help.

### If your score is between 19 - 38

As you can see, there is ample room for improvement. But please don't tackle all these issues at once. Start where it hurts most. In the meantime, notify your union or WageIndicator about your situation, so they may help to improve it. When sending an email to us, please be specific about your complaint and if possible name your employer as well. Also, try and find out if your company officially adheres to a code known as Corporate Social Responsibility. If they do, they should live up to at least ILO standards. If they don't adhere to such a code yet, they should. Many companies do by now. You may bring this up.

### If your score is between 39 - 49

You're pretty much out of the danger zone. Your employer adheres to most of the existing labour laws and regulations. But there is always room for improvement. So next time you talk to management about your work conditions, prepare well and consult this DecentWorkCheck as a checklist.