

英 漢 對 照

中 國 勞 工 法 規

CHINA'S LABOR LAWS

1929-1931

CHINESE TEXT WITH ENGLISH TRANSLATION

KOO PING YUEN



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# CHINA'S LABOR LAWS

1929-1931

PROMULGATED BY THE NATIONAL GOVERNMENT  
OF THE REPUBLIC OF CHINA

CHINESE TEXT WITH ENGLISH TRANSLATION EDITED BY

KOO PING YUEN

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THE COMMERCIAL PRESS, LIMITED  
SHANGHAI, CHINA

1931



## INTRODUCTION

The rapid growth of modern industry in China during the past two or three decades has brought with it many problems—problems which seem to be inseparable from modern industrial progress, which necessitates the employment of large numbers of workers in factories.

In modern industry there is not and cannot be that close connection between employer and employee that existed in the past when the interests of the employer and the employee were closely allied and were recognized by both parties—hence the misunderstandings and the need for regulations governing industry.

To meet the many new problems that have arisen in China and to protect both employer and employee and endeavor to regulate industry, look after the welfare of the worker and protect the employer from unreasonable action on the part of employees, the National Government has enacted and promulgated several laws, ordinances, and regulations dealing with labor problems.

In preparing accurate translations of the Factory and Labor Laws promulgated up to date by the National Government and publishing them in one volume, Mr. Koo has done a service to all those who are interested in the industrial development of the country and who carry on business in China.

Though translations of these laws and regulations have been made and published from time to time as

they were promulgated, it has been difficult to reach a clear understanding of them and fully appreciate their objective, as such translations as have been made have not hitherto been collected in one volume that they might be studied conveniently as a connected piece of legislation.

In the preparation of his translation Mr. Koo has had the advantage of studying the various translations already published in sundry journals, comparing them with the original Chinese text and has thus been able to secure the best rendering of the Chinese meaning in the most widely accepted English terminology.

The importance to the foreigner engaged in business or industry in China of accurate translations of the Chinese laws will be apparent to all.

The present volume will fill a long-felt want.

R. CALDER MARSHALL,

SHANGHAI, OCTOBER 17, 1931.

## PREFACE

Labor legislation is adopted by a government for the purpose of regulating a labor movement, improving working conditions, and increasing the general welfare of workers. Although labor legislation is a new development in China, yet there has been steady progress in the last two years. There are laws governing conditions in factories, labor unions, industrial disputes and collective agreements, which constitute some of the most important measures taken by the National Government of China in the realization of its labor policy under the guidance of Dr. Sun Yat-sen's principles. But as long as these legislative enactments are only to be found enshrouded amidst a number of heterogeneous articles scattered in various journals, there is no hope of intelligent understanding of their whole aim and scope. This book, therefore, which has gathered together all official texts of labor laws and regulations, is compiled from the standpoint of the citizen, the employer, the social worker, and the worker in industry who should keep informed of all phases of these developments.

The work is further intended to give as accurate a translation as possible of the text of the labor laws and their administrative ordinances promulgated by the National Government up to August, 1931. The editor has had access to translations from several sources, including those of the Ministry of Industries of the National Government of China, of the China Branch Office of the International Labor Office of the League of Nations, and of the Shanghai Municipal Council, which Mr. J. R. Jones was glad to place at his disposal. He has checked carefully each of these with the original

Chinese, and is able to offer now texts which have been very carefully weighed with a view to getting the best rendering of the Chinese meaning, using the most widely accepted English terminology. It is hoped that this book may contribute something to a clear understanding of the present labor laws in China.

The editor is indebted to Mr. R. Calder Marshall, Chairman of the British Chamber of Commerce in Shanghai, for writing the introduction; and to Miss Eleanor M. Hinder for so laboriously reading over the manuscript and giving valuable suggestions.

P. Y. Koo.

SHANGHAI, CHINA,  
DECEMBER 31, 1931.



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## **I. FACTORY LAW**

# CHINA'S LABOR LAWS

## I. FACTORY LAW

Promulgated by the National Government of the Republic of China  
on December 30, 1929, and ordered to be enforced  
on and after August 1, 1931

### CHAPTER I. GENERAL PROVISIONS

*Article 1.* This Law shall apply to all factories where the machinery is driven by steam, gas, electric, or water power and where in ordinary times thirty or more workers are employed.

*Article 2.* When used in this Law, unless the ordinances otherwise indicate, the term "Proper Authorities" means the municipal government in municipalities and the district government in districts (hsien).

*Article 3.* Factories shall keep a workers' register and record the following particulars concerning each worker:

- (1) Name, age, native place, and address;
- (2) Year and month of entry into the factory;
- (3) The kind of work, hours, and remuneration;
- (4) Skill and conduct;
- (5) Efficiency of work;
- (6) The rewards and penalties received in the factory;
- (7) The kinds of illness and injuries suffered by the worker and the causes thereof.



*Article 4.* Once every six months factories shall submit to the Proper Authorities a report, containing the following particulars:

- (1) A register of workers' names;
- (2) Illness and injuries suffered by workers, and their treatment and results;
- (3) Accidents and measures taken for relief thereof;
- (4) The termination of employment of workers and reasons therefor.

## CHAPTER II. CHILD AND FEMALE WORKERS

*Article 5.* No person, male or female, who has not completed his or her fourteenth year shall be employed in any factory as a worker.

Boys or girls above the age of twelve and below the age of fourteen who are already employed in factories prior to the promulgation of this Law may, with the consent of the Proper Authorities, be permitted to remain in employment when this Law is put into effect.

*Article 6.* Males or females above the age of fourteen but who have not completed their sixteenth year shall be deemed child workers. Child workers are permitted to be engaged only in light and easy work.

*Article 7.* Child and female workers shall not be employed in the following work:

- (1) In handling explosive, inflammatory, or poisonous articles;
- (2) In places which are exposed to dust or poisonous odors and gas;

- (3) In cleaning, oiling, inspecting, or repairing moving machines, power-transmitting equipment, or risky parts thereof, or in adjusting belts and ropes;
- (4) In connecting highly charged electric wires;
- (5) In handling molten metals or the residue thereof;
- (6) In handling furnaces or boilers; or
- (7) Other work that is immoral or of a dangerous character.

### CHAPTER III. WORKING HOURS

*Article 8.* In principle the regular working day for adult workers is eight hours; but may be extended to ten in cases of necessity due to varying local conditions or the nature of the work.

*Article 9.* Factories that use the system of day and night shifts shall so arrange their working schedules that the shifts for the workers may be interchanged at least once a week.

*Article 10.* In addition to the provisions of Article 8, in cases of natural, accidental, or seasonal changes, the working hours may be extended; but the total number of working hours shall not exceed twelve hours per day, and the overtime work shall not exceed thirty-six hours per month.

*Article 11.* The regular working day for child workers shall, under no circumstances, exceed eight hours.

*Article 12.* Child workers shall not work between the hours of seven o'clock in the evening and six o'clock the following morning.

\**Article 13.* Female workers shall not work between the hours of ten o'clock in the evening and six o'clock the following morning.

#### CHAPTER IV. REST AND HOLIDAYS

*Article 14.* Any worker who works continuously for a period of five hours shall have half an hour's rest.

*Article 15.* All workers shall have one day's rest in every seven days.

*Article 16.* All factories shall cease work on holidays designated by law or orders of the Government.

*Article 17.* All workers who work continuously for a fixed period shall be allowed a special vacation which shall be based on the following scale:

- (1) All workers who have worked continuously for more than one year but less than three years, shall be allowed a vacation of seven days each year;
- (2) All workers who have worked continuously for more than three years but less than five years, shall be allowed a vacation of ten days per year;
- (3) All workers who have worked continuously for more than five years but less than ten years, shall be allowed a vacation of fourteen days a year;
- (4) All workers who have worked continuously for more than ten years shall have an additional

\*See the Appendix.

day for each additional year added to his vacation, but the total number of days shall not exceed thirty.

*Article 18.* All workers shall be paid their regular wages for the holidays and vacations provided in Articles 15, 16, and 17. In cases where the workers do not wish to enjoy the special vacation to which they are entitled, their wages for the said period shall be doubled.

*Article 19.* Where military establishments or public utility works are concerned, the Proper Authorities may refuse to grant holidays whenever they deem such action necessary.

## CHAPTER V. WAGES

*Article 20.* Minimum wages of the workers shall be determined in accordance with the living conditions prevalent in the various localities in which the factories are established.

*Article 21.* Wages shall be paid by the factories to the workers in the local legal tender.

*Article 22.* Regular wages based either on time rate or piece rate shall be paid to workers at least twice a month. Wages shall be paid on fixed dates.

*Article 23.* Whenever an extension of working hours is made in accordance with Article 10 or Article 19, the workers' wages shall be increased from one third to two thirds of their regular wages calculated on an hourly basis.



*Article 24.* Male and female workers of the same occupation and of equal efficiency shall receive equal wages.

*Article 25.* Factories shall not deduct in advance the wages of the workers as security for penalties for breach of contract or as indemnity for damages.

## CHAPTER VI. TERMINATION OF WORKING CONTRACTS

*Article 26.* Contracts entered into for a stipulated period of time may, upon expiration, be renewed only by mutual agreement.

*Article 27.* In cases where the contract has no stipulation as to its term, the factory may cancel the same only by serving on the workers a notice in advance. The time allowed by the notice shall be based upon the following scale, but this provision shall not apply to contracts which have stipulations concerning the manner of termination:

- (1) Ten days' advance notice to workers who have worked in the factory for more than three months but less than one year;
- (2) Twenty days' advance notice to workers who have worked for more than one year but less than three years;
- (3) Thirty days' advance notice to workers who have worked for more than three years.

*Article 28.* Workers who have received notice of dismissal may ask for a leave of absence in order to apply for other jobs, but said leave of absence shall

not exceed two working days a week. Wages during the said period shall be paid to said workers.

*Article 29.* Factories which terminate the working contract in conformity with the provisions of Article 27 shall pay the workers, in addition to their regular wages, half of the wages due for the period of notification as stipulated in the said Article. Failing to comply with the provisions of Article 27, the factories which desire summary termination of the working contract shall pay to the workers the entire wages for the period of notification as stipulated in the said Article.

*Article 30.* Factories may terminate the employment of their workers before the expiration of the contract under any one of the following conditions, but must serve previous notices on them in accordance with the provisions of Article 27:

- (1) When a factory totally or partially suspends operations;
- (2) When a factory either through natural disasters or the force of unforeseen circumstances, is obliged to suspend operations for a period of over one month;
- (3) When a worker is incapable of performing his work.

*Article 31.* Factories may terminate the employment of their workers before the expiration of the contract without serving on them any previous notice under any one of the following conditions:

- (1) When a worker repeatedly violates the factory's regulations;

- (2) When a worker fails to report for work without good cause for over three consecutive days or for over six days within one month.

*Article 32.* Workers may terminate their working contracts by serving on the factories a notice of one week, in case said contracts have no stipulation as to term thereof.

*Article 33.* Under any one of the following conditions the workers may terminate their contracts with the factories without serving on the latter any previous notice:

- (1) When a factory violates the terms of the working contract or any important provisions of the Government's labor laws and orders;
- (2) When a factory fails to pay the wages at the proper time without just cause;
- (3) When a factory maltreats the workers.

*Article 34.* Disputes arising from the interpretations and applications of paragraph 3 of Article 30, paragraph 1 of Article 31 and Article 33 may be referred to the Factory Council for settlement.

*Article 35.* Upon termination of the working contract, the workers may request the factory to issue them certificates of work. But this stipulation shall not be applicable in cases where the workers summarily terminate their contract without conforming with the provisions of Article 32, or in cases where the contracts are terminated in accordance with any one of the conditions mentioned in Article 31.

The certificates of work shall contain the following particulars:

- (1) The worker's name, age, native place, and address;
- (2) The kind of work engaged in by the worker;
- (3) The period of time during which the worker was employed by the factory and his record.

## CHAPTER VII. WORKERS' WELFARE

*Article 36.* All factories shall provide supplementary education for child workers and apprentices, and shall be responsible for all the expenses thereof incurred. Such supplementary education shall not be less than ten hours a week. For other workers who have no opportunity for education, the factories shall also establish, within their means, educational facilities.

The time for conducting the above-mentioned education shall be arranged outside of the working hours.

*Article 37.* Female workers shall be given leave with full wages before and after childbirth, amounting altogether to eight weeks in duration.

*Article 38.* Factories shall, to the best of their ability, assist the workers in establishing workers' savings and coöperative societies, etc.

*Article 39.* Factories shall, to the best of their ability, promote proper recreation for their workers.

*Article 40.* At the end of each fiscal year, after due appropriations have been made for dividends and reserve funds, the factory shall give those workers who have no demerits during the year either a reward or a share of the remaining profits.

## CHAPTER VIII. SAFETY AND SANITARY PROVISIONS

*Article 41.* All factories shall take the following safety precautions:

- (1) Safety precautions against risks of personal injury to the workers;
- (2) Safety precautions regarding the structure of the factory;
- (3) Precautions regarding the proper installation of machines;
- (4) Precautions for the prevention of fire and floods.

*Article 42.* All factories shall have the following sanitary provisions:

- (1) Provision for good ventilation;
- (2) Provision for pure drinking water;
- (3) Provision for lavatories and toilet facilities;
- (4) Provision for light;
- (5) Provision for poison prevention.

*Article 43.* All factories shall give their workers safety instruction.

*Article 44.* Whenever the safety or sanitary provisions of a factory are found inadequate, the Proper Authorities may require improvement within a definite period of time, and in case of necessity may also forbid the use of any part of the factory.

## CHAPTER IX. WORKERS' COMPENSATION AND PENSIONS

*Article 45.* Pending the enforcement of Labor Insurance Laws, the factory shall pay to the workers injured or killed in the performance of their duty all medical expenses and compensations or pensions. The sum of compensation or pension shall be based upon the following scale, but if the capital of the factory is less than fifty thousand dollars, the factory may petition the Proper Authorities to reduce the sums to be paid.

- (1) For workers temporarily incapacitated, the factory shall, besides bearing the medical expenses, pay them each day a sum amounting to two thirds of their regular wages for a period of not more than six months. Upon the expiration of the said period, the factory may reduce the amount of compensation to half of the workers' average wage for a period of not more than one year,
- (2) For workers permanently disabled in the performance of their duty, the factory shall pay a sum commensurate with the extent of the disablement. Such compensation, however, shall under no circumstances exceed three years' regular wages, or be less than one year's wages;
- (3) For workers killed in the course of their employment, the factory shall, besides paying a sum of fifty dollars as funeral expenses, pay to the legal heirs a pension of three hundred dollars, plus two years' regular wages.

The regular wage mentioned above shall be based upon the workers' average wage during the last three months of their employment.

Funeral expenses and pensions shall be paid at one and the same time, but compensation for injuries or sickness or disablement may be paid at regular intervals.

*Article 46.* Pensions provided for in the previous Article shall be paid to the wife or husband of the deceased worker. Should the deceased leave no wife or husband, the pension, unless otherwise provided in the will of the deceased, shall be paid in the following order:

- (1) Children;
- (2) Parents;
- (3) Grandchildren;
- (4) Brothers and sisters.

*Article 47.* Whenever a worker urgently needs money on occasions of marriage or death, he may request the factory to advance him a sum not exceeding one month's wages, or the whole or a part of his savings.

*Article 48.* Should any accident occur resulting in the death or grave injury to a worker, the factory shall, within five days, report its occurrence and the consequent measures taken to the Proper Authorities.

## CHAPTER X. FACTORY COUNCIL

*Article 49.* The Factory Council shall be composed of an equal number of representatives from both the factory and the workers.

The factory representatives on the Factory Council shall be selected from those who are familiar with the conditions of the factory and the conditions of the workers. The election of the workers' representatives shall be reported to and supervised by the representatives of the Proper Authorities.

*Article 50.* The duties of the Factory Council shall be as follows:

- (1) To study the improvement of working efficiency;
- (2) To improve the relations between the factory and the workers, and to settle disputes between them;
- (3) To cooperate in carrying out the working contract and the regulations of the factory;
- (4) To deliberate and decide upon overtime work;
- (5) To improve the safety and sanitary conditions of the factory;
- (6) To submit proposals for the improvement of conditions in factory or workshops;
- (7) To plan welfare work for the workers.

*Article 51.* Matters referred to in the previous Article and concerning one workshop only shall first be referred to the representatives of the workshop in question and the factory. Should the representatives fail to effect a solution or should the matter concern two or more workshops, then the dispute shall be submitted to the Factory Council for settlement. Should the Council fail to effect a solution, then the dispute shall be settled in accordance with the Law on Conciliation and Arbitration of Industrial Disputes.



*Article 52.* Workers above eighteen years of age shall have the right to vote for the workers' representatives on the Factory Council.

*Article 53.* Workers who are of Chinese nationality, above twenty-four years of age, and have worked in the factory for more than six months shall have the right to be elected as workers' representatives.

*Article 54.* The number of representatives for either the factory or the workers shall be limited to from five to nine.

*Article 55.* The chairman of the Factory Council shall be elected alternatively by the factory representatives and the workers' representatives.

The Council shall have one regular meeting each month, but in case of necessity may call special meetings.

## CHAPTER XI. APPRENTICES

*Article 56.* Factories taking apprentices shall first conclude contracts with them or their legal representatives. The contract shall be made in triplicate, one copy for each of the contracting parties and one to be submitted to the Proper Authorities for registration. The contract shall contain the following articles:

- (1) The name, age, native place, and address of the apprentice;
- (2) The kind of trade the apprentice is to follow;
- (3) The date on which the contract is made and its duration;

- (4) Mutual obligations; should the apprentice be required to pay tuition, the amount and time for payment shall be stipulated. Where the contract of apprenticeship provides remuneration for the apprentice's service, the amount and time of payment shall likewise be stipulated.

The above contract shall not restrict the apprentice's freedom to work upon the expiration of the apprenticeship.

*Article 57.* Neither male nor female persons below the age of fourteen shall be engaged as apprentices, excepting those who were already engaged as apprentices prior to the enforcement of this Law.

*Article 58.* The hours of training for apprentices shall be governed by the provisions of Chapter III of this Law.

*Article 59.* Except for purposes of practice, apprentices shall not be engaged in any of the occupations enumerated in Article 7.

*Article 60.* Apprentices shall be diligent, obedient, and loyal towards the master craftsmen of the factory.

*Article 61.* During the whole term of apprenticeship, the apprentices shall be supplied with board, lodging, and medical care by the factory, in addition to a proper allowance for incidentals each month.

*Article 62.* Except in cases of great necessity, no apprentice shall leave the factory during the period of apprenticeship; otherwise the apprentice or his legal representative shall refund the board, lodging, and

medical expenses incurred by the factory during the period of apprenticeship already served.

*Article 63.* The total number of apprentices taken by a factory shall not exceed one third of its regular workers.

*Article 64.* Should a factory take more apprentices than it can adequately train, the Proper Authorities may order a partial reduction, and also set a limit to the number of apprentices the factory may thereafter take.

*Article 65.* During the period of apprenticeship the factory shall require the master craftsmen to the best of their ability to train the apprentices for the trade specified in the contract of apprenticeship.

*Article 66.* In addition to the provisions of Article 31, the factory may terminate the contract of apprenticeship under any one of the following conditions:

- (1) When the apprentice revolts against proper instructions;
- (2) When the apprentice commits theft and fails to repent, in spite of repeated admonitions.

*Article 67.* In addition to the provisions of Article 33, the apprentice or his legal representative may terminate the contract of apprenticeship under any one of the following conditions:

- (1) When the factory is incapable of performing its obligations stipulated in the contract;
- (2) When a factory becomes dangerous to the life and health of the apprentice or harmful to his character.

## CHAPTER XII. PENALTIES

*Article 68.* Factories violating the provisions of Articles 7, 11, 12, and 13 shall be fined a sum of not less than one hundred and not more than five hundred dollars for each offense.

*Article 69.* Factories violating the provisions of Articles 5, 8, 9, 10, 37, and 63 shall be fined a sum of not less than fifty and not more than three hundred dollars for each offense.

*Article 70.* Factories violating the provisions of Article 45 shall be fined a sum of not less than fifty and not more than two hundred dollars for each offense.

*Article 71.* Factories violating the provisions of Articles 3, 4, 14, 15, 16, 17, 18, 19, and 36 shall be fined a sum of not more than one hundred dollars for each offense.

*Article 72.* When a factory foreman, due to disloyal conduct or negligence, causes thereby an accident or intensifies the case, he shall be punished with imprisonment for a period of not more than one year, or with a fine of not more than five hundred dollars.

*Article 73.* Any worker who obstructs the operation of the factory or destroys the goods or equipment of the factory by violence, shall be liable to criminal punishment of the severest degree.

*Article 74.* A worker who by duress forces his fellow workers to strike, may be summarily dismissed or sent to the Proper Authorities for due punishment.

## CHAPTER XIII. ADDENDA

*Article 75.* The compilation or alteration of factory regulations shall be submitted to the Proper Authorities for approval and promulgation.

*Article 76.* Ordinances for the administration of the Law shall be issued separately.

*Article 77.* The date for the enforcement of this Law shall be fixed by a special order.

II. ORDINANCES FOR THE ADMINISTRATION  
OF THE FACTORY LAW



## II. ORDINANCES FOR THE ADMINISTRATION OF THE FACTORY LAW

Promulgated by the National Government of the Republic of China  
on December 16, 1930, and ordered to be enforced  
on and after August 1, 1931

*Article 1.* These Ordinances are made in accordance with the provisions of Article 76 of the Factory Law.

*Article 2.* The Proper Authorities in executing matters provided in the Factory Law and these Ordinances shall be subject to the direction and supervision of the highest Proper Authorities.

*Article 3.* A factory shall provide books for recording in detail matters provided in Articles 3 and 4 of the Factory Law, and shall, besides submitting duplicates of such records to the Proper Authorities from time to time, see that the originals are duly preserved.

The forms of the workers' register, reports, and other books of record shall be designed by the highest Proper Authorities.

*Article 4.* Before the promulgation of the Census Law, in case of the age of a worker employed in a factory is called in question, the legal agent of the worker shall be responsible for testifying as to age.

*Article 5.* A factory shall report to the Proper Authorities within two months after the enforcement of the Factory Law, the names, native place, age, date of entering the factory, and the kind and nature of work of its male and female workers who are above the age



of twelve years and below the age of fourteen years and who are employed by the factory prior to the promulgation of the Factory Law, for their consent to permit such workers to remain in employment.

*Article 6.* In case an extension of the working hours is desired in accordance with the provisions of Articles 8 and 10 of the Factory Law, a factory shall submit reasons in detail to the Proper Authorities.

*Article 7.* A factory shall post in a public place the time for beginning and ending work, for taking meals and for rest during the day, and also a calendar of holidays for the year.

*Article 8.* Factories which adopt the day- and night-shift system shall enter the names of the workers and the date and hours of their work in each shift in a register provided for that purpose.

*Article 9.* The commemoration days prescribed in Article 16 of the Factory Law shall be as follows:

- (1) January 1 — Establishment of the Republic of China;
- (2) March 12 — Anniversary of Dr. Sun Yat-sen's Death;
- (3) March 29 — Anniversary of the Martyrs of the National Revolution;
- (4) May 5 — Establishment of the Revolutionary Government;
- (5) July 9 — Oath Day of the Revolutionary National Army for the Northern Expedition;
- (6) October 10 — National Holiday;
- (7) November 12 — Dr. Sun Yat-sen's Birthday;

(8) Other holidays to be designated by the National Government.

In addition to the above commemoration days, May 1, the International Labor Day, shall also be observed as a holiday.

*Article 10.* The number of years of employment in a factory referred to in Article 17 of the Factory Law shall include the number of years served prior to enforcement of the Factory Law.

*Article 11.* A factory shall decide beforehand and announce the number of pay days in each month and their dates for the payment of wages.

*Article 12.* If a factory intends to close down partially or entirely or suspend operations for more than one month, previous report must be made to the Proper Authorities.

*Article 13.* If supplementary education be given to workers and apprentices, the factory shall submit the scheme and the proposed equipment to the Proper Authorities and thereafter shall report the conditions once in six months.

*Article 14.* Female workers who discontinue work as provided for in Article 37 of the Factory Law shall, at the request of the factory, furnish medical certificates.

*Article 15.* The fiscal year of a factory as mentioned in Article 40 of the Factory Law shall be fixed by the factory at its own discretion and submitted to the Proper Authorities.

*Article 16.* A factory shall have the option to give rewards or the share of the remaining profits as provided in Article 40 of the Factory Law and have it included in its regulations.

Factories established prior to enforcement of the Factory Law shall submit the plan adopted in accordance with the above paragraph to the Proper Authorities within two months after the enforcement of the Factory Law.

*Article 17.* Factories employing ordinarily more than three hundred workers shall provide on the premises a dispensary with first-aid medicines and shall employ physicians to attend daily at the factory for medical and sanitary services for their workers.

*Article 18.* Placement of child workers, female workers, and those over fifty years of age shall be decided after physical examination.

*Article 19.* Factories shall not admit children into places where articles of a dangerous nature or injurious to health are exposed or manufactured.

*Article 20.* Factories employing female workers shall, whenever possible, provide a nursery and employ nurses to take charge of infants.

*Article 21.* The construction of a factory shall be designed by registered architects in accordance with the provisions of Articles 41 and 42 of the Factory Law.

*Article 22.* All machinery and boilers in a factory before being used or after a certain period of operation shall be examined at fixed intervals by experts to insure

their safety. In case there is any danger found, they shall stop operation and be repaired or their accessories changed.

*Article 23.* Factory buildings and workshops attached thereto shall be provided with the requisite number of exits or fire escapes.

*Article 24.* The doors of factories and workshops shall open outward and shall not be locked during working hours.

*Article 25.* Smoking and the carrying of inflammable articles within the factory shall be strictly prohibited.

*Article 26.* When a factory has any of the following conditions, the sites of the factory buildings and workshops attached thereto shall be approved by the Proper Authorities:

- (1) When the manufactured articles or raw materials used are of a dangerous nature;
- (2) When the gases or liquids generated in the process of manufacturing are detrimental to public health.

*Article 27.* All poisonous gases, liquids, or other substances produced in the process of manufacturing shall be filtered, purified or dissolved, and disposed of by the factory according to their nature and quantity. They shall not be thrown into rivers, creeks, ponds, or wells, or spread about freely.

*Article 28.* In the event of a worker being injured or falling ill during working hours, the factory shall call on a physician to give medical aid or send the patient

to hospital for treatment. In case of death, the factory shall immediately report the fact to the Proper Authorities and notify the family of the deceased.

*Article 29.* The compensation, funeral expenses, and pension prescribed in Article 45 of the Factory Law shall be payable by the factory to workers recording to the following provisions:

- (1) Compensation for injured or disabled workers shall be paid at least once every half month;
- (2) Funeral expenses shall be paid on the day following the death of the worker to his family in a lump sum;
- (3) Pensions shall be paid to recipients as stipulated in Article 46 of the Factory Law within one month after the death of the worker.

*Article 30.* A factory shall keep books for recording dates on which medical fees, compensation, funeral expenses, and pensions are given, their sums, and the names of the recipients.

*Article 31.* A factory shall require the legal recipients of funeral expenses and pensions to secure guarantors to vouch for their standing, if there is any doubt.

*Article 32.* The workers' representatives to a Factory Council shall be elected at a meeting with a quorum of over fifty per cent of the number of workers in the factory. If the different departments of a factory are too far apart, or the number of workers is too great, the number of representatives may be distributed according to the number of workers in each department, and the election may be held in sections.

The election of workers' representatives for the first session shall be held after the proposed procedure of election, which shall be drawn up by the factory management within two months subsequent to the enforcement of the Factory Law, is approved by the Proper Authorities.

Where a labor union has already been organized in a factory, the procedure of election referred to in the preceding paragraph shall be commented upon by the union.

The election of workers' representatives for the second and subsequent sessions shall be conducted by the Factory Council.

*Article 33.* In the election of workers' representatives, five to nine substitutes shall be elected to take the place of representatives in case the latter are unable to attend the meetings of the Factory Council.

*Article 34.* The procedure of election of workers' representatives shall be posted in a prominent place in the factory for public notice three days before election, and shall be explained verbally at least once to workers before the election takes place.

*Article 35.* The term of office of workers' representatives in Factory Council shall be one year, but they are eligible for reëlection.

*Article 36.* A factory shall submit a list of names of representatives of both parties attending the Factory Council to the Proper Authorities for record. The same procedure shall be adopted in the case of re-appointment or reëlection.

*Article 37.* A factory shall provide a minute book for Factory Council and shall at every meeting of the Council appoint a secretary to record the following particulars:

- (1) Date and place of meeting;
- (2) Names of representatives, chairman and secretary at the meeting;
- (3) Discussions and resolutions;
- (4) Other reports and proposals.

At the end of each Council, the chairman shall read the minutes to the meeting and append his signature and seal thereto.

*Article 38.* These Ordinances shall come into force on the same day as the Factory Law.

### III. FACTORY INSPECTION LAW





### III. FACTORY INSPECTION LAW

Promulgated by the National Government of the Republic of China  
on February 10, 1931, and ordered to be enforced  
on and after October 1, 1931

*Article 1.* The term "factory" in this Law is defined in accordance with Article 1 of the Factory Law.

*Article 2.* When used in this Law, unless specifically otherwise indicated, the term "Proper Authorities" means the municipal government in municipalities and the district government in districts.

*Article 3.* Factory inspection shall be undertaken by the factory inspectors appointed by the Central Labor Administrative Authority.

*Article 4.* The following matters of the factory shall be inspected:

- (1) Concerning the age of the child and female workers and nature of their work as provided in Chapter 2 of the Factory Law and other labor laws;
- (2) Concerning the working hours of the workers as provided in Chapter 3 of the Factory Law and other labor laws;
- (3) Concerning rest and holidays for the workers as provided in Chapter 4 of the Factory Law and other labor laws;
- (4) Concerning leave for female workers during the period of childbirth as provided in Chapter 7 of the Factory Law and other labor laws;

- (5) Concerning safety and sanitary provisions as provided in Chapter 8 of the Factory Law and other labor laws;
- (6) Concerning industrial accidents and death and injury of the workers;
- (7) Concerning the age, nature of work, number, and treatment of the apprentices as provided in Chapter 11 of the Factory Law and other labor laws;
- (8) Concerning record books and registration as provided in the Factory Law and the Ordinances for the Administration of the Factory Law and other labor laws;
- (9) Other matters specified in the law and in orders.

*Article 5.* Factory inspectors shall be selected from the following persons and they shall be appointed after receiving a qualified training.

- (1) Those who have graduated from, or from institutions higher than, industrial technical colleges either in China or in foreign countries;
- (2) Those who have worked in factories for above ten years and have special knowledge and technical ability.

The training of the above said persons shall be undertaken by the Central Labor Administrative Authorities.

*Article 6.* Factory inspectors shall, according to the decisions of the Central Labor Administrative Authorities, go to the districts where they are assigned to

make regular or occasional inspections in the factories and workshops attached thereto.

*Article 7.* Factory inspectors in performing their duties shall bring with them their inspection certificates.

*Article 8.* The inspection of the factories operated by the government shall be undertaken together with the authorities in charge.

*Article 9.* Factory inspectors have the right to make inquiries from the personnel of the factories and officers of the labor unions and to require their reasonable answers; also the right to inspect factory record books, documents, or other testimonies having relation with inspection as prescribed in Article 4.

*Article 10.* Factory inspectors in performing their duties may ask assistance from the local administrative authorities or the police in case of necessity.

*Article 11.* Once every three months factory inspectors shall submit a detailed report on the following particulars in their assigned districts to the Proper Authorities:

- (1) Statistics of factories in different industries;
- (2) Statistics of the workers in different industries;
- (3) Condition of child labor in different industries;
- (4) Mobility of the workers in different industries;
- (5) Statistics of industrial accidents in different industries;
- (6) Hours of work in different industries;
- (7) Statistics of sickness and injury of the workers in different industries;

- (8) Safety provisions in different industries;
- (9) Holidays for the workers in different industries;
- (10) Sanitary conditions in different industries.

*Article 12.* If factories fall into the conditions as mentioned in Article 44 of the Factory Law, the factory inspectors shall report it immediately to the Proper Authorities for action.

*Article 13.* If safety and sanitary provisions require immediate improvement, factory inspectors shall order the factory to make the changes.

If the factory or the workers' organization does not obey the order for improvement, the factory inspector shall report it immediately to the Proper Authorities for action.

*Article 14.* Factory inspectors shall not commit the following actions:

- (1) To accept bribes or to blackmail;
- (2) To alter or to make false reports;
- (3) To reveal the industrial secrets of the factories;
- (4) To break the friendly relation between the employers and the employees;
- (5) To yield to the demand of the employers or the employees without permission;
- (6) To occupy simultaneously another official position or to engage in business.

*Article 15.* If factory inspectors violate the law and neglect their duties, the employers or the workers, basing their statement upon concrete facts, may submit a complaint to the Proper Authorities.

*Article 16.* Factory inspectors may express their opinions concerning the improvement of safety provision and the prevention of danger to the employers and the workers, and shall try all means to bring both parties to cooperate in order to improve the safety and sanitary provisions in the factories.

*Article 17.* Factory inspectors committing any of the actions mentioned in Article 14 shall be warned and punished. If the actions are of a criminal nature, they shall be sent to the court.

*Article 18.* Factories which refuse without reason to allow factory inspectors to come into the factory for inspection shall be liable to a fine amounting to not more than two hundred dollars.

*Article 19.* The personnel of the factories or officers of labor unions who refuse the inquiries or inspections as mentioned in Article 9 shall be liable to a fine amounting to not more than one hundred dollars.

*Article 20.* The date for the enforcement of this Law shall be fixed by a special order.



#### IV. LABOR UNION LAW





## IV. LABOR UNION LAW

Promulgated by the National Government of the Republic of China  
on October 21, 1929, and ordered to be enforced on  
and after November 1, 1929

### CHAPTER I. ORGANIZATION

*Article 1.* Male or female workers above the age of sixteen in the same industry or trade, with a view to increasing their knowledge, skill, and productive capacity, or to maintaining or improving their working conditions and standard of living may gather together over one hundred in number employed in the same industry or over fifty in number employed in the same trade and organize a union in accordance with this Law.

The classification of both industrial unions and trade-unions shall be defined by a special order.

*Article 2.* A worker possessing either of the two following qualifications is eligible to membership of a union, though not belonging to the same industry or trade. But employers and their agents are excepted.

- (1) Having formerly been elected an officer of the union;
- (2) Having formerly been employed in the same industry or trade.

*Article 3.* Officers, salaried employees, and servants employed in the government organs having to do with

administrative affairs, communications, military affairs, military industries, government-owned industries, educational undertakings, and public utilities shall not be allowed to organize labor unions in accordance with this Law.

*Article 4.* The Proper Supervisory Authorities of a union shall be the Provincial Government, the Municipal Government (Shih), or the District Government (Hsien), where the union is located.

*Article 5.* In organizing a labor union, five to nine representatives shall be appointed by the number of promoters provided in Article 1 of this Law, and an application for registration signed by the promoters shall be submitted to the Proper Authorities, together with two duplicate copies of the constitution of the labor union and the antecedents of each of the representatives.

On receipt of the application, the Proper Authorities shall examine the case and give decision within two weeks. In case a revision of the application is ordered or an investigation of the case is required, the Proper Authorities shall make a decision regarding the revised application, or report on the investigation in the same duration of time after the receipt of these documents.

Upon obtaining official sanction for registration, the labor union shall submit to the Proper Authorities within three weeks a report on the date of its inauguration, together with the names, addresses, and antecedents of the officers elected. The said report

shall be forthwith published following receipt by the Proper Authorities.

No labor union shall be entitled to the privileges and protection conferred by this Law, unless it has been registered and has submitted the above-mentioned report.

*Article 6.* Workers in the same industry or trade within a district shall be allowed to organize only one labor union.

*Article 7.* In organizing a labor union, a general meeting shall be held to formulate its constitution.

The adoption of the constitution shall require the approval of three fourths of the promoters.

*Article 8.* The constitution of a labor union shall contain the following particulars:

- (1) Name;
- (2) Object;
- (3) Address and the district in which the labor union is located;
- (4) Provisions concerning qualifications of the members and their rights and obligations;
- (5) Provisions concerning admission, withdrawal, and expulsion of the members;
- (6) Provisions concerning officers;
- (7) Provisions concerning meetings;
- (8) Provisions concerning membership fees and other financial matters;
- (9) Provisions concerning mutual aid enterprises;
- (10) Provisions concerning the amendment of the constitution.

*Article 9.* Amendment to the constitution shall not be effective unless it has been approved by the Proper Authorities.

*Article 10.* A labor union is a juristic person.

A labor union is not allowed to undertake business for profit.

*Article 11.* A labor union shall have a board of directors.

The directors shall be elected from among the members of the labor union concerned. In case of necessity non-union members may be elected with the approval of the Proper Authorities.

The directors shall manage all the affairs of the labor union and act as its representatives when dealing with outside individuals or bodies.

As representatives, the power of the directors shall be so limited as not to violate the rights of innocent third parties.

*Article 12.* If, in the performance of their duty, the directors of a labor union or their agents do damage to other persons, the labor union shall be concurrently held responsible for such damage. If, however, in the interest of working terms of the members, the directors or their agents cause the members to take joint action or to impose restraint upon the action of certain members in such a manner as to cause damage to the employers, such damage is not subject to the provisions of this Article.

The labor union is not responsible for the personal conduct of its officers and members.

*Article 13.* Any of the following matters shall be decided upon at a general meeting of all members or their representatives:

- (1) Amendment of the constitution;
- (2) Budget of receipts and expenses;
- (3) Confirmation of business reports and financial statements;
- (4) Maintenance or alteration of the working conditions of the members;
- (5) Establishment of a foundation fund and its control and use;
- (6) Coöperative enterprises in the interest of all members of the labor union;
- (7) Organization of the federation of the labor unions in respect of its admission to and withdrawal from it;
- (8) Dissolution, amalgamation, or division of the labor union.

*Article 14.* A labor union may, in pursuance of the provisions of its constitution or a resolution of its general meeting, appoint a supervisory board.

The function of the supervisory board is to audit and supervise the books and accounts of the labor union, inquire into the conditions or the progress of affairs of the labor union, and supervise the officers of the labor union in the performance of their duties.

Supervisors shall be elected from among the members of the labor union.

## CHAPTER II. DUTIES AND FUNCTIONS

*Article 15.* The duties and functions of a labor union shall be as follows:

- (1) To conclude, revise, or cancel collective agreements; but such conclusion, revision, or cancellation shall not be effective unless it is approved by the Proper Authorities;
- (2) To recommend its members for employment and to establish employment offices;
- (3) To establish savings societies, labor insurance organizations, hospitals, clinics, and day nurseries;
- (4) To organize coöperative societies for the purposes of production, consumption, purchase, supply of credit, housing, etc.;
- (5) To provide vocational education and other lines of education for the workers;
- (6) To establish libraries and reading rooms;
- (7) To issue all publications on their behalf;
- (8) To organize social entertainments, clubs, and other recreational activities;
- (9) To settle disputes between labor unions or between its own members;
- (10) To settle disputes between employers and employees;
- (11) To submit its views to the administrative, judicial, or legislative authorities on the enactment or revision or cancellation of laws and ordinances concerning labor and to make replies upon inquiries by these said authorities;

- (12) To investigate the workers' home, living, and economic conditions and their state of employment and unemployment, and to compile labor statistics;
- (13) To undertake other measures, to improve working conditions, and to further the interests of its members.

If a labor union has not yet carried out any of the measures mentioned above, or any measures relating to mutual help of the members provided in its constitution, the Proper Authorities may appoint officials to help the labor union carry out such measures whenever it deems necessary.

*Article 16.* Labor unions organized by the workers engaged in enterprises enumerated in Article 3 of this Law shall have no right to conclude collective agreements.

*Article 17.* A labor union may collect membership fees from its members, but the amount of admission fee shall not exceed one dollar for each member, and the regular subscription shall not exceed two per cent of income from each member.

Special foundation funds, improvised contributions, or share funds shall not be collected, unless they are duly approved by the Proper Authorities.

*Article 18.* A labor union shall make a financial report on its assets and liabilities to its members every six months. By means of a request signed by over one tenth of the members, the latter may appoint representatives to investigate the assets and liabilities of the labor union.



## CHAPTER III. SUPERVISION

*Article 19.* A worker shall be allowed to join only one labor union, whether it be an industrial union or a trade-union.

*Article 20.* A labor union shall not compel any person to become a member, nor shall it prevent any person from withdrawing his membership.

A labor union shall not refuse to admit any applicant for membership who is qualified according to law and the constitution of the labor union, nor shall it admit any person to its membership who is not qualified according to law and its constitution.

A labor union shall not interfere with the work of non-union workers.

*Article 21.* A member of a labor union may withdraw his membership at any time. In case the constitution of the labor union requires previous notice for such withdrawal, the retiring member must give due notice.

The period for such notice shall not exceed one month.

*Article 22.* The amount of any fine which may be imposed upon any of its members by a labor union shall not exceed three days' wages of the member.

A labor union shall not expel any of its members without sufficient reason and the consent of at least two thirds of its members.

*Article 23.* In case of dispute between the employers and the workers, no strike shall be declared unless attempts have first been made to settle the dispute

by conciliation and arbitration, and unless the case has subsequently been referred to a general meeting of the labor union, at which at least two thirds of its members have voted by secret ballot in favor of the strike.

During a strike, the labor union shall not commit any action which disturbs public order and peace, nor shall it do any damage or injury to the person and property of the employers or others.

A labor union shall not declare a strike in demand for its members for an increase of wages higher than the standard wage rate.

Labor unions organized by the workers engaged in enterprises enumerated under Article 3 cannot declare a strike.

*Article 24.* In case of any change in the constitution or in the board of directors or officers, an immediate report shall be submitted to the Proper Authorities, who shall publish such changes within two weeks' time. Pending such official publication, such changes shall not be effective in dealing with a third party.

*Article 25.* After registration, a labor union shall present to the Proper Authorities two blank copies each of its membership books and account books to be stamped and returned by the Proper Authorities. This shall likewise be done whenever the old books are replaced by new ones.

Of the two copies mentioned above, one shall be kept in the labor union's office and the other submitted to the Proper Authorities.

The membership book shall contain such particulars as the names of the members, the total number of the members, the date of their admission, the addresses of their working places, their state of employment or unemployment, death, injury, and change of address.

Regarding the financial accounts, all items of the receipts and expenditures shall be numbered and accompanied by receipts or vouchers. These latter shall be likewise numbered and attached to other books. The Proper Authorities may order the labor union to engage an auditor to audit the books when it deems it necessary.

*Article 26.* In June and December each year, the labor union shall submit to the Proper Authorities the following records and account books; and the latter may order the labor union to submit them whenever it deems it necessary:

- (1) Names and antecedents of the officers;
- (2) Membership books;
- (3) Account books;
- (4) The state of the work undertaken by the labor union;
- (5) A report of disputes and their settlements.

*Article 27.* A labor union, its officers, or members shall not commit any of the following acts:

- (1) To lock up business establishments or factories;
- (2) To seize or destroy the goods and equipment of business establishments or factories;
- (3) To arrest or assault any worker or employer;

- (4) To compel employers to employ those recommended by the labor union;
- (5) To carry arms while in assembly or parade;
- (6) To exact contributions from the worker;
- (7) To order its members to commit sabotage;
- (8) To collect membership fees or any fund without authorization.

*Article 28.* Any election or resolution passed by the labor union which is contrary to the law or its own constitution may be nullified by the Proper Authorities.

*Article 29.* If any part or parts of the constitution of the labor union are contrary to the law, the Proper Authorities may order the labor union to make the necessary alternations.

*Article 30.* If a labor union is not satisfied with the action taken by the Proper Authorities by virtue of the two preceding Articles, it may lodge an appeal which must, however, be made within thirty days of the said action being taken.

#### CHAPTER IV. PROTECTION

*Article 31.* Employers or their agents shall not refuse to employ workers or dismiss workers or accord other unfavorable treatment to them because of their affiliation with the labor union either as its officers or members.

*Article 32.* Employers or their agents shall not demand their employees as a condition of employment to

refrain from participating in the activities of the labor union or from enrolling as members of the labor union or to resign their membership.

*Article 33.* Employers or their agents shall not dismiss any of their employees when a dispute between the employer and the employees is in course of conciliation or arbitration.

*Article 34.* A labor union shall be exempt from the payment of income tax, business tax, and registration fee.

*Article 35.* In case of insolvency of a debtor to a labor union, the labor union shall have a prior claim on the assets of the debtor over other creditors.

*Article 36.* The following properties owned by a labor union shall not be subject to confiscation:

- (1) Union building, school, library, reading room, club, hospital, clinic, day nursery, and the movable and immovable property of coöperative societies for production, consumption, housing, and purchase;
- (2) The foundation fund of the labor union and the workers' insurance.

## CHAPTER V. DISSOLUTION

*Article 37.* A labor union may be dissolved by the Proper Authorities under any of the following circumstances:

- (1) Lacking the essential requirements for its existence;
- (2) Committing unlawful action of a grave nature;

- (3) Disturbing peace and order or committing actions detrimental to public welfare.

*Article 38.* Besides its dissolution by official orders, as is provided for in the preceding Article, a labor union may declare itself dissolved under any of the following circumstances:

- (1) By a resolution for dissolution passed at a general meeting (this resolution must, however, be approved by the Proper Authorities);
- (2) Occurrence of any contingency justifying dissolution as provided in its constitution;
- (3) Bankruptcy of the labor union;
- (4) Lacking the minimum number of members;
- (5) The labor union's division into, or amalgamation with, some other labor unions.

*Article 39.* The division or amalgamation of the labor union must be agreed upon by more than one half of the members of each labor union concerned and also approved by the Proper Authorities.

*Article 40.* The labor union which continues to exist or the newly founded labor union after amalgamation shall succeed to the rights and obligations of the labor union, which becomes defunct as the result of the amalgamation.

The new labor union coming into existence as a result of division from its former labor union shall succeed to the rights and obligations of its former labor union, which is either defunct or existing. The particulars concerning the succession of such rights and obligations shall be decided upon at the time

when the question of division is decided, and shall be approved by the Proper Authorities.

*Article 41.* Before the amalgamation or division of a labor union takes place, public notice shall be given to its creditors, allowing them to file their objections, if any, within a definite time limit of not less than a month. To the creditors whose names or addresses are known to the labor union, individual notices shall be given.

If the creditors file their objection within the stated time limit, the division or amalgamation of the labor union shall not be effected until its liabilities are discharged or adequate guarantees provided therefor.

If the amalgamation or division of any labor union is done in breach of either of the conditions laid down in the two preceding paragraphs, the said amalgamation or division shall not be effective with regard to the creditors.

*Article 42.* With the exception of dissolution by official orders, the labor union shall report to the Proper Authorities the circumstances and the date of its dissolution within two weeks.

*Article 43.* With the exception of dissolution owing to division, amalgamation, or insolvency, any labor union on being dissolved shall immediately go into liquidation.

The above-mentioned liquidation shall be carried out in accordance with the provisions concerning the liquidation of a juristic person in the Civil Code.

*Article 44.* After the dissolution and liquidation of a labor union, the remaining portion of its assets shall be disposed of according to the provisions in its constitution or any resolution passed at a general meeting of the labor union. In default of either, the remaining portion of the assets shall be given to the federation of labor unions with which the defunct labor union was affiliated. In case the defunct labor union had no such affiliation, the property shall be given to the self-government body of the place where the labor union was located.

## CHAPTER VI. FEDERATION

*Article 45.* For the purpose of increasing the knowledge, skill, or productive capacity of its members or of conducting mutual aid enterprises, a labor union, with the approval of the Proper Authorities may, with other labor unions of the same industry or trade, organize a federation of labor unions.

In organizing such a federation, a general meeting shall be held by the members of the labor unions concerned to formulate the constitution of the federation which shall be submitted to the Proper Authorities for approval.

Except the two preceding paragraphs, the federation shall be subject to the provisions concerning a labor union in this Law.

*Article 46.* No labor union shall affiliate with any labor union of a foreign country without the approval of the Government.



## CHAPTER VII. PENALTIES

*Article 47.* Any officer or member of a labor union committing any of the actions enumerated in Article 27 of this Law shall be liable to a fine of not exceeding two hundred dollars for each offense. But if the action constitutes a breach of the Criminal Code, he shall be punished in accordance with the Criminal Code.

*Article 48.* Any employer or his agent violating the provisions of Articles 31 and 32 shall be liable to a fine of not exceeding three hundred dollars for each offense.

*Article 49.* Any employer or his agent who, in violation of Article 33, dismisses workers in a period of conciliation or arbitration shall be liable to a fine from ten dollars to one hundred dollars for each worker dismissed.

*Article 50.* Any officer or director of a labor union committing any of the following actions shall be liable to a fine of not exceeding one hundred dollars:

- (1) Failing to report or reporting falsely on the particulars provided in Articles 24, 26, 42, and 51;
- (2) Violating the provisions of Article 25 or against the order provided in Article 29;
- (3) Violating the provisions in Paragraphs 1 and 2 of Article 41.

## CHAPTER VIII. ADDENDA

*Article 51.* Labor unions which have been founded prior to the enforcement of this Law shall apply for

registration *de novo* according to the provisions in Article 5 of this Law within two months of enforcement of the Law.

*Article 52.* If two or more labor unions of the same industry or trade have existed in the same district prior to the enforcement of this Law, they shall be amalgamated within two months of its enforcement.

*Article 53.* The date for the enforcement of this Law shall be fixed by a special order.



**V. LAW FOR THE ADMINISTRATION OF THE  
LABOR UNION LAW**



## V. LAW FOR THE ADMINISTRATION OF THE LABOR UNION LAW

Promulgated and enforced by the National Government of the  
Republic of China on June 6, 1930

*Article 1.* The name of a labor union shall be the  
“Labor Union of such and such industry or trade of  
such and such locality.”

*Article 2.* A labor union formed by enrolling workers of  
various trades from different departments of an  
industrial enterprise is an industrial union; a labor  
union formed by enrolling workers engaged in one  
trade is a trade-union.

*Article 3.* A worker who has been elected an officer in  
his labor union and who is engaged in the same  
industry or trade shall be vouched for by the labor  
union or factory.

*Article 4.* Officials, technicians, instructors superintend-  
ents, submanagers and other persons appointed by  
the government are termed “officers”; clerks, writers,  
servants, and other persons not engaged in production  
employed by the factory are employees to whom the  
provisions of Article 3 of the Labor Union Law shall  
be applicable.

*Article 5.* The workers of various enterprises enumerated  
in Article 3 of the Labor Union Law may organize a  
labor union in accordance with the Labor Union Law.

*Article 6.* Employees engaged in the same industry or trade not enumerated in Article 3 of the Labor Union Law, even if they are members of the staff, servants, or workers may enroll themselves in a labor union in accordance with the Labor Union Law. But those who exercise administrative powers for and on behalf of their employers are excepted.

*Article 7.* The territory of a labor union shall be those of a municipality or a district; but under special circumstances, the territory may be specified by the Proper Authorities.

*Article 8.* The Municipal Government or the District Government shall, respectively, be the Proper Authorities governing labor unions of a municipality or a district; the Provincial Government shall be the Proper Authorities governing labor unions covering more than one municipality or one district.

The Proper Authorities governing labor unions formed by workers of various enterprises enumerated in Article 3 of the Labor Union Law shall be the authorities governing the said enterprises.

*Article 9.* The responsibilities of the promoters of a labor union shall cease from the date of the formation of the labor union when the accounts, etc., handled by the promoters must be handed over to the labor union.

*Article 10.* The formation, the amalgamation, the division, the federation, or the dissolution of a labor union shall be reported to the Ministry of Industries

for record by the Proper Authorities after it has been duly registered, recognized, or approved.

*Article 11.* After a labor union has been duly registered, the Proper Authorities shall issue the seal and certificate.

*Article 12.* The form of seal, certificate, membership books, account books, etc., of a labor union shall be designed by the Ministry of Industries.

*Article 13.* A labor union shall hold at least one general meeting of members each year; the Proper Authorities shall be notified two weeks before the meeting.

*Article 14.* A labor union may elect from five to nine persons as directors and from three to five persons as supervisors.

*Article 15.* No member less than twenty-five years of age shall be elected as director or supervisor of a labor union.

*Article 16.* The directors and the supervisors shall be elected at the general meeting of its members. Those who have secured the highest number of votes shall be elected. Those who have secured the next highest number of votes may be elected as substitute directors and substitute supervisors; but the number of substitute directors shall not exceed four and the number of substitute supervisors shall not exceed two.

The election prescribed in the preceding paragraph shall be made by a majority of members present at the meeting.



*Article 17.* The term of office of the directors and the supervisors shall be one year, but they are eligible for reelection.

*Article 18.* The substitute directors and the substitute supervisors filling up any vacancy shall hold office until the expiration of the original term.

*Article 19.* Members who have been elected directors or supervisors, if declining to accept office, shall notify the labor union within twenty days from the receipt of notice of election.

*Article 20.* The coöperative societies for production, consumption, purchase, credit, housing, etc., formed by a labor union for the benefit of its members shall not be considered as profit-making concerns.

*Article 21.* If, for any reason, the director or the supervisor is unable to carry on his duties or to be present at any meeting, he may ask a substitute director or a substitute supervisor to act as his proxy.

*Article 22.* The income and salary of a member of a labor union referred to in the Labor Union Law shall include expenses for board and lodging supplied by the employer which shall be calculated on the total average during the preceding three months.

*Article 23.* The amalgamation and the division referred to in the Labor Union Law means the amalgamation and the division arising out of the nature of the industry or a change of the organization of the union.

*Article 24.* The time limit prescribed in Articles 51 and 52 of the Labor Union Law may, if necessary, be extended by the National Government as it may deem fit.

*Article 25.* This Law shall come into force on the date of its promulgation.



**VI. LAW ON CONCILIATION AND ARBITRATION  
OF INDUSTRIAL DISPUTES**



## VI. LAW ON CONCILIATION AND ARBITRATION OF INDUSTRIAL DISPUTES

Promulgated and enforced by the National Government of the Republic of China on June 9, 1928, as amended on March 17, 1930

### CHAPTER I. GENERAL PROVISIONS

*Article 1.* This law shall apply to disputes between employers and workers' organizations or groups consisting of fifteen or more workers arising out of the maintenance or the alteration of contracts of employment.

*Article 2.* When used in this Law, unless otherwise indicate, the term "Administrative Authorities" means the municipal government in municipalities and the district government in the districts (hsien).

*Article 3.* In case of a dispute arising between the employer and the employees, the Administrative Authorities, either at the request of one contending party or both parties, shall convene a meeting of the Conciliation Committee with a view to settling the dispute. The Administrative Authorities may call the meeting when it deems it necessary without the request of the contending parties.

Decisions of successful conciliation shall have the force of contract between the parties concerned; in case one of the parties is a labor union, such decisions shall have the force of collective agreement between the parties concerned.

*Article 4.* If the attempt of conciliation is not successful, the case, either at the request of one contending party or both parties, shall be referred to an Arbitration Board for arbitration.

*Article 5.* If either of the parties concerned make no objection within five days of receiving the award of the Arbitration Board, such award shall have the force of contract; in case one of the parties is a labor union, it shall have the force of collective agreement.

## CHAPTER II. AGENCIES FOR THE SETTLEMENT OF INDUSTRIAL DISPUTES

### SECTION I. CONCILIATION AGENCY

*Article 6.* The Conciliation Committee shall be responsible for the conciliation of industrial disputes:

*Article 7.* The Conciliation Committee shall be composed of five or seven members, as follows:

- (1) One or three representatives appointed by the Administrative Authorities;
- (2) Two representatives appointed by each of the contending parties.

The representatives mentioned under No. 1 of the preceding paragraph need not be chosen exclusively from among the officials of the said Administrative Authorities.

*Article 8.* When a dispute is submitted for conciliation in accordance with Paragraph 1 of Article 3, the

parties shall appoint their representatives and submit the names and addresses of such representatives to the Administrative Authorities within three days of the receipt of the official notification.

If necessary, the Administrative Authorities may prolong the above time limit or appoint the representatives *ex officio* instead of the parties, if it has not received the names and addresses of the representatives within the prescribed time limit.

*Article 9.* The Committee shall be convened as soon as the members of the Conciliation Committee have been appointed and the representative appointed by the Administrative Authorities shall be the chairman. In the case mentioned in Paragraph 3 of Article 11, the representative appointed by the Ministry of Industries shall be chairman.

If the members of the Conciliation Committee fail to attend after having been convened, thus making conciliation impossible, the attempt at conciliation shall be deemed to have been made unsuccessfully.

*Article 10.* The chairman of the Conciliation Committee may request the Administrative Authorities to place the necessary staff at his disposal for the clerical work of the Committee.

*Article 11.* If two administrative authorities in the same province are competent with respect to the same industrial dispute, the Administrative Authorities mentioned under No. 1 of Paragraph 1 of Article 7, and also, if necessary, the representative or



representatives mentioned under the same number, shall be designated by the provincial government.

If the dispute extends beyond the boundaries of a single province, the Ministry of Industries shall designate the Administrative Authorities mentioned under No. 1 of Paragraph 1 of Article 7.

In the same case, if necessary, the Ministry of Industries may appoint the representative or representatives mentioned under No. 1 of Paragraph 1 of Article 7.

## SECTION II. ARBITRATION AGENCY

*Article 12.* The Arbitration Board shall be responsible for the arbitration of industrial disputes.

*Article 13.* The Arbitration Board shall be composed of five members, as follows:

- (1) A representative appointed by the provincial government or by the district or municipal government concerned;
- (2) A representative appointed by the provincial committee or the committee of the district or municipality of the party;
- (3) A representative appointed by the local law court;
- (4) A workers' representative and an employers' representative who are not directly concerned in the dispute.

*Article 14.* The provincial governments or the municipal governments not under the jurisdiction of the provinces, within their respective areas, shall require the workers' and employers' organizations each year

to draw up a list of fifteen to thirty representatives for the approval of the said authorities. The Administrative Authorities shall appoint the representatives mentioned under No. 4 of the preceding Article from these lists.

The lists, on being thus approved, shall be forwarded to the Ministry of Industries for registration.

*Article 15.* The members of the Conciliation Committee shall not be members of the Arbitration Board in connection with the same dispute.

*Article 16.* The Arbitration Board shall be convened in the areas concerned by the provincial government or by the district or municipal government concerned, in which case the representative of that government shall be the chairman of the Board. If the Arbitration Board is constituted in accordance with Article 18, the representative appointed by the Ministry of Industries shall be the chairman.

*Article 17.* The chairman of the Arbitration Board may request the Administrative Authorities or the law court concerned to place the necessary staff at his disposal for the clerical work of the Board.

*Article 18.* If the dispute extends beyond the boundaries of a single province, the Ministry of Industries shall appoint the representative mentioned under No. 1 of Article 13, as well as the representatives mentioned under No. 4 of the same Article from the lists of names supplied by the provinces and municipalities concerned.

### CHAPTER III. PROCEDURE FOR SETTLEMENT OF INDUSTRIAL DISPUTES

#### SECTION I. CONCILIATION PROCEDURE

*Article 19.* Parties desirous of having recourse to conciliation shall apply in writing to the Administrative Authorities for this purpose.

*Article 20.* The application for conciliation shall contain the following information:

- (1) Names, occupations, addresses, and names of the firms or factories of the contending parties, or the names and addresses of their offices in the case of associations;
- (2) The number of workers involved in the dispute;
- (3) The essential points of the dispute.

*Article 21.* If conciliation is ordered ex officio by the Administrative Authorities, such Authorities shall inform the parties of the grounds thereof in writing.

*Article 22.* The Conciliation Committee shall begin to investigate the following points within two days after being convened:

- (1) The subject of the dispute;
- (2) The written statements submitted by the parties and other documents connected with the dispute;
- (3) The present position of the parties to the dispute;
- (4) All other facts needing examination.

The duration of such investigations shall not exceed seven days, unless due to special circumstances.

*Article 23.* The Conciliation Committee may invite witnesses or other persons concerned in the dispute to furnish information in writing or orally.

*Article 24.* The Conciliation Committee may make investigations or inquiries in the factories or shops involved in the dispute.

*Article 25.* The Conciliation Committee shall not reveal any secrets which it may learn during inquiry.

*Article 26.* After the investigation is made, the Committee shall issue its decision within two days, unless due to special circumstances, or otherwise the parties are of opinion to extend the time limit.

*Article 27.* The decisions of the Conciliation Committee when its work is successful shall be stated in writing and signed by the representatives of both parties to the dispute through mutual agreement.

The Conciliation Committee shall report to the Administrative Authorities the results of conciliation.

## SECTION II. ARBITRATION PROCEDURE

*Article 28.* Parties desirous of submitting their dispute to arbitration shall apply in writing to the Administrative Authorities.

On receipt of the above-mentioned applications, the said Authorities shall convene the Arbitration Board at once, either in the locality of its offices or at the place where the dispute is in progress.

*Article 29.* If the request for arbitration is made by the parties concerned after the failure of the attempt at conciliation, it shall contain the following information:

- (1) Names, occupations, addresses, and names of the firms or factories of the parties, or the names and addresses of their offices in the case of associations;
- (2) The circumstances under which the conciliation failed;
- (3) The object of the request.

*Article 30.* The provisions prescribed in Articles 21 to 26 shall apply to arbitration proceedings.

*Article 31.* The decisions of the Arbitration Board shall be adopted by a majority vote of the whole body of the Board.

The Arbitration Board shall draw up within two days a statement of its decisions in writing, which shall be communicated to the parties concerned and to the Administrative Authorities for registration.

*Article 32.* The parties may conclude a compromise at any time during the arbitration proceedings, but the terms of the compromise must be communicated to the Arbitration Board.

#### CHAPTER IV. RESTRICTIONS ON THE ACTIONS OF THE DISPUTANTS

*Article 33.* During the period of conciliation or arbitration, employers shall not engage in a lockout or

dismiss workers, and workers shall not engage in a strike.

*Article 34.* Workers and workers' organizations shall not commit any of the following actions:

- (1) To close business establishments or factories;
- (2) To seize or destroy the goods and equipment of business establishments or factories;
- (3) To compel other workers to strike.

## CHAPTER V. PENALTIES

*Article 35.* If the disputants violate the provisions of Articles 33 and 34, the Administrative Authorities or the Conciliation Committee or Arbitration Board may take the necessary measures to put an end to such actions. In case of failure to comply with these measures, a fine not exceeding two hundred dollars shall be imposed. If the actions constitute a breach of the Criminal Code, they shall be dealt with in accordance with the Criminal Code.

*Article 36.* Committing any of the following actions shall be liable to a fine of not exceeding one hundred dollars for each offense:

- (1) Contravention of the provisions of Article 23 when the desired persons without sufficient reason fail to appear or fail to supply the information requested;
- (2) Contravention of the provisions of Article 25.

If the contravention under No. 2 of the preceding

paragraph is a criminal offense, it shall be dealt with in accordance with the Criminal Code.

*Article 37* Committing any of the following actions shall be liable to a fine of not exceeding one hundred dollars for each offense. But in case of perjury, it shall be punished in accordance with the provisions of the Criminal Code.

- (1) False statements made under Article 23;
- (2) Refused without sufficient reason to reply, or untruthful replies, in the inquiry or investigation mentioned in Article 24.

*Article 38.* The Administrative Authorities or the Conciliation Committee or Arbitration Board may refer to the competent law court any contravention subject to the penalties provided in this Chapter, giving its reasons for such a step. The said court shall give sentence within twenty days from receipt of the case, unless the circumstances are exceptional.

## CHAPTER VI. ADDENDA

*Article 39.* If necessary, the provincial governments or the municipal governments not under the jurisdiction of the provinces shall submit regulations for the application of this Law for the approval of the National Government.

*Article 40.* This Law shall come into force on the date of its promulgation.

VII. REGULATIONS FOR THE APPLICATION IN  
SHANGHAI OF THE LAW ON CONCILIATION  
AND ARBITRATION OF INDUSTRIAL  
DISPUTES





VII. REGULATIONS FOR THE APPLICATION IN SHANGHAI OF THE LAW ON CONCILIATION AND ARBITRATION OF INDUSTRIAL DISPUTES

Approved by the National Government of the Republic of China, March 28, 1931, and promulgated by the City Government of Greater Shanghai, April 11, 1931

*Article 1.* These Regulations are made by the City Government of Greater Shanghai in accordance with the provisions of Article 39 of the Law on Conciliation and Arbitration of Industrial Disputes (hereinafter referred to as "this Law").

*Article 2.* The Administrative Authorities in charge of industrial disputes shall be the Bureau of Social Affairs of the Municipality in the case of conciliation and the City Government in case of arbitration.

*Article 3.* If any disputes should arise in the Special District of this Municipality, the member of the Arbitration Board as prescribed in No. 3 of Article 13 of this Law shall be the representative appointed by the Special District Court.

*Article 4.* The representatives prescribed in No. 4 of Article 13 and in Article 8 of this Law who have been assigned by the Administrative Authorities shall not decline their position. If they are unable to accept

for some definite reasons, they shall, within three days after the receipt of notice, submit their reasons to the Administrative Authorities when other representatives will be appointed in their place.

*Article 5.* Representatives appointed by the contending parties shall submit Letters of Identification on attending the meeting.

*Article 6.* After the commencement of conciliation proceedings before any settlement has been reached, the contending parties shall not put forward new claims.

*Article 7.* In industrial disputes, after settlement has been reached by the Conciliation Committee or award of the Arbitration Board has been given, it shall be the duty of the Administrative Authorities to see that the contending parties shall carry out the conditions mentioned in the record of the Conciliation Committee or in the award of the Arbitration Board.

*Article 8.* If any protest is made against the award of the Arbitration Board, the contending parties shall within fifteen days from the day following the date of the protest institute legal proceedings in the competent law court. If no legal proceedings are instituted after the period prescribed, it shall be considered that no protest has been made.

*Article 9.* In a contract or a collective agreement made between the contending parties, if no time has been stipulated, the period in which the said agreement is to remain in force shall at least be one year.

*Article 10.* The commencement of any conciliation or arbitration proceeding shall be reckoned as from the day when one of the parties applies for conciliation or arbitration. If a dispute is convened for conciliation or arbitration by the Administrative Authorities, it shall be reckoned as commencing from the day when the parties are notified.

*Article 11.* The termination of the conciliation or arbitration proceedings shall be reckoned as from the day when the result of the conciliation or arbitration award has been served on the contending parties by the Conciliation Committee or Arbitration Board.

*Article 12.* In addition to the restrictions placed on the actions of the disputants as prescribed in Articles 33 and 34 of this Law, if the Administrative Authorities or Conciliation Committee or Arbitration Board find that any other actions of the disputants are improper, the provisions of Articles 35 and 38 of this Law shall apply.

*Article 13.* If the contending parties or witness residing in the Special District and the factory or firms interested in the disputes violate the orders of the Administrative Authorities and the Conciliation Committee or Arbitration Board or refuse to have any inquiries made, the Special District Court may be asked to give the required assistance.

*Article 14.* These Regulations shall come into force from the date of its promulgation by the City Government of Greater Shanghai after sanction obtained from the National Government.



## **VIII. LAW ON COLLECTIVE AGREEMENTS**



## VIII. LAW ON COLLECTIVE AGREEMENTS

Promulgated by the National Government of the Republic  
of China on October 28, 1930

### CHAPTER I. GENERAL PROVISIONS

*Article 1.* A collective agreement is a written agreement made between an employer or a registered employers' organization on the one hand, and a registered workers' organization on the other, with the object of defining their employment relations.

The following items are also deemed to be employment relations as provided in this Law:

- (1) Relations in apprenticeship;
- (2) Labor organization in an industrial enterprise;
- (3) Utilization of employment agency;
- (4) Establishment or utilization of agencies for conciliation or arbitration of industrial disputes.

*Article 2.* In a collective agreement, if any stipulations other than employment relations are made, the provisions of this Law shall not be applicable to such stipulations.

*Article 3.* A representative body of the Workers' or Employers' Organization shall not enter into any collective agreement in the name of the organization unless it is made in accordance with the provisions of the constitution of the organization represented or in



pursuance of the resolutions passed at the organization's general meeting or its representatives' meeting or under a special written power of attorney given by each member of the organization represented.

A collective agreement made contrary to the provisions of the preceding paragraph shall have no legal effect unless it be ratified at a general meeting of the organization or a meeting of its representatives.

*Article 4.* A collective agreement shall be submitted for approval to the Proper Authorities by each or both of the contracting parties.

If any of the stipulations in a collective agreement is found by the Proper Authorities to be contrary to existing laws or is incompatible with the progress of the employer's business or with the maintenance of the standard of living hitherto enjoyed by the workers, it shall be deleted or amended. A collective agreement so deleted or amended may be considered as having been approved if the contracting parties agree thereto. A collective agreement duly approved shall be effective from the day following the date of approval.

The provisions of the preceding paragraph shall also be applicable to the modification or cancellation of a collective agreement.

*Article 5.* When employment relations are defined by more than one collective agreement, if no special provision has been made in a previous agreement, that collective agreement where the field of employment is more restricted shall be held to apply. In the case of collective agreements of a non-employment nature, that

collective agreement which involves a larger area or a greater number of persons shall be held to apply.

*Article 6.* In a collective agreement where the employer party consists of a large number of persons, if no special provision has been made, each individual employer shall not make any special provisions different from the provisions of the collective agreement with a workers' organization.

Apart from the provisions of the preceding paragraph, the members of a contracting party shall individually be subject to the rights and obligations under a collective agreement.

*Article 7.* An employer on whom the collective agreement is binding shall have the collective agreement posted in a visible place in the field of operation.

He who violates the above provision shall be liable to a fine of not exceeding fifty dollars.

## CHAPTER II. RESTRICTIONS

*Article 8.* A collective agreement may stipulate that the employment of workers by the employer shall be restricted to the members of a certain workers' organization; but if any one of the following conditions exists, the employer shall not be bound by such restrictions:

- (1) When the workers' organization has been dissolved;
- (2) When no skilled labor required by the employer can be found in the workers' organization;

- (3) When the number of members available in the workers' organization is insufficient or when the members are unwilling to accept employment;
- (4) When the employer employs apprentices or servants;
- (5) When the employer employs any person to take charge of his financial matters, seals, correspondence, or other important documents;
- (6) When the workers employed outside the workers' organization, with the exception of those employed under (4) and (5), shall be less than twenty per cent of the total number of workers in the factory.

*Article 9.* In a collective agreement, any stipulation that the employer shall employ workers according to the order fixed in a name list prepared by the workers' organization shall be null and void.

*Article 10.* A collective agreement may stipulate that the employer shall employ workers introduced by the workers' organization; but any restrictions placed on the employer in the free choice of workers shall be null and void. If it is stipulated that the workers' organization has the right to introduce workers to the employer, provisions shall be made that if, within the fixed period of one week from the date of the receipt of notice, the workers' organization does not introduce any workers to the employer, the employer may employ any workers outside the workers' organization.

*Article 11.* A collective agreement may stipulate that in case a worker is required to work or to continue to work overtime or during holidays, the wages shall be increased by a certain percentage or doubled; but in no case shall any increase exceed twice the original wages. Any increase over twice the original wages shall be considered as if it were double.

*Article 12.* A collective agreement may stipulate the period of leave to be allowed to the present officers of a workers' organization to handle the affairs of the organization; but such period of leave shall not exceed an average of thirty hours per month.

*Article 13.* In a collective agreement, any stipulations restraining the employer in using new machinery, or in improving means of production, or purchasing manufactured goods or semi-manufactured goods shall be null and void.

### CHAPTER III. LEGAL EFFECT

*Article 14.* If no special restrictions are stipulated, the following employers and workers are all interested parties in a collective agreement and shall observe the terms of labor provided in the agreement:

- (1) The employer who is a party to the collective agreement;
- (2) The employers and the workers belonging to an organization which is a party to the collective agreement or the employers and the workers admitted to the organization on and after the signing of the collective agreement.

In cases where the employers or the workers become interested parties in a collective agreement after it has been signed, the terms of labor unless otherwise provided for in the collective agreement shall be applicable from the date the standing as interested parties was acquired.

*Article 15.* The relation of an interested party in a collective agreement prescribed in No. 1 of the preceding Article shall cease at the expiration of the collective agreement. The same applies to the relations of the employers or the workers who have withdrawn from the organization which is a party to the collective agreement after signature.

*Article 16.* The terms of labor prescribed in the collective agreement shall be the contents of the labor contract made between the employers and the workers under the collective agreement. If the labor contract is different from the terms of labor prescribed in the collective agreement, the part which is different shall have no legal effect. The part which is void shall be replaced by the stipulations of the collective agreement; but the terms which, though different from those prescribed in the collective agreement, are allowed by it or the terms of labor which are modified for the benefit of the workers without any restrictions expressly made in the collective agreement shall take effect.

*Article 17.* At the expiration of the collective agreement, when no new collective agreement has yet been made, and no labor contract has been entered into,

the terms of labor prescribed in the original collective agreement shall continue to be the contents of the labor contract made between the interested parties to the said collective agreement.

*Article 18.* If an interested party to a collective agreement relinquishes his rights stipulated in the labor contract as provided in a collective agreement during the effective period of the labor contract, such relinquishment shall have no legal effect; but if the said rights are not exercised within three months after the termination of the labor contract, he shall not regain the right to exercise them.

If, owing to the workers maintaining their rights under the collective agreement or under the labor contract made in accordance with the collective agreement, the employer under the collective agreement terminates the labor contract, such termination shall have no legal effect.

*Article 19.* If an interested party to the collective agreement violates any provisions in the collective agreement other than the terms of labor, the Law Court may, unless otherwise stipulated in the collective agreement, impose a fine not exceeding five hundred dollars in the case of an employer or not exceeding fifty dollars in the case of a worker, on the application of the interested employer or a party to the collective agreement.

The fines stipulated in the preceding paragraph shall be disposed of towards the welfare work of the workers.

*Article 20.* The parties to a collective agreement and their successors shall not adopt any forcible measure prejudicial to the existence of the collective agreement or any provisions therein prescribed.

The organizations which are parties to the collective agreement shall be responsible that their own members do not employ such forcible measure as mentioned in the preceding paragraph or act contrary to the provisions of the collective agreement.

A collective agreement may stipulate that in the event of one of the parties failing to fulfill the responsibilities provided in the collective agreement, it shall pay to the other party the stated compensation as damages.

The performance of the collective agreement, unless specially stipulated in this Law, shall follow the provisions of the Civil Code.

*Article 21.* An organization which is a party to the collective agreement may claim damages in the name of the organization from any one who acts contrary to the provisions of the collective agreement whether the offender be an organization or an individual or a member of the organization or of other organizations.

*Article 22.* An organization which is a party to the collective agreement may independently take any legal proceedings arising out of the collective agreement for and on behalf of a member, provided that the organization has notified the said member beforehand and he does not raise any objection thereto.

In any action taken on account of the collective agreement when a member of the organization which

is a party to the collective agreement is the defendant, the said organization may interpose as a joinder in the action.

#### CHAPTER IV. DURATION OF VALIDITY

*Article 23.* A collective agreement may be made for a fixed or indefinite term or for a period in which to complete a certain piece of work.

*Article 24.* If no term is stated in a collective agreement, one of the parties may at any time after one year from the date thereof terminate the agreement; provided that three months' previous notice in writing shall have been given to the other party.

If the period for giving notice as prescribed in the collective agreement is longer than that prescribed in the preceding paragraph, the period stated in the collective agreement shall be applicable.

*Article 25.* If a fixed term is prescribed in the collective agreement, the said term shall not exceed three years. Any term exceeding three years shall be considered as a term of three years.

*Article 26.* In a collective agreement made for a period in which to complete a certain piece of work, if the work cannot be completed within three years, the collective agreement shall be considered to have been made for a term of three years.

*Article 27.* The rights and obligations of an organization which is party to the collective agreement shall, unless otherwise agreed to by the parties concerned, be



transferred to the amalgamating or seceding organization on its amalgamating with or seceding from the organization.

On the dissolution of the organization which is a party to the collective agreement, the legal effect of the rights and obligations of the members in the organization shall not be altered on account of its dissolution; but a collective agreement made for an indefinite term shall, on its dissolution after the notice has expired, have no legal effect.

*Article 28.* In the event of the economic conditions prevailing at the time of the signing of the collective agreement having greatly changed after the signing thereof, if the preservation of the collective agreement is incompatible with the progress of the employer's business or with the maintenance of the standard of living of the workers or if the acts of the parties to the collective agreement are such as to render it impossible for the original object to be attained, the Proper Authorities may nullify the collective agreement on the application of one of the parties to the collective agreement.

*Article 29.* The nullification of a collective agreement, notwithstanding any agreement to the contrary shall take effect on the whole body of the members of the organization.

## CHAPTER V. ADDENDA

*Article 30.* This Law shall be applicable to collective agreements made prior to the enforcement of this Law from the date of the enforcement of the Law.

*Article 31.* The date for the enforcement of this Law shall be fixed by a special order.



## APPENDIX



## APPENDIX

### BUREAU OF SOCIAL AFFAIRS OF THE MUNICIPALITY OF GREATER SHANGHAI

#### NOTIFICATION No. 13401

Notice is hereby given that this Bureau of Social Affairs is in receipt of an order from the Ministry of Industries to the effect that with reference to the prohibition of night work for female workers as provided for in Article 13 of the Factory Law the Central Political Council decided at the 282nd session to give two years for the preparation of the enforcement of this clause, under the supervision of the Ministry of Industries.

Y. Y. PHEN  
Commissioner

*August 11, 1931.*



# 中國勞工法規





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# 中國勞工法規

## 一 工廠法

民國十八年十二月三十日國民政府公佈

二十年八月一日施行

### 第一章 總則

第一條 凡用汽力，電力，水力，發動機器之工廠，平時僱用工人在三十人以上者，適用本法。

第二條 本法所稱主管官署，除有特別規定者外，在市爲市政府，在縣爲縣政府。

第三條 工廠應備工人名冊，登記關於工人之左列事項：

- (一) 姓名，年齡，籍貫，住址；
- (二) 入廠年月；
- (三) 工作類別，時間，及報酬；
- (四) 技能品行；
- (五) 工作效率；
- (六) 在廠所受賞罰；
- (七) 傷病種類及原因。

第四條 工廠每六個月，應將左列事項，呈報主管官署一次：

- (一) 工人名冊；
- (二) 工人傷病及其治療經過；
- (三) 災變事項及其救濟；
- (四) 退職工人及其退職之理由。

### 第二章 童工女工

第五條 凡未滿十四歲之男女，工廠不得僱用為工廠工人。

十二歲以上，未滿十四歲之界女，在本法公布前已於工廠工作者，本法施行時，得由主管官署核准，寬其年限。

第六條 男女工人在十四歲以上，未滿十六歲者為童工。童工祇准從事輕便工作。

第七條 童工及女工不得從事左列各種工作：

- (一) 處理有爆發性，引火性，或有毒質之物品；
- (二) 有塵埃，粉末，或有毒氣體散布場所之工作；
- (三) 運轉中機器或動力傳導裝置危險部份之掃除，上油，檢查，修理，及上卸皮帶繩索等事；
- (四) 高壓電線之銜接
- (五) 已溶礦物或礦滓之處理；
- (六) 鍋爐之燒火；
- (七) 其他有害風紀或有危險性之工作。

### 第三章 工作時間

第八條 成年工人每日實在工作時間，以八小時為原則；如因地方情形或工作性質有必須延長工作時間者，得定至十小時。

第九條 凡工廠採用晝夜輪班制者，所有工人班次至少每星期更換一次。

第十條 除第八條之規定外，因天災事變季節之關係，仍得延長工作時間；但每日總工作時間不得超過十二小時，其延長之時間，每月不得超過三十六小時。

第十一條 童工每日之工作時間不得超過八小時。

第十二條 童工不得在午後七時至翌晨六時之時間內工

作。

\*第十三條 女工不得在午後十時至翌晨六時之時間內工作。

\*見附錄一

#### 第四章 休息及休暇

第十四條 凡工人繼續工作至五小時，應有半小時之休息。

第十五條 凡工人每七日中，應有一日之休息。

第十六條 凡政府法令所規定應放假之紀念日，均應給假休息。

第十七條 凡工人在廠繼續工作滿一定期間者，應有特別休假。其休假期如左：

- (一) 在廠工作一年以上未滿三年者，每年七日；
- (二) 在廠工作三年以上未滿五年者，每年十日；
- (三) 在廠工作五年以上未滿十年者，每年十四日；
- (四) 在廠工作十年以上者，其特別休假期每年加給一日，其總數不得超過三十日。

第十八條 凡依照第十五條至十七條所定之休息日及休假期內，工資照給。如工人不願特別休假者，應加給該假期內之工資。

第十九條 關於軍用公用之工作，主管官署認為必要時，得停止工人之休假。

#### 第五章 工資

第二十條 工人最低工資率之規定，應以各廠所在地之工人生活狀況為標準。

第二十一條 工廠對工人應以當地通用貨幣為工資之給

付。

第二十二條 工資之給付應有定期，至少每月發給二次。論件計算工資者，亦同。

第二十三條 依第十條第十九條之規定延長工作時間時，其工資應照平日每小時工資額加給三分之一至三分之二。

第二十四條 男女作同等之工作而其效力相同者，應給同等之工資。

第二十五條 工廠對於工人不得預扣工資為違約金或賠償之用。

#### 第六章 工作契約之終止

第二十六條 凡有定期之工作契約期滿時，必須雙方同意，方得續約。

第二十七條 凡無定期之工作契約，如工廠欲終止契約者，應於事前預告工人。其預告之期間依左列之規定，但契約另訂有較長之預告期間者，從其契約：

- (一) 在廠繼續工作三個月以上未滿一年者，於十日前預告之；
- (二) 在廠繼續工作一年以上未滿三年者，於二十日前預告之；
- (三) 在廠繼續工作三年以上者，於三十日前預告之。

第二十八條 工人於接到前條預告後，為另謀工作，得於工作時請假外出，但每星期不得過二日之工作時間。其請假期內工資照給。

第二十九條 工廠依第二十七條之規定預告終止契約者，除給工人以應得工資外，並須給以該條所定預告期間

工資之半數。其不依第二十七條之規定而即時終止契約者，須照給工人以該條所定預告期間之工資。

第三十條 有左列各款情事之一者，縱於工作契約期滿前，工廠得終止契約，但應依第二十七條之規定預告工人：

- (一) 工廠為全部或一部之歇業時；
- (二) 工廠因不可抗力停工在一個月以上時；
- (三) 工人對於其所承受之工作不能勝任時。

第三十一條 有左列各款情事之一時，縱於工作契約期滿前，工廠得不經預告終止契約：

- (一) 工人屢次違反工廠規則時；
- (二) 工人無故繼續曠工至三日以上，或一個月內無故曠工至六日以上時。

第三十二條 凡無定期之工作契約，工人欲終止契約，應於一星期前預告工廠。

第三十三條 有左列情事之一者，縱於契約期滿前，工人得不經預告終止契約：

- (一) 工廠違反工作契約或勞動法令之重要規定時；
- (二) 工廠無故不按時發給工資時；
- (三) 工廠虐待工人時。

第三十四條 對於第三十條第三款第三十一條第一款第三十三條各款有爭執時，得由工廠會議處理之。

第三十五條 工作關係終止時，工人得請求工廠給與工作證明書，工廠不得拒絕。但工人不依第三十二條之規定而即時終止契約，或有第三十一條所列各款情事之一者，不在此限。



前項證明書應記載左列事項：

- (一) 工人之姓名年齡籍貫及住址；
- (二) 工作種類；
- (三) 在廠工作時期及成績。

### 第七章 工人福利

第三十六條 工廠對於童工及學徒，應使受補習教育，并負擔其費用之全部。其補習教育之時間，每星期至少須有十小時。對於其他失學工人，亦常酌量補助其教育。

前項補習教育之時間，須在工作時間以外。

第三十七條 女工分娩前後，應停止工作共八星期，工資照給。

第三十八條 工廠在可能範圍內，應協助工人舉辦工人儲蓄及合作社等事宜。

第三十九條 工廠在可能範圍內，應提倡工人正常娛樂。

第四十條 工廠每營業年度終結算，如有盈餘，除提股息公積金外，對於全年工作并無過失之工人，應給以獎金或分配盈餘。

### 第八章 工廠安全與衛生設備

第四十一條 工廠應為左列之安全設備：

- (一) 工人身體上之安全設備；
- (二) 工廠建築上之安全設備；
- (三) 機器裝置之安全設備；
- (四) 工廠預防火災水患等之安全設備。

第四十二條 工廠應為左列衛生之設備：

- (一) 空氣流通之設備；

- (二) 飲料清潔之設備；
- (三) 盥洗所及廁所之設備；
- (四) 光線之設備；
- (五) 防衛毒質之設備。

第四十三條 工廠對於工人應為預防災變之訓練。

第四十四條 主管官署如查得工廠之安全或衛生設備有不完善時，得限期令其改善，於必要時，並得停止其一部之使用。

### 第九章 工人津貼及撫卹

第四十五條 在勞働保險法施行前，工人因執行職務而致傷病或死亡者，工廠應給其醫藥補助費及撫卹費。其補助及撫卹之標準如左，但工廠資本在五萬圓以下者，得呈請主管官署核減其給與數目。

- (一) 對於因傷病暫時不能工作之工人，除擔任其醫藥費外，每日給以平均工資三分之二之津貼。如經過六個月尚未痊愈，其每日津貼得減至平均工資二分之一，但以一年為限。
- (二) 對於因傷病成為殘廢之工人，永久失其全部或一部之工作能力者，給以殘廢津貼。其津貼以殘廢部份之輕重為標準，但至多不得超過三年之平均工資，至少不得低於一年之平均工資。
- (三) 對於死亡之工人，除給與五十圓之喪葬費外，應給與其遺族撫卹費三百圓及二年之平均工資。前項平均工資之計算，以該工人在廠最後三個月之平均工資為標準。

喪葬費撫卹費應一次給與，但傷病津貼殘廢津貼得按期給與。

第四十六條 受領前條之撫卹費者，爲工人之妻或夫。無妻或無夫者，依左列順序，但工人有遺囑時，依其遺囑。

第一 子女；

第二 父母；

第三 孫；

第四 同胞兄弟姊妹。

第四十七條 工人遇有婚喪大故急需用款時，得向工廠請求預支一個月以內之工資，或發還儲金之全部或一部。

第四十八條 工廠遇災變時，工人如有死亡或重大傷害者，應將經過情形及善後辦法，於五日內呈報主管官署。

### 第十章 工廠會議

第四十九條 工廠會議由工廠代表及全廠工人選舉之同數代表組織之。

前項工廠代表應選派熟習工廠或勞工情形者充之。工人代表選舉時，應呈請主管官署派員監督。

第五十條 工廠會議之職務如左：

- (一) 研究工作效率之增進；
- (二) 改善工廠與工人之關係，並調解其糾紛；
- (三) 協助工作契約及工廠規則之實行；
- (四) 協商延長工作時間之辦法；
- (五) 改進廠中安全與衛生之設備；
- (六) 建議工廠或工場之改良；
- (七) 籌畫工人福利事項。

第五十一條 前條所列各款事項，關於一工場者，先由該工場工人代表與工廠協商處理之。如不能解決或涉及兩工場以上之事項時，由工廠會議處理之。工廠會議不能解決時，依勞資爭議處理法辦理。

第五十二條 工人年滿十八歲者，有選舉工人代表之權。

第五十三條 有中華民國國籍之工人，年滿二十四歲，在廠繼續工作六個月以上者，有被選舉為工人代表之權。

第五十四條 工廠會議之工人代表及工廠代表，各以五人至九人為限。

第五十五條 工廠會議之主席，由雙方代表各推定一人，輪流擔任之。工廠會議每月開會一次，於必要時得召集臨時會議。

### 第十一章 學徒

第五十六條 工廠收用學徒，須與學徒或其法定代理人訂立契約。共備三份，分存雙方當事人及送主管官署備案。其契約應載明左列各款事項：

- (一) 學徒姓名，年齡，籍貫，及住址；
- (二) 學習職業之種類；
- (三) 契約締結之日期，及存續期間；
- (四) 相互之義務；如約定學徒應納學費時，其學費額及其給付期。如約定學徒應受報酬時，其報酬額及其給付期。

前項契約不得限制學徒於學習期滿後營業之自由。

第五十七條 未滿十四歲之男女，不得為學徒，但於本法施行前已入工廠為學徒者，不在此限。

第五十八條 學徒之習藝時間，準用本法第三章之規定。

第五十九條 學徒除見習外，不得從事本法第七條所列各種工作。

第六十條 學徒對於工廠之職業傳授人，有服從忠實勤勉之義務。

第六十一條 學徒於習藝期間之膳宿醫藥費，均由工廠負擔之，並於每月酌給相當之零用。

第六十二條 學徒於習藝期間內，除有不得已事故外，不得中途離廠；如未得工廠同意而離廠者，學徒或其法定代理人應償還學徒在廠時之膳宿醫藥費。

第六十三條 工廠所招學徒人數，不得超過普通工人三分之一。

第六十四條 工廠所收學徒人數過多，對於學徒之傳授無充分之機會時，主管官署得令其減少學徒之一部，並限定其以後招收學徒之最高額。

第六十五條 工廠對於學徒在其學習期內，須使職業傳授人盡力傳授學徒契約所定職業上之技術。

第六十六條 除第三十一條所列各款外，有左列情事之一者，工廠得終止契約：

- (一) 學徒反抗正當之教導者；
- (二) 學徒有偷竊行為屢戒不悛者。

第六十七條 除第三十三條所列各款外，有左列情事之一者，學徒或其法定代理人得終止契約：

- (一) 工廠不能行履行其契約上之義務時；
- (二) 工廠對於學徒危害其健康或墮落其品行時。

## 第十二章 罰則

第六十八條 工廠違背本法第七條及第十一條至第十三條之規定者，處一百圓以上五百圓以下之罰金。

第六十九條 工廠違背本法第五條，第八條至第十條，第三十七條及第六十三條之規定者，處五十圓以上三百圓以下之罰金。

第七十條 工廠違背本法第四十五條之規定者，處五十圓以上二百圓以下之罰金。

第七十一條 工廠違背本法第三條，第四條，第十四條至第十九條，及第三十六條之規定者，處一百圓以下之罰金。

第七十二條 凡工廠工頭對於職務上如因不忠實行為或懈怠致發生事變或使事變範圍擴大時，處以一年以下有期徒刑，拘役，或五百圓以下之罰金。

第七十三條 工人以暴力妨害廠務進行，或損毀廠內貨物器具者，依刑法最高度之刑處斷。

第七十四條 工人以強暴脅迫使他人罷工時，工廠得即時開除之，並得送官署依法懲辦。

## 第十三章 附則

第七十五條 工廠規則之訂定或變更，須呈准主管官署，並揭示之。

第七十六條 本法施行條例另定之。

第七十七條 本法施行日期，以命令定之。

## 二 工 廠 法 施 行 條 例

民國十九年十二月十六日國民政府公佈

二十年二月一日施行

- 第一條 本條例依工廠法第七十六條規定，制定之。
- 第二條 主管官署執行工廠法及本條例規定之事項，應受最高主管機關之指導監督。
- 第三條 工廠應置備簿冊，隨時詳載工廠法第三第四兩條規定事項，除按期繕呈主管官署外，應保存之。  
工人名冊及其他簿冊表格之程式，由最高主管機關定之。
- 第四條 戶籍法未頒行前，工廠雇用工人於年齡發生疑義時，由工人之法定代理人負責證明。
- 第五條 十二歲以上未滿十四歲之男女，在工廠法公布前已在廠工作者，應於工廠法施行後兩個月內，將該工人姓名，籍貫，年齡，入廠日期，工作種類，及工作性質，呈請主管官署核展期限。
- 第六條 工廠依工廠法第八條第十條之規定延長工作時間時，應詳敘理由，呈報主管官署。
- 第七條 工廠應將每日開工，停工，用膳，及休息時間，連同全年休假期日，公佈之。
- 第八條 工廠採用晝夜輪班制者，應將各班工人姓名及其工作日期與時間，備簿登記之。
- 第九條 工廠法第十六條所稱之紀念日如左：  
(一) 一月一日 中華民國成立紀念；

- (二) 三月十二日 總理逝世紀念；
- (三) 三月二十九日 革命先烈紀念；
- (四) 五月五日 革命政府紀念；
- (五) 七月九日 國民革命軍誓師紀念；
- (六) 十月十日 國慶紀念；
- (七) 十一月十二日 總理誕辰紀念；
- (八) 其他由國民政府臨時指定之日。

除前項紀念日外，五月一日國際勞動節，亦應放假。

第十條 工廠法第十七條之工作年數，其在工廠法施行前者，應合併計算之。

第十一條 工廠應將每月發給工資次數及日期，預定公布之。

第十二條 工廠為全部或一部之歇業，或停工在一月以上時，應事先呈報主管官署。

第十三條 工廠舉辦工人及學徒之補習教育時，應將辦法及設備，呈報主管官署，並應每六個月，將辦理情形呈報一次。

第十四條 女工依工廠法第三十七條之規定停工者，因廠方之請求，應取具醫生診斷書。

第十五條 工廠法第四十條所稱營業年度，由工廠自行規定，呈報主管官署備案。

第十六條 工廠法第四十條規定之獎金或分配盈餘，由工廠擇用其一，於章程中規定之。

工廠法施行前已成立之工廠，應於工廠法施行後兩個月內，將前項辦法規定，呈報主管官署。



第十七條 工廠平時僱用工人在三百人以上者，應於廠內設置醫室，儲備救急藥品，並聘醫生，每日到廠，擔任工人醫藥及衛生事宜。

第十八條 童工女工及年滿五十歲之工人，其工作之分配，應於健康檢查後定之。

第十九條 有礙衛生及有危險性之製造場所，工廠應嚴禁兒童入內。

第二十條 工廠僱用女工者，應於可能範圍內設託嬰處所，並僱用看護人，妥為照料。

第二十一條 工廠之建築，應由註冊工程師依工廠法第四十一條第四十二條規定計劃之。

第二十二條 工廠一切機器及鍋爐，在使用前或使用一定期間後，應由專家舉行安全檢查。如發現危險，應即停止使用，並從事修理或更換機件。

第二十三條 工場建築物及其附屬場所，應設相當數目之太平門或太平梯。

第二十四條 工場門戶應向外開，工作時間不得下鎖。

第二十五條 工場內應嚴禁吸烟及攜帶引火物品。

第二十六條 工場有左列各款情事之一者，其場屋及附屬場所之建築地點，應由主管官署核定之：

(一) 凡製造品及其原料有危險性者；

(二) 凡物品製造時所散布之氣體或洩出之液體，危害公眾衛生者。

第二十七條 工廠對於工業上所發出有毒之氣體液體及產餘物質，應視其性質與數量，分別為濾過沈澱澄清及分

解之設施，不得任意散布或拋入江河池井之內。

第二十八條 工廠遇有工人在工作時間傷病者，應延醫生或送醫院診治。死亡者，應即呈報主管官署，並通知其家屬。

第二十九條 工廠法第四十五條所規定之津貼喪葬撫卹等費，工廠應依左例規定給予之：

- (一) 傷病及殘廢津貼，至少每半月一次；
- (二) 喪葬費於工人死亡之翌日，一次給予其家屬；
- (三) 撫卹費於工人死亡後一月內，給予工廠法第四十六條規定之受領人。

第三十條 工廠應置備簿冊，載明發給醫藥津貼喪葬撫卹各費日期，數目，及受領人。

第三十一條 工廠對於工人喪葬費或撫卹費之法定受領人有疑義時，應由受領人覓保證明。

第三十二條 工廠會議之工人代表，由廠內工人過半數以上之出席選舉之。工廠之各部分距離較遠或人數過多者，得按各部分工人人數之多寡，分配代表人數，分區選舉之。

第一屆工人代表之選舉，應由廠方於工廠法施行後二個月內，擬具選舉辦法，呈准主管官署後舉行之。

廠中已組織工會者，前項選舉辦法，應由工會簽註意見。

第二屆以後工人代表之選舉，由工廠會議辦理之。

第三十三條 選舉工人代表時，應選候補代表五人至九人，遇有工人代表不能出席時，即由候補代表補充之。

第三十四條 工人代表之選舉辦法，應於選舉前三日，於工廠顯明處所公告之，並應於舉行前向工人至少作一次之口頭解釋。

第三十五條 工廠會議工人代表之任期為一年，連選者得連任。

第三十六條 工廠應將工廠會議之雙方代表名單，呈報主管官署備案。其改派改選時，亦同。

第三十七條 工廠應備置工廠會議紀錄簿，並於開會時派員紀錄左列事項：

- (一) 開會日期及地點；
- (二) 出席代表主席及紀錄員之姓名；
- (三) 討論及決議事項；
- (四) 其他報告及建議事項。

每次會議終了時，應由主席將紀錄當場宣讀，並署名蓋章。

第三十八條 本施行條例與工廠法同日施行。

## 三 工 廠 檢 查 法

民國二十年二月十日國民政府公佈十月一日施行

- 第一條 本法所稱工廠，依工廠法第一條之規定。
- 第二條 本法所稱主管官署，除特別規定外，在市爲市政府，在縣爲縣政府。
- 第三條 工廠檢查事務由中央勞工行政機關派工廠檢查員辦理之。
- 第四條 工廠應檢查之事項如左：
- (一) 關於工廠法第二章及其他勞動法規所規定之男女工人年齡，及工作種類事項；
  - (二) 關於工廠法第三章及其他勞動法規所規定之工人工作時間事項；
  - (三) 關於工廠法第四章及其他勞動法規所規定之工人休息及休假事項；
  - (四) 關於工廠法第七章及其他勞動法規所規定之女工分娩假期事項；
  - (五) 關於工廠法第八章及其他勞動法規所規定之工廠安全及衛生設備事項；
  - (六) 關於工廠災變，工人死亡，傷害事項；
  - (七) 關於工廠法第十一章及其他勞動法規所規定之學徒年齡，工作人數，及一切待遇事項；
  - (八) 關於工廠法工廠法施行法及其他勞動法規所規定之簿冊及登記事項；
  - (九) 其他依法令應檢查事項。
- 第五條 工廠檢查員應就左列人員，經訓練合格者，委任之。

- (一) 國內外工業專門以上學校畢業者；
- (二) 曾在工廠工作十年以上有相當學術技能者。

前項人員之訓練，由中央勞工行政機關辦理之。

第六條 工廠檢查員應依中央勞工行政機關之規定，赴該管區域內之工廠及其附屬工作場所，為定期或不定期之檢查。

第七條 工廠檢查員執行職務時，應隨帶檢查證。

第八條 國營工廠之檢查，應會同該廠之主辦機關行之。

第九條 工廠檢查員得向工廠人員，工會職員，詢問事實，令其負責答覆；並得檢閱與第四條所定檢查事項有關之廠中簿冊，文件，或其他證物。

第十條 工廠檢查員為執行職務有必要時，得請當地行政官署或警察官署予以協助。

第十一條 工廠檢查員每三個月，應將其所檢查區域內之左列事項，詳報主管官署：

- (一) 各業工廠統計；
- (二) 各業工人統計；
- (三) 各業童工狀況；
- (四) 各廠工人流動狀況；
- (五) 各廠災變統計；
- (六) 各廠工作時間實況；
- (七) 各廠工人傷病統計；
- (八) 各廠安全狀況；
- (九) 各廠工人休假狀況；
- (十) 各廠衛生狀況。

第十二條 工廠如有工廠法第四十四條所定之情事時，工廠檢查員應即報告主管官署核辦。

第十三條 關於工廠之安全或衛生事項有須立時糾正者，工廠檢查員應加糾正。

工廠或工人團體不服從前項糾正時，工廠檢查員應即報由主管官署核辦。

第十四條 工廠檢查員不得有左列各款情事：

- (一) 受賄或詐索之行爲；
- (二) 爲變更或捏造事實之呈報；
- (三) 洩漏工廠中工業上之祕密；
- (四) 破壞廠方與工人之感情；
- (五) 擅許廠方或工人之要求；
- (六) 兼任其他公職或營業。

第十五條 工廠檢查員有違法或失職情事，廠方或工人得根據事實，向主管官署舉發之。

第十六條 工廠檢查員關於增進安全，杜防危險，得向廠方及工人提出意見，並應設法使兩方合作，以改進工廠之衛生與安全。

第十七條 工廠檢查員有第十四條各款情事之一者，應予懲戒。如涉及刑事時，並移送法院治罪。

第十八條 工廠無故拒絕工廠檢查員進廠檢查者，處二百圓以下之罰金。

第十九條 工廠人員或工會職員無故拒絕第九條之詢問或檢閱者，處一百圓以下之罰金。

第二十條 本法施行日期，以命令定之。

## 四 工 會 法

民國十八年十月二十一日國民政府公佈

十八年十一月一日施行

### 第一節 設立

第一條 凡同一產業或同一職業之男女工人，以增進知識技能，發達生產，維持改善勞働條件及生活爲目的，集合十六歲以上，現在從事業務之產業工人，人數在一百人以上，或同一職業工人，人數在五十人以上時，得適用本法組織工會。

產業工會職業工會之種類，另以命令定之。

第二條 工人具有左列資格之一者，雖非屬於同一產業或同一職業，得加入其工會爲會員。但雇主或其代理人，不在此限。

- (一) 曾選任爲其工會之職員者；
- (二) 曾爲同一產業或職業之工人者。

第三條 國家行政，交通，軍事，軍事工業，國營產業，教育事業，公用事業，各機關之職員及雇用員役，不得援用本法組織工會。

第四條 工會之主管監督機關，爲其所在地之省市縣政府。

第五條 發起組織工會，須依第一條所規定人數之連署，推出代表五人至九人，提出立案請求書，並附具章程及代表之履歷各二份，向主管官署呈請立案。

主管官署接到立案請求書後，須於兩星期內審查批示。如有令其更正或查復者，對於更正後之請求書或查復

後之呈報，亦同。

工會呈准立案後，須於三星期內將其成立日期及選出職員之履歷，住址，呈報主管官署。主管官署接到呈報後，須即公告之。

未經呈准立案及為前項之呈報者，不得享受本法所規定之權利及保障。

第六條 在同一區域內之同一產業工人或同一職業工人，祇得設立一個工會。

第七條 發起組織工會須開創立大會，議定章程。

前項章程之議定，須得發起人四分之三以上之同意。

第八條 工會章程須載明左列事項：

- (一) 名稱；
- (二) 目的；
- (三) 區域及會址；
- (四) 會員之資格及其權利義務之規定；
- (五) 會員入會退會及除名之規定；
- (六) 職員之規定；
- (七) 會議之規定；
- (八) 會費及其他會計的規定；
- (九) 互助事業之規定；
- (十) 章程變更之規定。

第九條 章程之變更，非經主管官署之認可，不生効力。

第十條 工會為法人。

工會不得為營利事業。

第十一條 工會須設理事。



理由會員中選任之。但有必要時，經主管官署之認可，得選非工會會員任之。

理事處理工會一切事務，對外代表工會

對於理事代表權所加之限制，不得對抗善意第三人。

第十二條 工會之理事或其代理人，因執行職務所加於他人之損害，工會須負連帶賠償之責任。但因關於勞動條件，使會員為協同之行爲或對於會員之行爲加以限制，致使僱主受雇用關係上之損害者，不在此限。

工會職員及會員私人之對外行爲，工會不負其責任。

第十三條 左列事項須經會員大會或代表大會之議決：

- (一) 工會章程之變更；
- (二) 經費之收支預算；
- (三) 事業報告及收支決算之承認；
- (四) 勞動條件之維持或變更；
- (五) 基金之設立管理及處分；
- (六) 會內公共事業之創辦；
- (七) 工會聯合之組織及其加入或脫退；
- (八) 工會之解散合併或分立。

第十四條 工會得依章程或大會之決議，設置監事。

監事掌理審核工會簿記賬目，稽查各種事業進行狀況及監察各職員之職務。

監事須由會員中選任之。

### 第二節 任務

第十五條 工會之職務如左：

- (一) 團體協約之締結，修改或廢止，但非經主管官署

- 之認可，不生效力；
- (二) 會員之職業介紹，及職業介紹所之設置；
  - (三) 貯蓄機關，勞働保險，醫院，診治所，及托兒所之舉辦；
  - (四) 生產，消費，購買，信用，住宅等各種合作社之組織；
  - (五) 職業教育，及其他勞工教育之舉辦；
  - (六) 圖書館及書報社之設置；
  - (七) 出版物之印行；
  - (八) 會員懇親會，俱樂部，及其他各項娛樂之設備；
  - (九) 工會或會員間糾紛事件之調處；
  - (十) 勞資間糾紛事件之調處；
  - (十一) 關於勞動法規之規定改廢事項，得陳述其意見於行政機關，法院及立法機關，並答復行政機關，法院及立法機關之咨詢；
  - (十二) 調查工人家庭生計經濟狀況及其就業失業，並編製勞工統計；
  - (十三) 其他有關於改良工作狀況，增進會員利益之事業。

工會如尚未舉辦前項所列或其章程所訂定之互助事業，而主管官署認為有舉辦之必要時，得派員協助辦理之。

第十六條 第三條所列舉各種事業之工人所組織之工會，無締結團體協約權。

第十七條 工會得向其會員徵收會費，但入會費每人不得

超過一元，經常費不得超過各該會員所入百分之二。  
特別基金，臨時募集金或股金，須呈經主管官署核准後，方得徵收。

第十八條 工會每六個月應將財產狀況報告會員。如會員有十分之一以上之連署，得選派代表查核工會之財產狀況，

### 第三節 監督

第十九條 工人祇得加入於同一產業或同一職業之一工會。

第二十條 工會不得強迫工人入會及阻止其退會。

工會不得拒絕法律章程上認為合格之人入會，亦不得許法律章程上認為不合格之人入會。

工會不得妨害未入工會工人之工作。

第二十一條 工會會員得隨時退出工會。但工會章程定有退會預告期間者，須先預告。

前項預告期間，不得超過一個月。

第二十二條 工會對於會員所處之罰款，不得超過其三日之工資。

工會非有正當理由及得會員三分二以上之同意，不得將其會員除名。

第二十三條 勞資間之糾紛，非經過調解仲裁程序後，於會員大會以無記名投票，得全體會員三分二以上之同意，不得宣言罷工。

工會於罷工時，不得妨害公共秩序之安寧及加害於僱主或他人之生命財產。

工會不得要求超過標準工資之加薪而宣言罷工。

第三條所列舉各事業工人組織之工會，不得宣言罷工。

第廿四條 工會章程或理事與其他職員有變更時，須即行呈報主管官署，並由主管官署於兩星期內公告之。在公告前，不得以其變更對抗第三者。

第廿五條 工會呈准立案後，須提出空白之會員名簿及會計簿各二份於主管官署，請求蓋印。嗣後更用新簿，亦同。

前項會員名簿及會計簿記載後，一存會所，一繳主管官署。

會員名簿須記載會員之姓名，人數，入會年月日，就業處所，及其就業，失業，移動，死亡，傷害之狀況。

會計簿之收支記載，須另冊編號，粘附收據。如主管官署認為必要時，得令工會雇用會計師鑑定之。

第廿六條 工會在每年六月內及十二月內，應將下列各項表冊賬簿，呈報主管官署；主管官署認為必要時，得令工會隨時報告。

- (一) 職員之姓名，履歷，
- (二) 會員名簿；
- (三) 會計簿；
- (四) 事業經營之狀況；
- (五) 各項糾紛事業之經過。

第廿七條 工會，工會職員或會員，不得有左列各項行為：

- (一) 封鎖商店或工廠；
- (二) 擅取或毀損商店工廠之貨物器具；

- (三) 逮捕或毆擊工人與僱主；
- (四) 限制雇主雇用其介紹之工人；
- (五) 集會或巡行時攜帶武器；
- (六) 對於工人之勒索；
- (七) 命令會員怠工；
- (八) 擅行抽收佣金或捐項。

第廿八條 工會之選舉或決議有違背法令或章程時，主管官署得撤銷之。

第廿九條 工會章程有違背法令時，主管官署得令其變更之。

第三十條 對前兩條之處分，有不服者，得提起訴願；但訴願之提起，須於處分決定之日起三十日內為之。

#### 第四節 保護

第卅一條 雇主或其代理人不得因工人為工會會員或職員而拒絕雇用或解雇及為其他不利益之待遇。

第卅二條 雇主或其代理人對於工人不得以不理工會職務，不入工會或退會為雇用條件。

第卅三條 雇主或其代理人在勞資糾紛之調解仲裁期間內，不得解雇工人。

第卅四條 工會免課所得稅，營業稅，及登記稅。

第卅五條 工會於其債務人破產時，對其財產有要求優先清償之權利。

第卅六條 工會所有之下列各項財產，不得沒收：

- (一) 會所，學校，圖書館，書報社，俱樂部，醫院，診所，託兒所，生產消費住宅購買等合作社之動產

及不動產。

(二) 工會基金，勞動保險金。

第五節 解散

第卅七條 工會有左列情事之一時，主管官署得解散之：

- (一) 存立之基本要件不具備者；
- (二) 違反法規情節重大者；
- (三) 破壞安寧秩序或有妨害公益者。

第卅八條 工會除依前條命令解散外，得因左列事由之一，宣告解散：

- (一) 大會決議解散，但須經主管官署之認可；
- (二) 章程內規定解散事由之發生；
- (三) 工會之破產；
- (四) 會員人數之不足；
- (五) 工會之合併或分立。

第卅九條 工會之合併或分立，須經由關係各工會之會員二分一以上之同意，並須得主管官署之認可。

第四十條 合併後繼續存在或新成立之工會承繼因合併而消滅之工會之權利義務。

因分立而成立之工會承繼因分立而消滅之工會或分立後繼續存在之工會之權利義務。其承繼權利義務之部分，須在議決分立時議決之，並須得主管官署之核准。

第四十一條 工會於合併或分立前，須公告其債權人於一個月以上之一定期間內聲明異議。但對於其已知之債權人，須按名催告之。

債權人於前項之一定期間內聲明異議時，工會非先行

清償或供相當之擔保，不得合併或分立。

違反前二項之規定而為合併或分立者，不得以之對抗該債權人。

第四十二條 工會之解散，除由命令解散外，須於兩星期內，將解散事由及年月日呈報主管官署。

第四十三條 工會之解散，除合併分立或破產外，其財產應速行清算。

前項清算依民法法人之規定。

第四十四條 工會解散後，除清償債務外，其存餘財產之歸屬，應依其章程之規定或大會之決議。無規定及決議時，歸屬於該會所加入之工會聯合會。未加入工會聯合會者，歸屬於工會會址所在地之地方自治團體。

#### 第六節 聯合

第四十五條 工會為謀增進會員間之智識技能，發達生產，辦理互助事業，得聯合同一產業或職業之工會，呈經主管官署之核准，組織工會聯合會。

組織工會聯合會時，須召集各關係工會開聯合大會，議定章程，其章程並須經主管官署之核准。

工會聯合會除前二項規定外，準用本法關於工會之規定。

第四十六條 工會非得政府之認可，不得與外國任何工會聯合。

#### 第七節 罰則

第四十七條 工會，工會職員或會員有第二十七條各項行為之一時，處以二百元以下之罰金。但其行為有犯刑法

者，仍依刑法處罰之。

第四十八條 雇主或其代理人違反第三十一條第三十二條之規，定時得處以三百元以下之罰鍰。

第四十九條 雇主或其代理人違反第三十三條之規定解雇工人時，得按每解雇工人一名，處十元以上一百元以下之罰鍰。

第五十條 工會之理事有左列情事之一時，得處以一百元以下之罰鍰：

- (一) 關於第二十四條，第二十六條，第四十二條，第五十一條之事項，不為呈報或為虛偽之呈報者；
- (二) 違反第二十五條之規定及第二十九條之命令者；
- (三) 違反第四十一條第一項第二項之規定而為合併分立者。

#### 第八節 附則

第五十一條 本法施行前已成立之工會，應自本法施行之日起兩個月內，依第五條之程序從新立案。

第五十二條 本法施行前在同一區域內已有兩個以上之同一產業或同一職業之工會，自本法施行之日起兩個月內須行合併。

第五十三條 本法施行日期，以命令定之。



## 五 工 會 法 施 行 法

民國十九年六月六日國民政府公佈施行

- 第一條 工會名稱應爲某地某業工會。
- 第二條 集合同一企業內各部份不同職業之工人所組織者，爲產業工會；集合同一職業之工人所組織者，爲職業工會。
- 第三條 會選任爲其工會之職員及會爲同一產業或職業之工人者，須有工會或工廠之證明。
- 第四條 官吏，技師，教員，管理員，事務員，及其他委任以上或聘用之人員爲職員；錄事，勤務，及所屬工廠之司書，書記，暨無關工業工作之雇用人員爲雇員，適用工會法第三條之規定。
- 第五條 工會法第三條所列舉各機關之工人，均得依工會法組織工會。
- 第六條 凡從事於工會法第三條所列舉事業以外之同一產業或同一職業之被僱人員，無論其爲職員員役或工人，均得依工會法加入工會。但代表僱主行使管理權者，不在此限。
- 第七條 工會之區域以市或縣之行政區域爲其區域；但有特別情形時，得由主管官署另行劃定。
- 第八條 一市或一縣之工會，以市政府縣政府爲主管官署；超過一市或一縣之工會，以省政府爲主管官署。工會法第三條所列舉各事業工人所組織之工會，其主管官署爲該事業之主管官署。

第九條 發起組織工會之代表，其責任於工會成立日終止，應即將經手會務款項移交工會。

第十條 工會之成立，合併，分立，聯合或解散，主管官署於立案認可或核准後，應即轉報工商部備案。

第十一條 工會呈准立案後，由主管官署刊發圖記，並給予證書。

第十二條 工會圖記證書會員名簿會計簿等式樣，由工商部定之。

第十三條 工會每年至少應開會員大會一次，並應於兩星期前呈明主管官署。

第十四條 工會得設理事五人至九人，監事三人至五人。

第十五條 年滿二十五歲以上者，始得被選為工會之理事或監事。

第十六條 理事監事由會員大會選舉之。以得票多數者為當選。並得以次多數者為候補理事監事，但候補理事不得逾四人，候補監事不得逾二人。

前項選舉須有會員過半數之出席。

第十七條 理事監事任期一年，但得連選連任。

第十八條 遞補之理事監事以補足原任之任期為限。

第十九條 當選之理事監事自接到工會通知後，如不願就任時，應於二十日內聲明之。

第二十條 工會以增進會員利益為目的，辦理之生產，消費，購買，信用，住宅等各種合作社，視為非營利事業。

第二十一條 理事或監事因故不能執行事務或出席會議時，得委託候補理事或候補監事代理之。

第二十二條 工會法所稱之會員收入及工資，應將僱主供給之宿膳計算在內，以最近三個月之平均價值為標準。

第二十三條 工會法所稱之合併或分立，謂因事業性質上之關係或聯合組織變更而發生合併或分立。

第二十四條 工會法第五十一條及第五十二條所定之期限，於必要時，得由國民政府酌量展期。

第二十五條 本施行法自公佈之日施行。

## 六 勞資爭議處理法

民國十九年三月十七日國民政府公佈施行

### 第一章 總則

第一條 本法於僱主與工人團體或工人十五人以上，關於僱傭條件之維持或變更發生爭議時，適用之。

第二條 本法所稱主管行政官署，除有特別規定者外，在市為市政府，在縣為縣政府。

第三條 主管行政官署於勞資爭議發生時，經爭議當事人一方或雙方之聲請，應召集調解委員會調解之。如主管行政官署認為有付調解之必要，雖無當事人之聲請時，亦同。

調解成立時，視同爭議當事人間之契約；如當事人之一方為工會時，視同爭議當事人間之勞動協約。

第四條 勞資爭議事件調解不成立時，經爭議當事人雙方或一方之聲請，應付仲裁委員會仲裁。

第五條 爭議當事人於仲裁委員會之裁決送達後五日內，不聲明異議者，該裁決視同爭議當事人間之契約；如當事人之一方為工會時，視同爭議當事人間之勞動協約。

### 第二章 勞資爭議處理之機關

#### 第一節 調解機關

第六條 勞資爭議之調解，由調解委員會處理之。

第七條 調解委員會置委員五人或七人，以左列代表組織之：

(一) 主管行政官署派代表一人或三人；

(二) 爭議當事人雙方各派代表二人。

前項第一款之代表，不以主管行政官署之職員爲限。

第八條 勞資爭議依第三條第一項之規定，應付調解時，其爭議當事人應於接到主管行政官署之通知後三日內，各自選定或派定代表，並將其代表之姓名住址具報。主管行政官署於認爲有必要時，得將前項期限酌量延長之；逾期未將其代表姓名住址具報者，主管行政官署得依職權代爲指定之。

第九條 調解委員會委員人選決定後，主管行政官署應從速召集開會，並以主管行政官署所派代表爲主席。但第十一條第三項規定之調解委員會，以工商部所派代表爲主席。

調解委員會已經召集開會而委員拒絕出席，致調解無從進行者，以調解不成立論。

第十條 調解委員會之主席得調用各該主管行政官署之職員辦理紀錄，編案，擬稿，及其他一切庶務。

第十一條 同一勞資爭議事件，該主管行政官署有二個以上者，如各該主管行政官署在同一省區時，第七條第一項第一款之主管行政官署由省政府指定之；於必要時，第七條第一項第一款之代表，並得由該省政府指派。同一勞資爭議事件，不在同一省區時，第七條第一項第一款之主管行政官署由工商部指定之。

前項情形，如工商部認爲有必要時，第七條第一項第一款之代表得由該部指派。

## 第二節 仲裁機關

- 第十二條 勞資爭議之仲裁，由仲裁委員會處理之。
- 第十三條 仲裁委員會置委員五人，以左列人員組織之：
- (一) 省政府或該管市縣政府派代表一人；
  - (二) 省黨部或該地市縣黨部派代表一人；
  - (三) 地方法院派代表一人；
  - (四) 與爭議無直接利害關係之勞方及資方代表各一人。
- 第十四條 省政府或不屬於省之市政府於其所轄之區內，每年應命工人團體及僱主團體各推定堪為仲裁委員者十五人至三十人，開列名單，送請核准。遇有仲裁事件，前條第四款之代表，即就此項名單中指定與爭議無直接利害關係者充之。
- 依前項規定核准之仲裁委員名單應咨請工商部備案。
- 第十五條 凡曾任調解委員會委員者，不得為同一事件之仲裁委員。
- 第十六條 仲裁委員會由省政府或該管市縣政府召集之，以召集機關之代表為主席。但第十八條規定之仲裁委員會，以工商部所派代表為主席。
- 第十七條 仲裁委員會之主席得調用其所屬官署，或其所在地地方法院之職員辦理紀錄，編案，擬稿，及其他一切庶務。
- 第十八條 同一勞資爭議事件，其範圍不限於一省者，第十三條第一款之代表由工商部指派，第四款之代表由工商部就相關各省之仲裁委員名單指派之。

### 第三章 勞資爭議處理程序

## 第一節 調解程序

第十九條 爭議當事人聲請調解時，應向主管行政官署提出調解聲請書。

第二十條 調解聲請書應記明左列各事項：

- (一) 當事人之姓名，職業，住址，或商號廠號，如為團體者，其名稱及事務所所在地；
- (二) 與爭議事件有關之勞工人數；
- (三) 爭執之要點。

第二十一條 未經爭議當事人聲請而由主管行政官署提付調解時，該行政官署須將應付調解事項，以書面通知於雙方當事人。

第二十二條 調解委員會應於召集後二日內，開始調查左列各事項：

- (一) 爭議事件之內容；
- (二) 爭議當事人提出之書狀及其他有關係之事件；
- (三) 爭議當事人雙方之現在狀況；
- (四) 其他應調查事項。

調查期間，非有特別情形，不得逾七日。

第二十三條 調解委員會得因調查事項，傳喚證人或命關係人到會說明或提出說明書。

第二十四條 調解委員會得向關係工廠商店等調查或詢問。

第二十五條 調解委員會委員不得洩漏調查所得之秘密事項。

第二十六條 調解委員會調查完畢後，應於二日內為調解

之決定，但有特別情形或爭議當事人雙方同意延期時，不在此限。

第二十七條 調解委員會之調解，經爭議當事人雙方代表之同意，在調解筆錄簽名者，調解為成立。

調解委員會應將調解之結果，報告主管行政官署。

### 第二節 仲裁程序

第二十八條 爭議當事人聲請仲裁時，應向主管行政官署提出仲裁聲請書。

主管行政官署收受前項文卷後，應從速於該行政官署所在地或爭議事件所在地，召集仲裁委員會。

第二十九條 爭議當事人因調解不成立請付仲裁時，其聲請書應記明左列各事項：

- (一) 當事人之姓名，職業，住址，或商號廠號，如為團體者，其名稱及事務所所在地；
- (二) 調解不成立之事由；
- (三) 請求之目的。

第三十條 第二十一條至第二十六條之規定，於仲裁程序準用之。

第三十一條 仲裁委員會之仲裁，以全體委員之合議行之，取決於多數。

仲裁委員會應將前項仲裁於二日內作成仲裁書，送達於雙方當事人，並送主管行政官署備案。

第三十二條 爭議當事人不論仲裁程序至何程度，均得成立和解，但須將和解條件呈報仲裁委員會。

### 第四章 爭議當事人行爲之限制



第三十三條 在調解及仲裁期內，雇主不得停業或開除工人，工人不得罷工。

第三十四條 工人或工人團體不得有左列行爲：

- (一) 封閉商店或工廠；
- (二) 擅取或毀損商店工廠之貨物器具；
- (三) 強迫他人罷工。

#### 第五章 罰則

第三十五條 爭議當事人有違反第三十三條及第三十四條之規定時，主管行政官署及調解委員會或仲裁委員會得隨時制止。不服制止者，得處以二百圓以下之罰金。其行爲已犯刑法者，仍依刑法處斷。

第三十六條 有左列行爲之一者，處百圓以下之罰金：

- (一) 違反第二十三條規定無故不到會，或不提出說明書者；
- (二) 違反第二十五條規定者。

前項第二款情形構成刑法上之犯罪行爲時，仍依刑法處斷。

第三十七條 有左列行爲之一者，處百圓以下之罰金。但證人爲虛僞之陳述時，依刑法僞證之規定處罰。

- (一) 於第二十三條所定情形，而爲虛僞之說明者；
- (二) 於第二十四條所定情形，無故拒絕調查答復或爲虛僞之陳述者。

第三十八條 遇有本章各條所定應處罰之行爲，得由主管行政官署及調解委員會或仲裁委員會聲述事由，移送該管法院審理。該管法院除有特別情形者外，應於接

收案卷後二十日內宣告裁判。

第六章 附則

第三十九條 省政府或不屬於省之市政府於必要時，得擬具本法施行細則，呈請國民政府核定之。

第四十條 本法自公佈日施行。

## 七 上海市勞資爭議處理法施行細則

民國二十年三月二十八日國民政府核定

二十年四月十一日市政府第二四一號令公佈

- 第一條 本細則依據勞資爭議處理法(以下簡稱本法)第三十九條之規定,由上海市政府制定之。
- 第二條 本市勞資爭議事件繫屬之主管行政官署,在調解時為市政府所屬之社會局,在仲裁時為市政府。
- 第三條 爭議事件發生在本市特區者,本法第十三條第三款之仲裁委員,由特區地方法院派代表充之。
- 第四條 本法第十三條第四款之代表又第八條代為指定之代表,已經主管行政官署指定者,不得推諉。如因確有事故不能擔任者,應於接到通知書後三日內,聲明理由,經主管行政官署核准,另行指派之。
- 第五條 當事人派定代表到會時,應提出證明文件。
- 第六條 當事人任何一方,在調解開始後,本案未解決前,不得再提新要求條件。
- 第七條 主管行政官署於勞資爭議事件經調解委員會調解成立後,或仲裁委員會仲裁確定後,應即督促爭議當事人,依照調解筆錄或仲裁裁決所訂辦法,切實履行。
- 第八條 爭議當事人對於仲裁裁決聲明異議時,自聲明異議之翌日起十五日內,應依法向所屬法院起訴。逾期不起訴者,仍以不聲明異議論。
- 第九條 視同爭議當事人間之契約或勞動協約,如無時間規定者,至少以一年為有效期間。

- 第十條 調解或仲裁程序開始之期，以當事人任何一方聲請調解或仲裁之日起算。其由主管行政官署提付調解或仲裁時，以通知當事人之日起算。
- 第十一條 調解或仲裁程序以調解委員會或仲裁委員會將調解結果或仲裁書送達於雙方當事人之日，為終了之期。
- 第十二條 除本法第三十三條第三十四條所規定之行為限制以外，若爭議當事人有其他行為主管行政官署及調解委員會或仲裁委員會認為不當時，得準用本法第三十五條及第三十八條之規定。
- 第十三條 住居本市特區之爭議當事人或證人及有關係之工廠商號等，違抗主管行政官署及調解仲裁機關之命令，或拒絕調查者，均得由特區地方法院協助之。
- 第十四條 本細則奉 國民政府核定後，由本市政府公布之日施行。

## 八 團 體 協 約 法

民國十九年十月二十八日國民政府公佈

### 第一節 總則

第一條 稱團體協約者，謂僱主或有法人資格之僱主團體，與有法人資格之工人團體，以規定勞動關係為目的所締結之書面契約。

左列各款亦屬本法所稱勞動關係：

- (一) 學徒關係；
- (二) 一企業內之勞動組織；
- (三) 關於職業介紹機關之利用；
- (四) 關於勞資糾紛調解機關或仲裁機關之設立或利用。

第二條 團體協約有規定勞動關係以外之事項者，對於其事項，不適用本法之規定。

第三條 勞資團體之代表機關，非依其團體章程之規定，或依其團員大會或代表大會之決議，或受其團體全體團員各個所授與特別書面之委任，不得以其團體之名義，締結團體協約。

違反前項所締結之團體協約，非得其團員大會或代表大會之追認，不發生效力。

第四條 團體協約應由當事人雙方或一方呈請主管官署認可。

主管官署發現團體協約條款中，有違背法令，或與僱主事業之進行不相容，或與工人從來生活標準之維持不

相容者，應刪除或修改之。如得當事人同意時，得就其刪除或修改後之團體協約為認可。已認可之團體協約，自認可之翌日起，發生效力。

前項之規定，於團體協約之變更或廢止準用之。

第五條 勞動關係於有二個以上之團體協約可以適用時，其效力發生在前之團體協約無特別規定者，先適用職業範圍較小之團體協約。團體協約不屬於職業性質者，先適用地域或人數適用範圍較大之團體協約。

第六條 資方之團體協約當事人為多數時，如無特別之規定，其各當事人不得單獨與一般工人團體為異於團體協約之特別規定。

團體協約當事人，除前項規定外，各自獨立取得權利負擔義務。

第七條 僱主受團體協約之拘束者，應將團體協約於工作場所易見之處揭示之。

違反前項規定者，得處以五十圓以下之罰鍰。

## 第二節 限制

第八條 團體協約得規定僱主僱用工人，限於一定工人團體之團員；但有左列情形之一時，僱主不受限制：

- (甲) 該工人團體解散時；
- (乙) 該工人團體無僱主所需要之專門技術工人時；
- (丙) 該工人團體之團員不足供給或不願應僱時；
- (丁) 僱主僱用學徒或使役時；
- (戊) 僱主僱用為其管理財務印信或機要文件者時；
- (己) 僱主僱用該工人團體以外之工人，除丁戊兩款

不計外，尙未超過其廠店工人人數十分之二時。

第九條 團體協約有規定僱主僱用工人，應依工人團體所定輪僱工人表之次序者，其規定爲無效。

第十條 團體協約得規定僱主僱用工人，應由工人團體介紹；但限制僱主之自由去取者，其規定爲無效。如規定工人團體有介紹權時，應規定由接到僱主通知之日起，一星期內之一定期間，尙未介紹工人到工時，僱主得僱用工人團體以外之工人。

第十一條 團體協約得規定僱主於休假日或於原定工作時間外，必須工人工作或繼續工作時，其工資應加成或加倍發給，但不得超過二倍；超過二倍者視爲二倍。

第十二條 團體協約得規定工人團體現任職員，因辦理會務得請假之時間；但至多每月平均不得超過三十小時。

第十三條 團體協約有限制僱主採用新式機器，或改良生產，或限制僱主買入製成品，或加工品之規定者，其規定爲無效。

### 第三節 效力

第十四條 團體協約如無特別限制，左列各款之僱主及工人，均爲團體協約關係人，應遵守團體協約所定之勞動條件。

- (一) 爲團體協約當事人之僱主；
- (二) 屬於團體協約當事團體之僱主及工人，或於團體協約訂立時或訂立後加入該團體之僱主及工人。

對於團體協約訂立後始爲協約關係人者，除該

團體協約另有規定外，其關於勞動條件之規定，自取得團體協約關係人資格之日起適用之。

第十五條 前條第一項各款所列團體協約關係人之所屬關係，於該團體協約終止時終了。團體協約訂立後，由協約當事團體退出之僱主或工人之所屬關係，亦同。

第十六條 團體協約所定勞動條件，當然為該團體協約所屬僱主及工人間所訂勞動契約之內容。如勞動契約有異於該團體協約所定之勞動條件者，其相異之部分無效。無效之部分以團體協約之規定代之；但異於團體協約之約定，為該團體協約所容許，或為工人之利益變更勞動條件，而該團體協約並無明文禁止者為有效。

第十七條 團體協約已屆期滿，新團體協約尚未訂立時，於勞動契約另為約定前，原團體協約關於勞動條件之規定，仍繼續為該團體協約關係人之勞動契約之內容。

第十八條 團體協約關係人，如於其勞動契約存續期間，拋棄其由團體協約所得勞動契約上之權利，其拋棄為無效，但於勞動契約終了後三個月內，仍不行使其權利者，不得復行使之。

團體協約所屬之僱主，因工人維持其由於團體協約所生之權利，或基於團體協約之勞動契約所生之權利，而終止勞動契約者，其終止為無效。

第十九條 團體協約關係人違反團體協約中不屬於勞動條件之規定時，除該團體協約另有規定外，法院依利害關係之僱主或團體協約當事人一方之聲請，得科僱主五百元以下，工人五十元以下之罰金。



前項罰金應用於爲工人之福利事業。

第二十條 團體協約當事人，及其權利承繼人，對於妨害團體協約之存在，或其各個規定之存在之一切鬭爭手段，不得採用。

團體協約當事團體對於其所屬團員，有使其不爲前項鬭爭，並使其不違反團體協約之規定之義務。

團體協約得約定當事人一方不履行團體協約所定之義務時，對於他方應給付代替損害賠償之一定償金。

關於團體協約之履行，除本法有特別規定外，適用民法之規定。

第二十一條 團體協約當事團體，對於違反團體協約之規定者，無論其爲團體或個人，爲本團體之團員或他團體之團員，均得以團體名義請求損害賠償。

第二十二條 團體協約當事團體，無須特別之委任，得爲其團員提起團體協約上一切之訴訟，但以先通知本人而本人不表示反對時爲限。

關於團體協約上之訴訟，團體協約當事團體之團員爲被告人時，其團體亦得隨時參加訴訟。

#### 第四節 存續期間

第二十三條 團體協約得以定期不定期或完成一定之工作爲期訂立之。

第二十四條 團體協約爲不定期者，其當事人之一方於團體協約訂立一年後，得隨時終止團體協約；但應於三個月前以書面通知他方當事人。團體協約所規定之通知期間，較前項規定期間爲長者，依其規定。

第二十五條 團體協約爲定期者，其期限不得超過三年。超過三年者，視爲三年。

第二十六條 團體協約以一定工作之完成爲期限者，其工作於三年內尙未完成時，視爲以三年期限訂立之團體協約。

第二十七條 團體協約當事團體，在團體協約上之權利義務，除團體協約當事人另有約定外，因團體之合併或分立移轉於因合併或分立而成立之團體。

團體協約當事團體解散時，其團體所屬各員在團體協約上之權利義務，不因其團體之解散而變其效力；但不定期之團體協約於解散後，經過通知期間，失其效力。

第二十八條 團體協約訂立時之經濟界情形，於訂立後有重大變更，如維持該團體協約，有與僱主事業之進行，或與原來工人生活標準之維持不相容，或依團體協約當事人之行爲致無達到當初目的之希望時，主管官署因團體協約當事人一方之聲請，得廢止團體協約。

第二十九條 團體協約之廢止，縱有反對之約定，仍對於該團體團員全體發生效力。

#### 第五節 附則

第三十條 團體協約在本法施行前訂立者，自本法施行之日起適用本法。

第三十一條 本法施行日期，以命令定之。

# 附 錄 一

## 上 海 市 社 會 局 布 告

第 一 三 四 〇 一 號

爲布告事案奉 實業部勞字第五九六號訓令爲工廠法  
第十三條取締女工深夜工作一條經奉中央政治會議第  
二八二次會議議決准以二年內爲實施之預備期間由實  
業部負責督促等因轉飭知照下局奉此合亟布告本市各  
工廠一體週知此佈

中華民國二十年八月十一日

局長 潘公展

此書有著作權翻印必究  
英漢對照  
中國勞工法規

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發行人	<del>上海商務印書館</del> 王雲五
印刷所	商務印書館
發行所	商務印書館
定價	大洋壹元伍角 外埠酌加運費函費

初版 民國二十年十二月

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CHINA'S LABOR LAWS

1929.1931

Chinese Text With English Translation

Editor: Koo Ping Yuen  
Publisher: Y. W. Wong  
Works Office: The Commercial Press, Ltd.  
Sales Office: The Commercial Press, Ltd.

Price: \$1.50 postage extra  
1st ed., Dec., 1931

