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**【Title】 Social Insurance Law of the People's Republic of China [Effective]**

**【法规标题】 中华人民共和国社会保险法 [现行有效]**

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Order of the President of the People's Republic of China

中华人民共和国主席令  
(第三十五号)

(No. 35)

The [Social Insurance Law of the People's Republic of China](#), adopted at the 17th meeting of the Standing Committee of the 11th National People's Congress of the People's Republic of China on October 28, 2010, is hereby promulgated and shall come into force on July 1, 2011.

《[中华人民共和国社会保险法](#)》已由中华人民共和国第十一届全国人民代表大会常务委员会第十七次会议于2010年10月28日通过，现予公布，自2011年7月1日起施行。

Hu Jintao, President of the People's Republic of China

中华人民共和国主席 胡锦涛  
2010年10月28日

October 28, 2010

[Social Insurance Law of the People's Republic of China](#)

[中华人民共和国社会保险法](#)  
(2010年10月28日第十一届全国人民代表大会常务委员会第十七次会议通过)

(Adopted at the 17th meeting of the Standing Committee of the 11th National People's Congress on October 28, 2010)

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第一章 总则

**Article 1** This Law is formulated in accordance with the [Constitution](#) for purposes of regulating social insurance relations, protecting the legitimate rights and interests of citizens participating in social insurance and enjoying social insurance benefits, enabling citizens to share the achievements of development and promoting social harmony and stability.

**第一条** 为了规范社会保险关系，维护公民参加社会保险和享受社会保险待遇的合法权益，使公民共享发展成果，促进社会和谐稳定，根据宪法，制定本法。

**Article 2** The state shall establish a social insurance system including basic endowment insurance, basic medical insurance, employment injury insurance, unemployment insurance and maternity insurance to guarantee the rights of citizens to legally obtain material assistance from the state and society in case of old age, illness, work-related injuries, unemployment and childbirth.

**第二条** 国家建立基本养老保险、基本医疗保险、工伤保险、失业保险、生育保险等社会保险制度，保障公民在年老、疾病、工伤、失业、生育等情况下依法从国家和社会获得物质帮助的权利。

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**Article 4** Employers and individuals within the territory of the People's Republic of China shall pay social insurance premiums in accordance with law, and have the rights to inquire about their premium contribution records and personal benefit records and request social insurance agencies to provide social insurance consultation and other relevant services.

Individuals shall enjoy social insurance benefits in accordance with law, and have the right to oversee the premium payments made for them by their employers.

**Article 5** The people's governments at and above the county level shall include social insurance in their national economic and social development planning.

The state shall raise social insurance funds through various channels. The people's governments at and above the county level shall provide necessary fund support for social insurance.

The state shall provide support for social insurance through preferential tax policies.

**Article 6** The state shall conduct strict supervision and administration of social insurance funds.

The State Council and the people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall establish and improve the supervision and administration system for social insurance funds to ensure the safe and effective operation of social insurance funds.

The people's governments at and above the county level shall take measures to encourage and support participation in the supervision of social insurance funds by all quarters of the society.

**Article 7** The social insurance administrative department under the State Council shall be responsible for the social insurance administration throughout the country, and other relevant departments under the State Council shall be responsible for the relevant social insurance work within their respective functions.

The social insurance administrative departments under the local people's governments at and above the county level shall be responsible for the social insurance administration within their respective administrative regions, and other relevant departments of the local people's governments at and above the county level shall be responsible for the relevant social insurance work within their respective functions.

**Article 8** Social insurance agencies shall provide social insurance services, responsible for social insurance registration, personal benefit records, payment of social insurance benefits and other work.

**Article 9** Trade unions shall safeguard the legitimate rights and interests of employees in accordance with law, and have rights to participate in the research on major social insurance issues and sit on social insurance regulatory committees to oversee issues related to the social insurance rights and interests of employees.

## Chapter II Basic Endowment Insurance

**Article 10** Employees shall participate in the basic endowment insurance, and the basic endowment insurance premiums shall be jointly paid by employers and employees.

Individual industrial and commercial households without employees, part-time employees not participating in the basic endowment insurance through their employers and other persons in flexible employment may participate in the basic endowment insurance, but shall pay the basic endowment insurance premiums themselves.

The endowment insurance measures for civil servants and staff governed analogically by the [Civil Servant Law](#) shall be formulated by the State Council.

**Article 11** The combination of general social planning and personal accounts shall apply to the basic endowment insurance.

The basic endowment insurance funds shall comprise contributions made by employers and individuals, as well as government subsidies.

缴纳社会保险费, 有权查询缴费记录、个人权益记录, 要求社会保险经办机构提供社会保险咨询等相关服务。

个人依法享受社会保险待遇, 有权监督本单位为其缴费情况。

**第五条** 县级以上人民政府将社会保险事业纳入国民经济和社会发展规划。

国家多渠道筹集社会保险资金。县级以上人民政府对社会保险事业给予必要的经费支持。

国家通过税收优惠政策支持社会保险事业。

**第六条** 国家对社会保险基金实行严格监管。

国务院和省、自治区、直辖市人民政府建立健全社会保险基金监督管理制度, 保障社会保险基金安全、有效运行。

县级以上人民政府采取措施, 鼓励和支持社会各方面参与社会保险基金的监督。

**第七条** 国务院社会保险行政部门负责全国的社会保险管理工作, 国务院其他有关部门在各自的职责范围内负责有关的社会保险工作。

县级以上地方人民政府社会保险行政部门负责本行政区域的社会保险管理工作, 县级以上地方人民政府其他有关部门在各自的职责范围内负责有关的社会保险工作。

**第八条** 社会保险经办机构提供社会保险服务, 负责社会保险登记、个人权益记录、社会保险待遇支付等工作。

**第九条** 工会依法维护职工的合法权益, 有权参与社会保险重大事项的研究, 参加社会保险监督委员会, 对与职工社会保险权益有关的事项进行监督。

## 第二章 基本养老保险

**第十条** 职工应当参加基本养老保险, 由用人单位和职工共同缴纳基本养老保险费。

无雇工的个体工商户、未在用人单位参加基本养老保险的非全日制从业人员以及其他灵活就业人员可以参加基本养老保险, 由个人缴纳基本养老保险费。

公务员和参照公务员法管理的工作人员养老保险的办法由国务院规定。

**第十一条** 基本养老保险实行社会统筹与个人账户相结合。

基本养老保险基金由用人单位和个人缴费以及政府补贴等组成。

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insurance premiums, which shall be included in the personal accounts.

Where individual industrial and commercial households without employees, part-time employees not participating in the basic endowment insurance through their employers and other persons in flexible employment participate in the basic endowment insurance, they shall pay the basic endowment insurance premiums in accordance with the relevant provisions of the state, which shall be included in the general basic endowment insurance funds and their personal accounts respectively.

**Article 13** The basic endowment insurance premiums payable during the period in which the premiums are deemed to have been paid before the employees of state-owned enterprises and public institutions participate in the basic endowment insurance shall be assumed by the government.

When the basic endowment insurance funds are insufficient for payment, the government shall provide subsidies.

**Article 14** No early withdrawal from the personal account shall be allowed, the recording interest rate shall not be lower than the interest rate for time deposit in banks, and the personal accounts shall be exempted from interest tax. When an individual deceases, the balance in his/her personal account may be inherited.

**Article 15** Basic pension shall comprise general pension and personal account pension.

Basic pension shall be determined on the basis of the cumulative personal contribution period, contribution wages, average wages of local employees, amount in personal account, average life expectancy of urban population and other factors.

**Article 16** An individual participating in the basic endowment insurance shall receive a monthly basic pension provided that he/she has contributed premiums for a cumulative period of 15 years or more when he/she reaches the statutory retirement age.

Where an individual participating in the basic endowment insurance has contributed premiums for a cumulative period under 15 years when he/she reaches the statutory retirement age, he/she shall receive a monthly basic pension after having contributed premiums for 15 years; or his/her insurance relationship may be transferred into the new-type social endowment insurance for rural areas or social endowment insurance for urban residents, and he/she shall enjoy the corresponding endowment insurance benefits in accordance with the relevant provisions of the State Council.

**Article 17** Where an individual participating in the basic endowment insurance deceases for illness or any non-work-related reason, his/her surviving family members may receive funeral subsidies and condolence money. Where the individual becomes disabled for illness or any non-work-related reason and completely loses the ability to work when he/she has not reached the statutory retirement age, he/she may receive illness and disability allowances. The funds needed shall be paid from the basic endowment insurance funds.

**Article 18** The state shall establish a normal adjustment mechanism for basic pension, and raise the level of basic endowment insurance benefits at proper time in consideration of the growth of average wages of employees and price rise.

**Article 19** Where an individual is employed in a different overall planning area, his/her basic endowment insurance relationship shall be transferred with him/her, and the contribution period shall be calculated on a cumulative basis. When the individual reaches the statutory retirement age, his/her basic pension shall be calculated by segment but be paid in a unified way. The specific measures shall be formulated by the State Council.

**Article 20** The state shall establish and improve a new-type social endowment insurance system for rural areas.

The combination of personal contributions, collective subsidies and government subsidies shall apply to the new-type social endowment insurance for rural areas.

**Article 21** The new-type social endowment insurance benefits for rural areas shall comprise base pension and personal account pension.

无雇工的个体工商户、未在用人单位参加基本养老保险的非全日制从业人员以及其他灵活就业人员参加基本养老保险的，应当按照国家规定缴纳基本养老保险费，分别记入基本养老保险统筹基金和个人账户。

**第十三条** 国有企业、事业单位职工参加基本养老保险前，视同缴费年限期间应当缴纳的基本养老保险费由政府承担。

基本养老保险基金出现支付不足时，政府给予补贴。

**第十四条** 个人账户不得提前支取，记账利率不得低于银行定期存款利率，免征利息税。个人死亡的，个人账户余额可以继承。

**第十五条** 基本养老金由统筹养老金和个人账户养老金组成。

基本养老金根据个人累计缴费年限、缴费工资、当地职工平均工资、个人账户金额、城镇人口平均预期寿命等因素确定。

**第十六条** 参加基本养老保险的个人，达到法定退休年龄时累计缴费满十五年的，按月领取基本养老金。

参加基本养老保险的个人，达到法定退休年龄时累计缴费不足十五年的，可以缴费至满十五年，按月领取基本养老金；也可以转入新型农村社会养老保险或者城镇居民社会养老保险，按照国务院规定享受相应的养老保险待遇。

**第十七条** 参加基本养老保险的个人，因病或者非因工死亡的，其遗属可以领取丧葬补助金和抚恤金；在未达到法定退休年龄时因病或者非因工致残完全丧失劳动能力的，可以领取病残津贴。所需资金从基本养老保险基金中支付。

**第十八条** 国家建立基本养老金正常调整机制。根据职工平均工资增长、物价上涨情况，适时提高基本养老保险待遇水平。

**第十九条** 个人跨统筹地区就业的，其基本养老保险关系随本人转移，缴费年限累计计算。个人达到法定退休年龄时，基本养老金分段计算、统一支付。具体办法由国务院规定。

**第二十条** 国家建立和完善新型农村社会养老保险制度。

新型农村社会养老保险实行个人缴费、集体补助和政府补贴相结合。

**第二十一条** 新型农村社会养老保险待遇由基础养老金和个人账户养老金组成。

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**Article 22** The state shall establish and improve a social endowment insurance system for urban residents.

The people's governments of provinces, autonomous regions and municipalities directly under the Central Government may, in light of the actualities, integrate the social endowment insurance for urban residents and the new-type social endowment insurance for rural areas in implementation.

### Chapter III Basic Medical Insurance

**Article 23** Employees shall participate in the basic medical insurance for employees, and the basic medical insurance premiums shall be jointly paid by employers and employees in accordance with the relevant provisions of the state.

Individual industrial and commercial households without employees, part-time employees not participating in the basic medical insurance for employees through their employers and other persons in flexible employment may participate in the basic medical insurance for employees, but the basic medical insurance premiums shall be paid by the individuals in accordance with the relevant provisions of the state.

**Article 24** The state shall establish and improve a new-type rural cooperative medical care system.

The measures for the administration of the new-type rural cooperative medical care shall be formulated by the State Council.

**Article 25** The state shall establish and improve a basic medical insurance system for urban residents.

The combination of personal contributions and government subsidies shall apply to the basic medical insurance for urban residents.

For the persons enjoying the minimum living safeguard, the disabled persons who have lost the ability to work and the seniors aged 60 years or more and minors of low-income families, their personal contributions shall be subsidized by the government.

**Article 26** The standards of benefits of the basic medical insurance for employees, new-type rural cooperative medical care and basic medical insurance for urban residents shall be governed by the relevant provisions of the state.

**Article 27** Where an individual participating in the basic medical insurance for employees has paid premiums for a cumulative period reaching the number of years prescribed by the state when he/she reaches the statutory retirement age, he/she need not pay the basic medical insurance premiums any more after retirement, and shall enjoy the basic medical insurance benefits according to the relevant provisions of the state; or if the number of years prescribed by the state is not reached, he/she may pay premiums until the number of years prescribed by the state is reached.

**Article 28** Medical expenses in conformity with the drug catalogue, diagnosis and treatment items and medical care service facilities standards for the basic medical insurance and medical expenses for emergency treatment or rescue shall be paid from the basic medical insurance funds according to the relevant provisions of the state.

**Article 29** The part of medical expenses of the insured payable from the basic medical insurance funds shall be directly settled by the social insurance agencies with the medical institutions or pharmaceutical business entities.

Social insurance administrative departments and health administrative departments shall establish a system for the settlement of medical expenses incurred at different places to provide conveniences for the insured to enjoy his/her basic medical insurance benefits.

**Article 30** The following medical expenses shall not be included in the payment scope of the basic medical insurance funds:

(1) expenses payable from the employment injury insurance funds;

**第二十二条** 国家建立和完善城镇居民社会养老保险制度。

省、自治区、直辖市人民政府根据实际情况，可以将城镇居民社会养老保险和新型农村社会养老保险合并实施。

### 第三章 基本医疗保险

**第二十三条** 职工应当参加职工基本医疗保险，由用人单位和职工按照国家规定共同缴纳基本医疗保险费。

无雇工的个体工商户、未在用人单位参加职工基本医疗保险的非全日制从业人员以及其他灵活就业人员可以参加职工基本医疗保险，由个人按照国家规定缴纳基本医疗保险费。

**第二十四条** 国家建立和完善新型农村合作医疗制度。

新型农村合作医疗的管理办法，由国务院规定。

**第二十五条** 国家建立和完善城镇居民基本医疗保险制度。

城镇居民基本医疗保险实行个人缴费和政府补贴相结合。

享受最低生活保障的人、丧失劳动能力的残疾人、低收入家庭六十周岁以上的老年人和未成年人等所需个人缴费部分，由政府给予补贴。

**第二十六条** 职工基本医疗保险、新型农村合作医疗和城镇居民基本医疗保险的待遇标准按照国家规定执行。

**第二十七条** 参加职工基本医疗保险的个人，达到法定退休年龄时累计缴费达到国家规定年限的，退休后不再缴纳基本医疗保险费，按照国家规定享受基本医疗保险待遇；未达到国家规定年限的，可以缴费至国家规定年限。

**第二十八条** 符合基本医疗保险药品目录、诊疗项目、医疗服务设施标准以及急诊、抢救的医疗费用，按照国家规定从基本医疗保险基金中支付。

**第二十九条** 参保人员医疗费用中应当由基本医疗保险基金支付的部分，由社会保险经办机构与医疗机构、药品经营单位直接结算。

社会保险行政部门和卫生行政部门应当建立异地就医医疗费用结算制度，方便参保人员享受基本医疗保险待遇。

**第三十条** 下列医疗费用不纳入基本医疗保险基金支付范围：

- (一) 应当从工伤保险基金中支付的；
- (二) 应当由第三人负担的；
- (三) 应当由公共卫生负担的；

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Where the medical expenses shall be assumed by a third party in accordance with law, but the third party fails to pay or cannot be determined, the medical expenses shall be prepaid from the basic medical insurance funds. The basic medical insurance funds shall be entitled to be reimbursed by the third party after prepayment.

**Article 31** Social insurance agencies may, as needed for their management of services, conclude service agreements with medical institutions and pharmaceutical business entities to regulate medical services.

Medical institutions shall provide reasonable and necessary medical services for the insured.

**Article 32** Where an individual is employed in a different overall planning area, his/her basic medical insurance relationship shall be transferred with him/her, and the contribution period shall be calculated on a cumulative basis.

#### Chapter IV Employment Injury Insurance

**Article 33** Employees shall participate in the employment injury insurance, and the employment injury insurance premiums shall be paid by their employers rather than the employees.

**Article 34** The state shall determine differential premium rates for different industries in light of their respective degrees of employment injury risks, and set forth grades of premium rates within each industry in light of the use of the employment injury insurance funds, occurrence rate of employment injuries, etc. The differential premium rates for different industries and the grades of premium rates within each industry shall be decided by the social insurance administrative department under the State Council, and be subject to the approval of the State Council before promulgation and implementation.

A social insurance agency shall, based on the use of the employment injury insurance funds by an employer, occurrence rate of employment injuries, grade of premium rate for the corresponding industry, etc., determine the premium rate for the employer.

**Article 35** An employer shall, based on the total wages of its employees, pay the employment injury insurance premiums at the premium rate determined by the social insurance agency.

**Article 36** Where an employee injured by an accident arising from work or suffering any occupational disease is determined to have suffered an employment injury, he/she shall enjoy the employment injury insurance benefits. In particular, if he/she has lost the ability to work according to the result of a work ability appraisal, he/she shall enjoy the disability benefits.

The determination of employment injuries and the work ability appraisal shall be simple, expedite and convenient.

**Article 37** An employee who is injured or dies during work under any of the following circumstances shall not be determined to have suffered an employment injury:

- (1) intentionally committing a crime;
- (2) being under the influence of alcohol or drugs;
- (3) self-inflicted injury or suicide; or
- (4) other circumstances as prescribed by laws and administrative regulations.

**Article 38** The following expenses incurred for employment injuries shall be paid from the employment insurance funds in accordance with the relevant provisions of the state:

- (1) the medical expenses and rehabilitation expenses for the treatment of employment injuries;
- (2) the food subsidies for hospitalization;

**第三十一条** 社会保险经办机构根据管理服务的需要,可以与医疗机构、药品经营单位签订服务协议,规范医疗服务行为。

医疗机构应当为参保人员提供合理、必要的医疗服务。

**第三十二条** 个人跨统筹地区就业的,其基本医疗保险关系随本人转移,缴费年限累计计算。

#### 第四章 工伤保险

**第三十三条** 职工应当参加工伤保险,由用人单位缴纳工伤保险费,职工不缴纳工伤保险费。

**第三十四条** 国家根据不同行业的工伤风险程度确定行业的差别费率,并根据使用工伤保险基金、工伤发生率等情况在每个行业内确定费率档次。行业差别费率和行业内费率档次由国务院社会保险行政部门制定,报国务院批准后公布施行。

社会保险经办机构根据用人单位使用工伤保险基金、工伤发生率和所属行业费率档次等情况,确定用人单位缴费费率。

**第三十五条** 用人单位应当按照本单位职工工资总额,根据社会保险经办机构确定的费率缴纳工伤保险费。

**第三十六条** 职工因工作原因受到事故伤害或者患职业病,且经工伤认定的,享受工伤保险待遇;其中,经劳动能力鉴定丧失劳动能力的,享受伤残待遇。

工伤认定和劳动能力鉴定应当简捷、方便。

**第三十七条** 职工因下列情形之一导致本人在工作中伤亡的,不认定为工伤:

- (一) 故意犯罪;
- (二) 醉酒或者吸毒;
- (三) 自残或者自杀;
- (四) 法律、行政法规规定的其他情形。

**第三十八条** 因工伤发生的下列费用,按照国家规定从工伤保险基金中支付:

- (一) 治疗工伤的医疗费用和康复费用;
- (二) 住院伙食补助费;
- (三) 到统筹地区以外就医的交通食宿费;
- (四) 安装配置伤残辅助器具所需费用;
- (五) 生活不能自理的,经劳动能力鉴定委员会确认

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appraisal committee;

(6) the lump-sum disability subsidy and the monthly disability allowance received by the disabled employees at the first to fourth grade of disability;

(7) the lump-sum medical subsidy enjoyed when the employment contract is terminated or rescinded;

(8) in the case of work-related death, the funeral subsidies, condolence money for dependants and subsidies for work-related death received by his/her surviving family members; and

(9) the work ability appraisal fees.

**Article 39** The following expenses incurred for work-related injuries shall be paid by the employers in accordance with the relevant provisions of the state:

(1) wages and welfares during the medical treatment of work-related injuries;

(2) the monthly disability allowance received by the disabled employees at the fifth and sixth grade of disability; and

(3) the lump-sum disability employment subsidy enjoyed when the employment contract is terminated or rescinded.

**Article 40** Where an employee suffering any work-related injury is eligible for receiving the basic pension, the payment of disability allowance shall cease, and he/she shall enjoy the basic endowment insurance benefits. If the basic endowment insurance benefits are lower than the disability allowance, the difference shall be covered by the employment injury insurance funds.

**Article 41** Where a work-related injury accident occurs to an employee whose employer fails to pay the employment injury insurance premiums in accordance with law, the employer shall pay the employment injury insurance benefits. If the employer refuses to do so, the employment inquiry insurance benefits shall be prepaid from the employment injury insurance funds.

The employment injury insurance benefits prepaid from the employment injury insurance funds shall be repaid by the employer. If the employer fails to repay, the social insurance agency may recover the money in accordance with Article 63 of this Law.

**Article 42** Where any work-related injury is caused by a third party, which refuses to pay the medical expenses for work-related injuries or cannot be determined, the medical expenses shall be prepaid from the employment injury insurance funds. The employment injury insurance funds shall be entitled to be reimbursed by the third party after prepayment.

**Article 43** Under any of the following circumstances, an employee suffering any work-related injury shall cease enjoying the employment injury insurance benefits:

(1) he/she no longer meets the conditions for enjoying the benefits;

(2) he/she refuses to accept a work ability appraisal; or

(3) he/she refuses medical treatment.

## Chapter V Unemployment Insurance

**Article 44** Employees shall participate in unemployment insurance, and the unemployment insurance premiums shall be jointly paid by employers and employees in accordance with the relevant provisions of the state.

**Article 45** Where an unemployed person meets the following requirements, he/she may receive unemployment insurance money from the unemployment insurance funds:

(1) before he/she becomes unemployed, his/her employer and he/she have paid the unemployment insurance premiums for one year or more;

(八) 因工死亡的, 其遗属领取的丧葬补助金、供养亲属抚恤金和因工死亡补助金;

(九) 劳动能力鉴定费。

**第三十九条** 因工伤发生的下列费用, 按照国家规定由用人单位支付:

(一) 治疗工伤期间的工资福利;

(二) 五级、六级伤残职工按月领取的伤残津贴;

(三) 终止或者解除劳动合同时, 应当享受的一次性伤残就业补助金。

**第四十条** 工伤职工符合领取基本养老金条件的, 停发伤残津贴, 享受基本养老保险待遇。基本养老保险待遇低于伤残津贴的, 从工伤保险基金中补足差额。

**第四十一条** 职工所在用人单位未依法缴纳工伤保险费, 发生工伤事故的, 由用人单位支付工伤保险待遇。用人单位不支付的, 从工伤保险基金中先行支付。

从工伤保险基金中先行支付的工伤保险待遇应当由用人单位偿还。用人单位不偿还的, 社会保险经办机构可以依照本法第六十三条的规定追偿。

**第四十二条** 由于第三人的原因造成工伤, 第三人不支付工伤医疗费用或者无法确定第三人的, 由工伤保险基金先行支付。工伤保险基金先行支付后, 有权向第三人追偿。

**第四十三条** 工伤职工有下列情形之一的, 停止享受工伤保险待遇:

(一) 丧失享受待遇条件的;

(二) 拒不接受劳动能力鉴定的;

(三) 拒绝治疗的。

## 第五章 失业保险

**第四十四条** 职工应当参加失业保险, 由用人单位和职工按照国家规定共同缴纳失业保险费。

**第四十五条** 失业人员符合下列条件的, 从失业保险基金中领取失业保险金:

(一) 失业前用人单位和本人已经缴纳失业保险费满一年的;

(二) 非因本人意愿中断就业的;



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**Article 46** An unemployed person may receive unemployment insurance money for 12 months at most if his/her employer and he/she have paid premiums for a cumulative period of not less than 1 year but less than 5 years before he/she becomes unemployed; for 18 months at most if not less than 5 years but less than 10 years; or 24 months at most if not less than 10 years. Where he/she becomes unemployed again after another employment, the period of premium payment shall be calculated anew, and the period for receiving unemployment insurance money shall be calculated by including the period in which the unemployment insurance money receivable has not been received during the previous unemployment, but shall not exceed 24 months at most.

**Article 47** The standards for unemployment insurance money shall be determined by the people's governments of provinces, autonomous regions and municipalities directly under the Central Government, but shall not be lower than the standards for minimum living safeguard for urban residents.

**Article 48** During the period of receiving unemployment insurance money, the unemployed persons shall participate in the basic medical insurance for employees and enjoy the basic medical insurance benefits.

The basic medical insurance premiums payable by the unemployed persons shall be paid from the unemployment insurance funds rather than by the unemployed persons.

**Article 49** Where an unemployed person deceases during the period of receiving unemployment insurance money, the lump-sum funeral subsidy and condolence money shall be granted to his/her surviving family members by reference to the local provisions on death of in-service employees. The funds needed shall be paid from the unemployment insurance funds.

Where a person's death simultaneously meets the conditions for receiving the funeral subsidy of basic endowment insurance, funeral subsidy of employment injury insurance and funeral subsidy of unemployment insurance, his/her surviving family members may only choose one of them.

**Article 50** An employer shall issue certificates of termination or rescission of employment relationship for the unemployed persons in a timely manner, and inform the social insurance agency of a list of the unemployed persons within 15 days from the date of termination or rescission of employment relationship.

An unemployed person shall go through unemployment registration in a timely manner with the designated public employment service agency upon the strength of the certificate of termination or rescission of employment relationship issued by his/her former employer.

An unemployed person shall go through the formalities for receiving unemployment insurance money at the social insurance agency upon the strength of the unemployment registration certificate and his/her identity certification. The period of receiving unemployment insurance money shall be calculated from the date of unemployment registration.

**Article 51** Under any of the following circumstances during the period of receiving the unemployment insurance money, an unemployed person shall cease receiving the unemployment insurance money and enjoying other unemployment insurance benefits:

- (1) he/she is reemployed;
- (2) he/she is conscripted into the army;
- (3) he/she has migrated abroad;
- (4) he/she enjoys the basic endowment insurance benefits; or
- (5) he/she refuses to accept without any justifiable reason the appropriate job recommended or training provided by the department or institution designated by the local people's government.

**Article 52** Where an employee is employed in a different overall planning area, his/her unemployment insurance relationship shall be transferred with him/her, and the contribution period shall be calculated on a cumulative basis.

Chapter VI Maternity Insurance

**第四十六条** 失业人员失业前用人单位和本人累计缴费满一年不足五年的, 领取失业保险金的期限最长为十二个月; 累计缴费满五年不足十年的, 领取失业保险金的期限最长为十八个月; 累计缴费十年以上的, 领取失业保险金的期限最长为二十四个月。重新就业后, 再次失业的, 缴费时间重新计算, 领取失业保险金的期限与前次失业应当领取而尚未领取的失业保险金的期限合并计算, 最长不超过二十四个月。

**第四十七条** 失业保险金的标准, 由省、自治区、直辖市人民政府确定, 不得低于城市居民最低生活保障标准。

**第四十八条** 失业人员在领取失业保险金期间, 参加职工基本医疗保险, 享受基本医疗保险待遇。  
失业人员应当缴纳的基本医疗保险费从失业保险基金中支付, 个人不缴纳基本医疗保险费。

**第四十九条** 失业人员在领取失业保险金期间死亡的, 参照当地对在职职工死亡的规定, 向其遗属发给一次性丧葬补助金和抚恤金。所需资金从失业保险基金中支付。

个人死亡同时符合领取基本养老保险丧葬补助金、工伤保险丧葬补助金和失业保险丧葬补助金条件的, 其遗属只能选择领取其中的一项。

**第五十条** 用人单位应当及时为失业人员出具终止或者解除劳动关系的证明, 并将失业人员的名单自终止或者解除劳动关系之日起十五日内告知社会保险经办机构。

失业人员应当持本单位为其出具的终止或者解除劳动关系的证明, 及时到指定的公共就业服务机构办理失业登记。

失业人员凭失业登记证明和个人身份证明, 到社会保险经办机构办理领取失业保险金的手续。失业保险金领取期限自办理失业登记之日起计算。

**第五十一条** 失业人员在领取失业保险金期间有下列情形之一的, 停止领取失业保险金, 并同时停止享受其他失业保险待遇:

- (一) 重新就业的;
- (二) 应征服兵役的;
- (三) 移居境外的;
- (四) 享受基本养老保险待遇的;
- (五) 无正当理由, 拒不接受当地人民政府指定部门

或者机构介绍的适当工作或者提供的培训的。

**第五十二条** 职工跨统筹地区就业的, 其失业保险关系随本人转移, 缴费年限累计计算。

第六章 生育保险

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maternity insurance benefits, and the unemployed spouse of an employee shall enjoy the maternity medical expense benefits in accordance with the relevant provisions of the state. The funds needed shall be paid from the maternity insurance funds.

The maternity insurance benefits shall include maternity medical expenses and maternity allowances.

**Article 55** Maternity medical expenses shall include:

- (1) medical expenses for childbearing;
- (2) medical expenses for birth control; and
- (3) expenses for other items as prescribed by laws and regulations.

**Article 56** Under any of the following circumstances, an employee may enjoy maternity allowances in accordance with the relevant provisions of the state:

- (1) the employee is a female employee enjoying maternity leave;
- (2) the employ is enjoying the leave for birth control surgery; or
- (3) other circumstances as prescribed by laws and regulations.

The maternity allowances shall be calculated and paid to an employee as per the average monthly wages of the employees of her employer in the previous year.

#### Chapter VII Collection and Payment of Social Insurance Premiums

**Article 57** An employer shall, within 30 days from the date of its formation, apply to the local social insurance agency for social insurance registration upon the strength of its business license, registration certificate or official seal. The social insurance agency shall, within 15 days upon receipt of the application, conduct examination and issue a social insurance registration certificate.

If any of the social insurance registration items of an employer is modified or an employer is terminated in accordance with law, it shall, within 30 days from the date of modification or termination, handle the modification or cancellation of social insurance registration at the social insurance agency.

The administrative departments for industry and commerce, the departments of civil affairs and the institutional staffing administrative organs shall timely inform the social insurance agencies of the formation and termination of employers, and the public security organs shall timely inform the social insurance agencies of the births and deaths of individuals, the registration, transfer and cancellation of permanent residence, etc.

**Article 58** An employer shall, within 30 days from the date of employment, apply to the social insurance agency for social insurance registration for the employee. If it fails to handle the social insurance registration, the social insurance premiums payable shall be assessed by the social insurance agency.

Individual industrial and commercial households without employees, part-time employees not participating in social insurance through their employers and other persons in flexible employment, who voluntarily participate in social insurance, shall apply to the social insurance agencies for social insurance registration.

The state shall set nationally uniform personal social security numbers. Personal social security numbers shall be citizen identity numbers.

**Article 59** The people's governments at and above the county level shall strengthen the collection of social insurance premiums.

Social insurance premiums shall be uniformly collected, and the implementation steps and specific measures shall be formulated by the State Council.

**Article 60** Employers shall declare and pay social insurance premiums on time and in full amount, and no postponement, reduction or exemption of payment shall be allowed without any force majeure or other statutory cause. The social insurance premiums payable by employees shall be withheld and paid by their

用人单位依法缴纳; 职工个人依法缴纳的社会保险费从生育保险基金中支付。  
生育保险待遇包括生育医疗费用和生育津贴。

**第五十五条** 生育医疗费用包括下列各项:

- (一) 生育的医疗费用;
- (二) 计划生育的医疗费用;
- (三) 法律、法规规定的其他项目费用。

**第五十六条** 职工有下列情形之一的, 可以按照国家规定享受生育津贴:

- (一) 女职工生育享受产假;
- (二) 享受计划生育手术休假;
- (三) 法律、法规规定的其他情形。

生育津贴按照职工所在用人单位上年度职工月平均工资计发。

#### 第七章 社会保险费征缴

**第五十七条** 用人单位应当自成立之日起三十日内凭营业执照、登记证书或者单位印章, 向当地社会保险经办机构申请办理社会保险登记。社会保险经办机构应当自收到申请之日起十五日内予以审核, 发给社会保险登记证。

用人单位的社会保险登记事项发生变更或者用人单位依法终止的, 应当自变更或者终止之日起三十日内, 到社会保险经办机构办理变更或者注销社会保险登记。

工商行政管理部门、民政部门和机构编制管理机关应当及时向社会保险经办机构通报用人单位的成立、终止情况, 公安机关应当及时向社会保险经办机构通报个人的出生、死亡以及户口登记、迁移、注销等情况。

**第五十八条** 用人单位应当自用工之日起三十日内为其职工向社会保险经办机构申请办理社会保险登记。未办理社会保险登记的, 由社会保险经办机构核定其应当缴纳的社会保险费。

自愿参加社会保险的无雇工的个体工商户、未在用人单位参加社会保险的非全日制从业人员以及其他灵活就业人员, 应当向社会保险经办机构申请办理社会保险登记。

国家建立全国统一的个人社会保障号码。个人社会保障号码为公民身份号码。

**第五十九条** 县级以上人民政府加强社会保险费的征收工作。

社会保险费实行统一征收, 实施步骤和具体办法由国务院规定。

**第六十条** 用人单位应当自行申报、按时足额缴纳社会保险费, 非因不可抗力等法定事由不得缓缴、减免。职工应当缴纳的社会保险费由用人单位代扣代缴, 用人单位



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insurance premiums to the collection agencies or social insurance premiums.

**Article 61** Collection agencies of social insurance premiums shall collect social insurance premiums on time and in full amount, and inform the employers and individuals of premium payment on a regular basis.

**Article 62** Where an employer fails to declare the amount of social insurance premiums payable in accordance with the relevant provisions, the amount payable shall be determined as per 110% of the amount of premiums paid by the employer in the preceding month; and after the employer makes up the declaration formalities, the collection agency of social insurance premiums shall settle accounts in accordance with the relevant provisions.

**Article 63** Where an employer fails to pay social insurance premiums on time or in full amount, the collection agency of social insurance premiums shall order it to pay or make up the deficit of premiums within a prescribed time limit.

If the employer fails to do so within the prescribed time limit, the collection agency of social insurance premiums may ask banks and other financial institutions about its deposit accounts, and may apply to the relevant administrative department at or above the county level for a decision on transferring social insurance premiums and notify in writing the employer's deposit bank or any other financial institution to transfer social insurance premiums. If the balance in the account of the employer is less than the amount of social insurance premiums payable, the collection agency of social insurance premiums may require the employer to provide security and sign an agreement on deferred payment.

If the employer fails to provide security for its insufficient payment of social insurance premiums, the collection agency of social insurance premiums may apply to the people's court for seizure, sealing up or auction of the employer's property at a value equivalent to the social insurance premiums payable to offset the social insurance premiums with the proceeds from auction.

## Chapter VIII Social Insurance Funds

**Article 64** Social insurance funds shall include basic endowment insurance funds, basic medical insurance funds, employment injury insurance funds, unemployment insurance funds and maternity insurance funds. Separate accounts shall be created for various social insurance funds by the types of social insurance, and separate accounting and national uniform accounting system shall apply.

Social insurance funds shall be used for designated purposes only, and no organization or individual may encroach upon or misappropriate them.

The basic endowment insurance funds shall be gradually subject to national overall planning, other social insurance funds shall be gradually subject to provincial overall planning, and the specific timetable and steps shall be set by the State Council.

**Article 65** Social insurance funds shall make ends meet through budgets.

When social insurance funds are insufficient for payment, the people's governments at and above the county level shall provide subsidies.

**Article 66** Social insurance fund budgets shall be made according to the level of overall planning. Social insurance fund budgets shall be separately prepared by the types of social insurance.

**Article 67** The preparation, examination and approval of the drafts of social insurance fund budgets and final accounts shall be governed by laws and the relevant provisions of the State Council.

**Article 68** Social insurance funds shall be deposited into special financial accounts, and the specific management measures shall be made by the State Council.

**Article 69** Under the premise of ensuring safety, social insurance funds shall be invested and operated in accordance with the relevant provisions of the State Council to realize value maintenance and appreciation.

Social insurance funds shall not be invested and operated irregularly, used for balancing other government

**第六十一条** 社会保险费征收机构应当依法按时足额征收社会保险费, 并将缴费情况定期告知用人单位和个人。

**第六十二条** 用人单位未按规定申报应当缴纳的社会保险费数额的, 按照该单位上月缴费额的百分之一百一十确定应当缴纳数额; 缴费单位补办申报手续后, 由社会保险费征收机构按照规定结算。

**第六十三条** 用人单位未按时足额缴纳社会保险费的, 由社会保险费征收机构责令其限期缴纳或者补足。

用人单位逾期仍未缴纳或者补足社会保险费的, 社会保险费征收机构可以向银行和其他金融机构查询其存款账户; 并可以申请县级以上有关行政部门作出划拨社会保险费的决定, 书面通知其开户银行或者其他金融机构划拨社会保险费。用人单位账户余额少于应当缴纳的社会保险费的, 社会保险费征收机构可以要求该用人单位提供担保, 签订延期缴费协议。

用人单位未足额缴纳社会保险费且未提供担保的, 社会保险费征收机构可以申请人民法院扣押、查封、拍卖其价值相当于应当缴纳社会保险费的财产, 以拍卖所得抵缴社会保险费。

## 第八章 社会保险基金

**第六十四条** 社会保险基金包括基本养老保险基金、基本医疗保险基金、工伤保险基金、失业保险基金和生育保险基金。各项社会保险基金按照社会保险险种分别建账, 分账核算, 执行国家统一的会计制度。

社会保险基金专款专用, 任何组织和个人不得侵占或者挪用。

基本养老保险基金逐步实行全国统筹, 其他社会保险基金逐步实行省级统筹, 具体时间、步骤由国务院规定。

**第六十五条** 社会保险基金通过预算实现收支平衡。县级以上人民政府在社会保险基金出现支付不足时, 给予补贴。

**第六十六条** 社会保险基金按照统筹层次设立预算。社会保险基金预算按照社会保险项目分别编制。

**第六十七条** 社会保险基金预算、决算草案的编制、审核和批准, 依照法律和国务院规定执行。

**第六十八条** 社会保险基金存入财政专户, 具体管理办法由国务院规定。

**第六十九条** 社会保险基金在保证安全的前提下, 按照国务院规定投资运营实现保值增值。

社会保险基金不得违规投资运营, 不得用于平衡其他政府预算, 不得用于兴建、改建办公场所和支付人员经

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participation in social insurance and the income and expenditures, balance and proceeds of social insurance funds.

**Article 71** The state shall set up a National Social Security Fund, which is made up of funds allocated from the central fiscal budget and funds raised by other means as approved by the State Council and is used for supplementation and adjustment for social security expenditures. The National Social Security Fund shall be managed and operated by the management and operation institution of national social security funds, which shall realize value maintenance and appreciation under the premise of ensuring safety.

Information on the income and expenditures, management and investment operations of the National Social Security Fund shall be periodically released to the public. The finance department, social insurance administrative department and auditing organ under the State Council shall supervise the income and expenditures, management and investment operation of the National Social Security Fund.

#### Chapter IX Social Insurance Agencies

**Article 72** Social insurance agencies shall be established in the overall planning areas. Social insurance agencies may, as needed for their work, establish branches and service outlets in their respective overall planning areas upon approval of the local social insurance administrative departments and institutional staffing administrative organs.

The personnel expenses of social insurance agencies and the basic operating costs and management costs incurred from handling social insurance shall be guaranteed by the public finance departments at the same level according to the relevant provisions of the state.

**Article 73** Social insurance agencies shall establish and improve the business, finance, security and risk management systems.

Social insurance agencies shall pay social insurance benefits on time and in full amount.

**Article 74** Where social insurance agencies request the data necessary for social insurance work through business handling, statistics and survey, the relevant entities and individuals shall timely and truthfully provide the data.

Social insurance agencies shall timely create files for employers, completely and accurately record the personnel participating in social insurance, premium payments and other social insurance data, and properly keep the original documents of registration and declaration and the accounting documents of payment and settlement.

Social insurance agencies shall timely, completely and accurately record the premiums paid by the individuals participating in social insurance, the premiums paid by their employers, the enjoyment of social insurance benefits and other personal benefits, and periodically send personal benefit records to the individuals for free.

Employers and individuals may inquire about and check their contribution records and records of enjoyment of social insurance benefits at social insurance agencies for free, and request social insurance agencies to provide social insurance consultation and other related services.

**Article 75** The national social insurance information system shall be jointly built by the people's governments at and above the county level in accordance with the uniform national plan under the principle of tiered responsibility.

#### Chapter X Social Insurance Supervision

**Article 76** The standing committees of the people's congresses at all levels shall hear and deliberate the special work reports of the people's governments at the corresponding level on the income and expenditures, management and investment operations of social insurance funds and the supervision and inspection thereof and organize law enforcement inspections on the implementation of this Law to perform the function of supervision in accordance with law.

社会保险经办机构应当按照国家有关规定, 定期向社会公布收支、管理和投资运营情况。

**第七十一条** 国家设立全国社会保障基金, 由中央财政预算拨款以及国务院批准的其他方式筹集的资金构成, 用于社会保障支出的补充、调剂。全国社会保障基金由全国社会保障基金管理机构负责管理运营, 在保证安全的前提下实现保值增值。

全国社会保障基金应当定期向社会公布收支、管理和投资运营的情况。国务院财政部门、社会保险行政部门、审计机关对全国社会保障基金的收支、管理和投资运营情况实施监督。

#### 第九章 社会保险经办

**第七十二条** 统筹地区设立社会保险经办机构。社会保险经办机构根据工作需要, 经所在地的社会保险行政部门和机构编制管理机关批准, 可以在本统筹地区设立分支机构和服务网点。

社会保险经办机构的人员经费和经办社会保险发生的基本运行费用、管理费用, 由同级财政按照国家规定予以保障。

**第七十三条** 社会保险经办机构应当建立健全业务、财务、安全和风险管理制度。

社会保险经办机构应当按时足额支付社会保险待遇。

**第七十四条** 社会保险经办机构通过业务经办、统计、调查获取社会保险工作所需的数据, 有关单位和个人应当及时、如实提供。

社会保险经办机构应当及时为用人单位建立档案, 完整、准确地记录参加社会保险的人员、缴费等社会保险数据, 妥善保管登记、申报的原始凭证和支付结算的会计凭证。

社会保险经办机构应当及时、完整、准确地记录参加社会保险的个人缴费和用人单位为其缴费, 以及享受社会保险待遇等个人权益记录, 定期将个人权益记录单免费寄送本人。

用人单位和个人可以免费向社会保险经办机构查询、核对其缴费和享受社会保险待遇记录, 要求社会保险经办机构提供社会保险咨询等相关服务。

**第七十五条** 全国社会保险信息系统按照国家统一规划, 由县级以上人民政府按照分级负责的原则共同建设。

#### 第十章 社会保险监督

**第七十六条** 各级人民代表大会常务委员会听取和审议本级人民政府对社会保险基金的收支、管理、投资运营以及监督检查情况的专项工作报告, 组织对本法实施情况的执法检查等, 依法行使监督职权。

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employers and individuals shall truthfully provide the materials related to social insurance, and shall not refuse inspection or report falsely or with concealment.

**Article 78** Public finance departments and auditing organs shall, in accordance with their respective functions, supervise the income and expenditures, management and investment operations of social insurance funds.

**Article 79** Where the social insurance administrative department finds any problem when supervising and inspecting the income and expenditures, management and investment operations of social insurance funds, it shall offer suggestions for rectification, make a handling decision in accordance with law or offer handling suggestions to the relevant administrative department. The results of inspections on social insurance funds shall be periodically released to the public.

When supervising and inspecting social insurance funds, the social insurance administrative departments shall have the right to take the following measures:

1. consulting, recording or copying the materials related to the income and expenditures, management and investment operations of social insurance funds, and sealing up the materials likely to be transferred, concealed or lost;
2. interviewing the entities and individuals related to the investigated matters, and requiring them to make explanation on questions related to the investigated matters or provide the relevant certification materials; and
3. stopping acts of concealing, transferring, encroaching upon and misappropriating social insurance funds and ordering correction.

**Article 80** The people's governments in the overall planning areas shall establish social insurance regulatory committees, consisting of the representatives of employers, representatives of the insured, representatives of trade unions, experts, etc., to learn and analyze the income and expenditures, management and investment operations of social insurance funds, offer advice and suggestions on social insurance work and implement social supervision.

Social insurance agencies shall periodically report the income and expenditures, management and investment operations of social insurance funds to the social insurance regulatory committees. Social insurance regulatory committees may employ accounting firms to conduct annual audit and special audit on the income and expenditures, management and investment operations of social insurance funds. The audit results shall be open to the public.

Where the social insurance regulatory committee finds any problem in the income and expenditures, management and investment operations of social insurance funds, it shall have the right to offer suggestions for correction; and shall have the right to offer handling suggestions to the relevant departments for the illegal acts of social insurance agencies and their staff members.

**Article 81** Social insurance and other relevant administrative departments, social insurance agencies, collection agencies of social insurance premiums and their staff members shall keep confidential the information on employers and individuals in accordance with law, and shall not leak such information in any form.

**Article 82** Any organization or individual shall have the right to report or complain about violations of social insurance laws and regulations.

Social insurance administrative departments, health administrative departments, social insurance agencies, collection agencies of social insurance premiums, public finance departments and auditing organs shall legally handle the reports and complaints within the scope of their respective functions; and for the reports and complaints beyond the scope of their respective functions, shall notify in writing the competent departments or institutions and transfer the reports and complaints to them for handling. The competent departments or institutions shall handle the reports and complaints in a timely manner, and shall not shuffle off their responsibilities upon others.

**Article 83** Where any employer or individual considers that any act of the collection agency of social insurance premiums infringes upon its or his/her legitimate rights and interests, it or he/she may apply for administrative reconsideration or lodge an administrative lawsuit in accordance with law.

位置或有讹误、删改。

**第七十八条** 财政部门、审计机关按照各自职责，对社会保险基金的收支、管理和投资运营情况实施监督。

**第七十九条** 社会保险行政部门对社会保险基金的收支、管理和投资运营情况进行监督检查，发现存在问题的，应当提出整改建议，依法作出处理决定或者向有关行政部门提出处理建议。社会保险基金检查结果应当定期向社会公布。

社会保险行政部门对社会保险基金实施监督检查，有权采取下列措施：

- (一) 查阅、记录、复制与社会保险基金收支、管理和投资运营相关的资料，对可能被转移、隐匿或者灭失的资料予以封存；
- (二) 询问与调查事项有关的单位和个人，要求其对与调查事项有关的问题作出说明、提供有关证明材料；
- (三) 对隐匿、转移、侵占、挪用社会保险基金的行为予以制止并责令改正。

**第八十条** 统筹地区人民政府成立由用人单位代表、参保人员代表，以及工会代表、专家等组成的社会保险监督委员会，掌握、分析社会保险基金的收支、管理和投资运营情况，对社会保险工作提出咨询意见和建议，实施社会监督。

社会保险经办机构应当定期向社会保险监督委员会汇报社会保险基金的收支、管理和投资运营情况。社会保险监督委员会可以聘请会计师事务所对社会保险基金的收支、管理和投资运营情况进行年度审计和专项审计。审计结果应当向社会公开。

社会保险监督委员会发现社会保险基金收支、管理和投资运营中存在问题的，有权提出改正建议；对社会保险经办机构及其工作人员的违法行为，有权向有关部门提出依法处理建议。

**第八十一条** 社会保险行政部门和其他有关行政部门、社会保险经办机构、社会保险费征收机构及其工作人员，应当依法为用人单位和个人的信息保密，不得以任何形式泄露。

**第八十二条** 任何组织或者个人有权对违反社会保险法律、法规的行为进行举报、投诉。

社会保险行政部门、卫生行政部门、社会保险经办机构、社会保险费征收机构和财政部门、审计机关对属于本部门、本机构职责范围的举报、投诉，应当依法处理；对不属于本部门、本机构职责范围的，应当书面通知并移交有权处理的部门、机构处理。有权处理的部门、机构应当及时处理，不得推诿。

**第八十三条** 用人单位或者个人认为社会保险费征收机构的行为侵害自己合法权益的，可以依法申请行政复议或者提起行政诉讼。

用人单位或者个人对社会保险经办机构不依法办理社

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Where an individual has any social insurance dispute with his/her employer, he/she may apply for mediation or arbitration or lodge a lawsuit in accordance with law. Where an employer infringes upon the social insurance rights and interests of any individual, the individual may also request the social insurance administrative department or collection agency of social insurance premiums to handle it in accordance with law.

## Chapter XI Legal Liabilities

**Article 84** Where an employer fails to handle social insurance registration, the social insurance administrative department shall order it to make correction within a prescribed time limit; and if it fails to do so within the prescribed time limit, impose a fine of 1-3 times the amount of the social insurance premiums payable upon it, and impose a fine of not less than 500 yuan but not more than 3,000 yuan upon the directly liable person in charge and other directly liable persons.

**Article 85** Where an employer refuses to issue a certificate of termination or rescission of employment relationship, it shall be handled in accordance with the [Employment Contract Law of the People's Republic of China](#).

**Article 86** Where an employer fails to pay social insurance premiums on time or in full amount, the collection agency of social insurance premiums shall order it to pay or make up the deficit of premiums within a prescribed time limit, and impose a daily late fee at the rate of 0.05% of the outstanding amount from the due date; and if it still fails to pay the premiums within the prescribed time limit, the relevant administrative department shall impose a fine of 1-3 times the outstanding amount upon it.

**Article 87** Where a social insurance agency or a social insurance service institution such as a medical institution or a pharmaceutical business entity obtains social insurance fund expenditures by fraud, falsification of certification materials or any other fraudulent means, the social insurance administrative department shall order it to return the social insurance funds fraudulently obtained, and impose a fine of 2-5 times the amount fraudulently obtained upon it; in the case of a social insurance service institution, rescind the service agreement; and if the directly liable person in charge and other directly liable persons have practicing qualifications, revoke their practicing qualifications in accordance with law.

**Article 88** Where anyone obtains social insurance benefits by fraud, falsification of certification materials or any other fraudulent means, the social insurance administrative department shall order him/her to return the social insurance money fraudulently obtained, and impose a fine of 2-5 times the amount fraudulently obtained upon him/her.

**Article 89** Where a social insurance agency or any of its staff members commits any of the following conduct, the social insurance administrative department shall order it to make correction; if it or he/she has caused losses to the social insurance funds, employers or individuals, it or he/she shall be legally liable for compensation; and the directly liable person in charge and other directly liable persons shall be subject to disciplinary actions in accordance with law:

- (1) failing to perform statutory functions of social insurance;
- (2) failing to deposit social insurance funds into the special financial accounts;
- (3) embezzling or refusing to pay on time social insurance benefits;
- (4) losing or tampering contribution records, records of enjoyment of social insurance benefits or other social insurance data or personal benefit records; or
- (5) any other violation of social insurance laws and regulations.

**Article 90** Where a collection agency of social insurance premiums modifies the contribution base or rate of social insurance premiums without authorization, resulting in the collection of less or more social insurance premiums than the due amount, the relevant administrative department shall order it to recover the social insurance premiums payable or return the overpayment of social insurance premiums; and impose disciplinary actions upon the directly liable person in charge and other directly liable persons in accordance with law.

权益的, 个人也可以要求社会保险行政部门或者社会保险费征收机构依法处理。

## 第十一章 法律责任

**第八十四条** 用人单位不办理社会保险登记的, 由社会保险行政部门责令限期改正; 逾期不改正的, 对用人单位处应缴社会保险费数额一倍以上三倍以下的罚款, 对其直接负责的主管人员和其他直接责任人员处五百元以上三千元以下的罚款。

**第八十五条** 用人单位拒不出具终止或者解除劳动合同证明的, 依照《中华人民共和国劳动合同法》的规定处理。

**第八十六条** 用人单位未按时足额缴纳社会保险费的, 由社会保险费征收机构责令限期缴纳或者补足, 并自欠缴之日起, 按日加收万分之五的滞纳金; 逾期仍不缴纳的, 由有关行政部门处欠缴数额一倍以上三倍以下的罚款。

**第八十七条** 社会保险经办机构以及医疗机构、药品经营单位等社会保险服务机构以欺诈、伪造证明材料或者其他手段骗取社会保险基金支出的, 由社会保险行政部门责令退回骗取的社会保险金, 处骗取金额二倍以上五倍以下的罚款; 属于社会保险服务机构的, 解除服务协议; 直接负责的主管人员和其他直接责任人员有执业资格的, 依法吊销其执业资格。

**第八十八条** 以欺诈、伪造证明材料或者其他手段骗取社会保险待遇的, 由社会保险行政部门责令退回骗取的社会保险金, 处骗取金额二倍以上五倍以下的罚款。

**第八十九条** 社会保险经办机构及其工作人员有下列行为之一的, 由社会保险行政部门责令改正; 给社会保险基金、用人单位或者个人造成损失的, 依法承担赔偿责任; 对直接负责的主管人员和其他直接责任人员依法给予处分:

- (一) 未履行社会保险法定职责的;
- (二) 未将社会保险基金存入财政专户的;
- (三) 克扣或者拒不及时支付社会保险待遇的;
- (四) 丢失或者篡改缴费记录、享受社会保险待遇记录等社会保险数据、个人权益记录的;
- (五) 有违反社会保险法律、法规的其他行为的。

**第九十条** 社会保险费征收机构擅自更改社会保险费缴费基数、费率, 导致少收或者多收社会保险费的, 由有关行政部门责令其追缴应当缴纳的社会保险费或者退还不应当缴纳的社会保险费; 对直接负责的主管人员和其他直接责任人员依法给予处分。

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**Article 92** Where a social insurance or any other relevant administrative department, a social insurance agency, a collection agency of social insurance premiums or any of their staff members leaks information on employers and individuals, the directly liable person in charge and other directly liable persons shall be subject to disciplinary actions in accordance with law; and if it or he/she causes losses to any employer or individual, it or he/she shall be liable for compensation.

**Article 93** Where any state functionary abuses his/her power, neglects his/her duties, practices favoritism or makes falsification during the administration and supervision of social insurance, he/she shall be subject to disciplinary actions in accordance with law.

**Article 94** Whoever violates this Law shall be subject to criminal liability if the violation constitutes a crime.

#### Chapter XII Supplementary Provisions

**Article 95** Rural migrant workers shall participate in social insurance in accordance with this Law.

**Article 96** In the case of expropriation of rural collective-owned land, the social insurance premiums for farmers whose land is expropriated shall be arranged in full amount, and such farmers shall be included in the corresponding social insurance system in accordance with the relevant provisions of the State Council.

**Article 97** Foreigners employed within the territory of the People's Republic of China shall participate in social insurance analogically in accordance with this Law.

**Article 98** This Law shall come into force on July 1, 2011.

**第九十二条** 社会保险行政部门和其他有关行政部门、社会保险经办机构、社会保险费征收机构及其工作人员泄露用人单位和个人信息的，对直接负责的主管人员和其他直接责任人员依法给予处分；给用人单位或者个人造成损失的，应当承担赔偿责任。

**第九十三条** 国家工作人员在社会保险管理、监督工作中滥用职权、玩忽职守、徇私舞弊的，依法给予处分。

**第九十四条** 违反本法规定，构成犯罪的，依法追究刑事责任。

#### 第十二章 附则

**第九十五条** 进城务工的农村居民依照本法规定参加社会保险。

**第九十六条** 征收农村集体所有的土地，应当足额安排被征地农民的社会保险费，按照国务院规定将被征地农民纳入相应的社会保险制度。

**第九十七条** 外国人在中国境内就业的，参照本法规定参加社会保险。

**第九十八条** 本法自2011年7月1日起施行。

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