

Provisions on Prohibition of Child Labour

Decree No. 364 of the State Council of the People's Republic of China (Adopted at the 63rd Executive Meeting of the State Council on September 18, 2002, promulgated by Decree No. 364 of the State Council of the People's Republic of China on October 1, 2002, and effective as of December 1, 2002)

Article 1 These Provisions are formulated in accordance with the Constitution, the Labour Law and the Law on the Protection of Minors for the purposes of protecting the physical and mental health of minors, promoting the implementation of the system for compulsory education and safeguarding the lawful rights and interests of minors.

Article 2 No State organs, social organizations, enterprises, institutions, private non-enterprise units, or individual industrial and commercial businesses (hereinafter referred to as employing units) may recruit and hire minors under the age of 16 (the term "hiring minors under the age of 16" is hereinafter referred uniformly to as "use of child labour").

All units and individuals are prohibited from providing job placement service to minors under the age of 16.

Minors under the age of 16 are prohibited from starting business and engaging in individual business operation activities.

Article 3 The parents or guardians of minors under the age of 16 shall protect their physical and mental health, safeguard their rights to compulsory education and shall not permit them to be illegally hired by employing units.

Where the parents or guardians of minors under the age of 16 permit them to be illegally hired by employing units, the people's government of the township (town), the urban

subdistrict office, the villagers' committee or the residents' committee where they are located shall criticize and educate the parents or guardians.

Article 4Employing units, when recruiting employees, shall verify the identification card of the recruited; no minors under the age of 16 shall be recruited. The employing units shall properly preserve the documents for recruitment registration and verification.

Article 5Labour and social security administrative departments of the people's governments at or above the county level shall be responsible for the supervision over and inspection of the enforcement of these Provisions.

Administrative departments for public security, industrial and commercial administration, education and public health, etc. of the people's governments at or above the county level shall supervise and inspect the enforcement of these Provisions within their jurisdiction and support the supervision and inspection conducted by the labour and social security administrative departments.

Trade unions, Youth Leagues, Women's Federations and other social organizations shall protect the lawful rights and interests of minors in accordance with law.

Any unit or individual shall, where discovering child labour, have the right to report the case to the labour and social security administrative department of the people's government at or above the county level.

Article 6In the case of use of child labour by an employing unit, the labour and social security administrative department shall punish it by the standard of fining 5,000 yuan for each of children employed per month; In the case of use of child labour in workplaces where toxic substances are used, a heavier punishment shall be imposed in consistence with the fine range stipulated in the Regulations on Labour Protection in Workplaces Where Toxic Substances Are Used, or by the standard of fining 5,000 yuan for each of children employed per month.

The labour and social security administrative department shall order the employing unit to send the children back to their original places of residence and hand them to their parents or other guardians within a prescribed period, and all the costs of transportation and accommodations so entailed shall be borne by the employing unit.

Where the employing unit, when ordered to make corrections by the labour and social security administrative department in accordance with the preceding paragraph, fails to send the child labourers back to their parents or other guardians within the prescribed period, the labour and social security administrative department shall punish it by the standard of fining 10,000 yuan for each of children employed per month from the date of ordering corrections to be made within the prescribed period, and the department for industrial and commercial administration shall revoke their business licenses or, the civil affairs department shall cancel the non-enterprise unit registration; if the employing unit is a State organ or public institution, the relevant units shall impose administrative or disciplinary sanctions of demotion or discharging from the post on the persons in charge directly responsible and other persons directly responsible.

Article 7Where a unit or an individual provides job placement service to minors under the age of 16, the labour and social security administrative department shall punish it by the standard of fining 5,000 yuan for each of the minors placed; where a job placement service agency provides job placement service to minors under the age of 16, the labour and social security administrative department shall also revoke its job placement license.

Article 8Any employing unit that fails to preserve, or forges the documents for recruitment registration according to the provisions of Article 4 of these Provisions shall be fined 10,000 yuan by the labour and social security administrative department.

Article 9Any unit that has no business license or whose business license is revoked according to law or any unit that has not been registered or submitted itself for the record according to law employs a child or provides job placement services to a child shall be fined twice of the

standards stipulated in Article 6, 7 or 8 of these Provisions, and that illegal unit shall be banned by the relevant competent administrative department.

Article 10 Where a child employed is sick or injured, the employing unit shall bring him to the medical institution for treatment and bear all the medical and living costs during the period of treatment.

Where a child employed is disabled or dead, the department for industrial and commercial administration shall revoke the business license of the employing unit or, the civil affairs department shall cancel the non-enterprise unit registration; if the employing unit is a State organ or an institution, the relevant unit shall impose administrative or disciplinary sanctions of demotion or discharging from the post on the persons in charge directly responsible and other persons directly responsible; the employing unit shall also pay lump sum compensation to the lineal relatives of the disabled or dead child labourer, and the amount of compensation shall be fixed in accordance with the provisions on work-related injury insurance of the State.

Article 11 Whoever abducts a child for use as a labourer, forces a child to work, employs a child to be engaged in work high above the ground or down in the pit, work involving radioactive, highly poisonous, inflammable or explosive substances or work of the 4th degree labour intensity as stipulated by the State, or employs a child under the age of 14, or causes death or severe injury to a child employed, shall be investigated for criminal liability in accordance with the provisions of the criminal law on the crime of abducting and trafficking in children, the crime of forced labour or other crimes.

Article 12 The staff members of the government administrative departments who commit one of the following acts shall be given administrative sanctions of recording a serious demerit or demotion according to law, shall be discharged from the post or dismissed according to law if the circumstances are serious, and shall be investigated for criminal liability in accordance with the provisions of the criminal law on the crime of abuse of power, the crime of neglect of duty or other crimes if a crime is constituted:

- (1) the staff members of the labour and social security administrative departments and other relevant departments fail to stop, rectify and investigate and punish those who employ children, when they discover that children are employed in the course of supervision and inspection of the prohibition of child labour;
- (2) the people's policemen of the public security organs issue identification cards or record false date of birth in the identification cards in violation of relevant provisions;
- (3) the staff members of the departments for industrial and commercial administration issue a business license for engaging in individual business when discovering that the applicant is a minor under the age of 16.

Article 13 Artistic or sports units may, upon agreement by their parents or guardians, recruit minors under the age of 16 as professional artists or sportsmen. The employing units shall protect the physical and mental health of the minors recruited under the age of 16 and guarantee their rights to compulsory education. The measures for recruitment of professional artists and sportsmen under the age of 16 by the artistic or sports units shall be formulated by the labour and social security administrative department of the State Council jointly with the culture administrative department and the physical culture and sports administrative department of the State Council.

The work conducted by minors under the age of 16 in educational practical and vocational training program organized by schools, other educational institutions or vocational training institutions according to the relevant provisions of the State, which does not affect their safety and physical and mental health, shall not fall into the category of child labour.

Article 14 These Provisions shall be effective as of December 1, 2002. The Provisions on Prohibition of Child Labour promulgated by the State Council on April 15, 1991 shall be repealed simultaneously.

October 1, 2002