Labor Dispute Mediation and Arbitration Law of the People's Republic of China [Effective]

中華人民共和國勞動爭議調解仲裁法 [現行有效]

【法寶引證碼】CLI.1.100677(EN)

Issuing authority: Standing Committee of the National People's Congress

Document Number: Order of the President of the People's Republic of China (No. 80)

Date issued: 12-29-2007

Effective date: 05-01-2008

Level of Authority: Laws

Area of Law: Trade Unions

Order of the President of the People's Republic of China
(No. 80)
The Labor Dispute Mediation and Arbitration Law of the People's Republic of China, which was adopted at the 31st meeting of the Standing Committee of the Tenth National People's Congress of the People's Republic of China on December 29, 2007, is hereby promulgated and shall be effective as of May 1, 2008.
President of the People's Republic of China: Hu Jintao
December 29, 2007
The Labor Dispute Mediation and Arbitration Law of the People's Republic of China
(Adopted at the 31st meeting of the Standing Committee of the Tenth National People's Congress of the People's Republic of China on December 29, 2007)

中華人民共和國主席令
（第八十號）

《中華人民共和國勞動爭議調解仲裁法》已由中華人民共和國第十屆全國人民代表大會常務委員會第三十一次會議于2007年12月29日通過，現予公布，自2008年5月1日起施行。
中華人民共和國主席 胡錦濤
2007年12月29日
中華人民共和國勞動爭議調解仲裁法
（2007年12月29日第十屆全國人民代表大會常務委員會第三十一次會議通過）

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Chapter I General Provisions

第一章　總則

Article 1 To impartially and timely settle the labor disputes, protect the legal rights and interests of the parties, and promote the harmonious and stable labor relations, this Law has been formulated.

第一條　【立法目的】為了公正及時解決勞動爭議，保護當事人合法權益，促進勞動關系和諧穩定，制定本法。

Article 2 This Law shall apply to the following labor disputes arising between an employer and an employee within the territories of the People's Republic of China:

第二條　【適用範圍】中華人民共和國境內的用人單位與勞動者發生的下列勞動爭議，適用本法：

(1). A dispute arising from the confirmation of a labor relationship;

（一）因確認勞動關系發生的爭議；

(2). A dispute arising from the conclusion, performance, modification, rescission or termination of a labor contract;

（二）因訂立、履行、變更、解除和終止勞動合同發生的爭議；

(3). A dispute arising from the removal or layoff of an employee or the resignation or retirement of an employee;

（三）因除名、辭退和辭職、離職發生的爭議；

(4). A dispute arising from the work hours, breaks, vacations, social insurance, benefits, training, or labor safety;

（四）因工作時間、休息休假、社會保險、福利、培訓以及勞動保護發生的爭議；

(5). A dispute arising from the labor remunerations, medical expenses for a work-related injury, economic indemnity, compensation, etc.; or

（五）因勞動報酬、工傷醫療費、經濟補償或者賠償金等發生的爭議；

(6). Any other labor dispute as provided for by a law or administrative regulation.

（六）法律、法規規定的其他勞動爭議。

Article 3 A labor dispute shall be settled on the basis of facts and on the principles of legality, fairness, timeliness and emphasis on mediation so as to protect the legal rights and interests of the parties according to law.

第三條　【勞動爭議處理的原則】解決勞動爭議，應當根據事實，遵循合法、公正、及時、著重調解的原則，依法保護當事人的合法權益。

Article 4 Where a labor dispute arises, an employee may consult with his or her employer, or request the trade union or a third party to jointly consult with the employer, so as to reach a settlement agreement.

第四條　【勞動爭議當事人的協商和解】發生勞動爭議，勞動者可以與用人單位協商，也可以請工會或者第三方共同與用人單位協商，達成和解協議。

Article 5 Where a labor dispute arises, if a party does not desire a consultation, the parties fail to settle the dispute through consultation, or a party does not execute a reached

第五條　【勞動爭議處理的基本程序】發生勞動爭議，當事人不願協商、協商不成或者達成和解協議後不履 settlement agreement, any party may apply to a medication organization for mediation; if a party does not desire a medication, the parties fail to settle the dispute through medication, or a party does not execute a reached medication agreement, any party may apply to a labor dispute arbitration commission for arbitration; and a party disagreeing to an arbitral award may bring an action in the people's court except as otherwise provided for by this Law.

行的，可以向調解組織申請調解；不願調解、調解不成或者達成調解協議後不履行的，可以向勞動爭議仲裁委員會申請仲裁；對仲裁裁決不服的，除本法另有規定的外，可以向人民法院提起訴訟。

Article 6 Where a labor dispute arises, a party shall be responsible for adducing evidence to back up its claims. Where the evidence related to the disputed matter is controlled by an employer, the employer shall provide it; and the employer who fails to provide the evidence shall bear the adverse consequences.

第六條　【舉證責任】發生勞動爭議，當事人對自己提出的主張，有責任提供證據。與爭議事項有關的證據屬于用人單位掌握管理的，用人單位應當提供；用人單位不提供的，應當承擔不利後果。

Article 7 Where a labor dispute involves more than ten employees and the employees have a same claim, they may recommend their representatives to participate in the mediation, arbitration, or litigation.

第七條　【勞動爭議處理的代表人制度】發生勞動爭議的勞動者一方在十人以上，並有共同請求的，可以推舉代表參加調解、仲裁或者訴訟活動。

Article 8 In conjunction with the trade unions and enterprise representatives, the labor administrative authority of the people's government at or above the county level shall establish a tri-party labor mechanism for coordinating the labor relations, and jointly study and address major issues related to labor dispute.

第八條　【勞動爭議處理的協調勞動關系三方機制】縣級以上人民政府勞動行政部門會同工會和企業方面代表建立協調勞動關系三方機制，共同研究解決勞動爭議的重大問題。

Article 9 Where an employer, in violation of state provisions, delays paying or fails to pay in full the labor remunerations, or delays paying the medical expenses for a work-related injury, economic indemnity, or compensation, an employee may complain about it to the labor administrative authority and the labor administrative authority shall deal with it according to law.

第九條　【勞動監察】用人單位違反國家規定，拖欠或者未足額支付勞動報酬，或者拖欠工傷醫療費、經濟補償或者賠償金的，勞動者可以向勞動行政部門投訴，勞動行政部門應當依法處理。

Chapter II Mediation

第二章　調解

Article 10 Where a labor dispute arises, a party may apply to any of the following mediation organizations for mediation:

第十條　【調解組織】發生勞動爭議，當事人可以到下列調解組織申請調解：

(1). Labor dispute mediation committee of an enterprise;

（一）企業勞動爭議調解委員會；

(2). Grassroots people's mediation organization legally established; and

（二）依法設立的基層人民調解組織；

(3). Organization with the labor dispute mediation function established in a township or neighborhood community.

（三）在鄉鎮、街道設立的具有勞動爭議調解職能的組織。

A labor dispute mediation committee of an enterprise shall comprise the employee representatives and enterprise representatives. The employee representatives shall be members of the trade union or persons recommended by all employees, while the enterprise representatives shall be designated by the person in charge of the enterprise. The chairman of a labor dispute mediation committee of an enterprise shall be a member of the trade union or a person recommended by both parties.

企業勞動爭議調解委員會由職工代表和企業代表組成。職工代表由工會成員擔任或者由全體職工推舉產生，企業代表由企業負責人指定。企業勞動爭議調解委員會主任由工會成員或者雙方推舉的人員擔任。

Article 11 A mediator of a labor dispute mediation organization shall be an adult citizen who is fair, decent, connected with the people, and enthusiastic for the mediation work and has a certain level of knowledge of law, policy and culture.

第十一條　【擔任調解員的條件】勞動爭議調解組織的調解員應當由公道正派、聯系群眾、熱心調解工作，並具有一定法律知識、政策水平和文化水平的成年公民擔任。

Article 12 A party may apply for a labor dispute mediation in writing or verbally. For a verbal application, a mediation organization shall record, on the spot, the basic information on the applicant, disputed matters for which the party applies for mediation, the reasons for application for mediation, and the time of application for mediation.

第十二條　【調解申請】當事人申請勞動爭議調解可以書面申請，也可以口頭申請。口頭申請的，調解組織應當當場記錄申請人基本情況、申請調解的爭議事項、理由和時間。

Article 13 In labor dispute mediation, the statements of facts and reasons by both parties shall be fully heard and the parties shall be guided patiently by a mediator so as to help them reach an agreement.

第十三條　【調解方式】調解勞動爭議，應當充分聽取雙方當事人對事實和理由的陳述，耐心疏導，幫助其達成協議。

Article 14 Where an agreement is reached through mediation, a mediation agreement paper shall be made.

第十四條　【調解協議】經調解達成協議的，應當制作調解協議書。

A mediation agreement paper shall be signed or sealed by both parties, and take effect after the mediator signs it and the seal of the mediation organization is affixed thereon, which shall be binding upon both parties and executed by the parties.

調解協議書由雙方當事人簽名或者蓋章，經調解員簽名並加蓋調解組織印章後生效，對雙方當事人具有約束力，當事人應當履行。

Where a mediation agreement is not reached within 15 days after a labor dispute mediation organization receives a mediation application, a party may apply for arbitration according to law.

自勞動爭議調解組織收到調解申請之日起十五日內未達成調解協議的，當事人可以依法申請仲裁。

Article 15 Where after a mediation agreement is reached, one party fails to execute the mediation agreement within the period of time prescribed in the agreement, the other party may apply for arbitration according to law.

第十五條　【申請仲裁】達成調解協議後，一方當事人在協議約定期限內不履行調解協議的，另一方當事人可以依法申請仲裁。

Article 16 Where a mediation agreement is reached on a matter of delayed payment of labor remunerations, medical expenses for a work-related injury, economic indemnity, or compensation, and the employer fails to execute it within the period of time prescribed in the agreement, the employee may apply to the people's court for a payment order based on the mediation agreement and the people's court shall issue a payment order according to law.

第十六條　【支付令】因支付拖欠勞動報酬、工傷醫療費、經濟補償或者賠償金事項達成調解協議，用人單位在協議約定期限內不履行的，勞動者可以持調解協議書依法向人民法院申請支付令。人民法院應當依法發出支付令。

Chapter III Arbitration

第三章　仲裁

Section I Common Provisions

第一節　一般規定

Article 17 The labor dispute arbitration commissions shall be established on the principles of full planning, reasonable layout, and adaptation to the practical needs. The people's government of a province or autonomous region may decide to establish the arbitration commissions in cities and counties; the people's government of municipality directly under the Central Government may decide to establish them in districts and counties. One or more labor dispute arbitration commissions may also be established in a municipality directly under the Central Government or a city with districts. The labor dispute arbitration commissions shall not be established level by level according to administrative divisions.

第十七條　【勞動爭議仲裁委員會設立】勞動爭議仲裁委員會按照統籌規劃、合理布局和適應實際需要的原則設立。省、自治區人民政府可以決定在市、縣設立；直轄市人民政府可以決定在區、縣設立。直轄市、設區的市也可以設立一個或者若幹個勞動爭議仲裁委員會。勞動爭議仲裁委員會不按行政區劃層層設立。

Article 18 The labor administrative authority of the State Council shall make arbitration rules according to the relevant provisions of this Law. The labor administrative authorities of provinces, autonomous regions and municipalities directly under the Central Government shall guide the labor dispute arbitration work within their respective administrative regions.

第十八條　【制定仲裁規則及指導勞動爭議仲裁工作】國務院勞動行政部門依照本法有關規定制定仲裁規則。省、自治區、直轄市人民政府勞動行政部門對本行政區域的勞動爭議仲裁工作進行指導。

Article 19 A labor dispute arbitration commission shall comprise the representatives of the labor administrative authority, representatives of trade unions and representatives of enterprises. The members of a labor dispute arbitration commission shall be in odd numbers. A labor dispute arbitration commission shall perform the following functions:

(1). Retaining and dismissing full-time or part-time arbitrators;

(2). Accepting and hearing labor dispute cases;

(3). Discussing major or difficult labor dispute cases; and

(4). Overseeing arbitration activities.

A labor dispute arbitration commission shall set up a general office to be responsible for the daily work of the labor dispute arbitration commission.

第十九條　【勞動爭議仲裁委員會組成及職責】勞動爭議仲裁委員會由勞動行政部門代表、工會代表和企業方面代表組成。勞動爭議仲裁委員會組成人員應當是單數。勞動爭議仲裁委員會依法履行下列職責：

（一）聘任、解聘專職或者兼職仲裁員；

（二）受理勞動爭議案件；

（三）討論重大或者疑難的勞動爭議案件；

（四）對仲裁活動進行監督。

勞動爭議仲裁委員會下設辦事機構，負責辦理勞動爭議仲裁委員會的日常工作。

Article 20 A labor dispute arbitration commission shall maintain a panel of arbitrators. An arbitrator shall be fair and decent and satisfy any of the following requirements:

(1). Once serving as a judge;

(2). Engaging in legal research or teaching work with a professional title at or above the medium level;

(3). Having knowledge of law and engaging in human resource management or trade union or other professional work for five years; or

(4). Having practiced law as a lawyer for three years.

第二十條　【仲裁員資格條件】勞動爭議仲裁委員會應當設仲裁員名冊。

仲裁員應當公道正派並符合下列條件之一：

（一）曾任審判員的；

（二）從事法律研究、教學工作並具有中級以上職稱的；

（三）具有法律知識、從事人力資源管理或者工會等專業工作滿五年的；

（四）律師執業滿三年的。

Article 21 A labor dispute arbitration commission shall be responsible for the labor disputes occurring within its jurisdiction.

A labor dispute arbitration commission at the place of performance of a labor contract or at the place of residence of an employer shall have jurisdiction of a labor dispute. Where the two parties respectively apply to the labor dispute arbitration commissions at the place of performance of a labor contract and at the place of residence of an employer for arbitration, the labor dispute arbitration commission at the place of performance of a labor contract shall have jurisdiction.

第二十一條　【仲裁管轄】勞動爭議仲裁委員會負責管轄本區域內發生的勞動爭議。

勞動爭議由勞動合同履行地或者用人單位所在地的勞動爭議仲裁委員會管轄。雙方當事人分別向勞動合同履行地和用人單位所在地的勞動爭議仲裁委員會申請仲裁的，由勞動合同履行地的勞動爭議仲裁委員會管轄。

Article 22 An employee and an employer, between which a labor dispute arises, shall be the two parties in a labor dispute arbitration case.

Where a dispute arises between a labor dispatch entity or employer and an employee, the labor dispatch entity and employer shall be the joint party.

第二十二條　【仲裁案件當事人】發生勞動爭議的勞動者和用人單位為勞動爭議仲裁案件的雙方當事人。

勞務派遣單位或者用工單位與勞動者發生勞動爭議的，勞務派遣單位和用工單位為共同當事人。

Article 23 A third party that has an interest relationship with the results of handling of a labor dispute case may apply for participating in the arbitration activities or be notified by the labor dispute arbitration commission to participate in the arbitration activities.

第二十三條　【仲裁案件第三人】與勞動爭議案件的處理結果有利害關系的第三人，可以申請參加仲裁活動或者由勞動爭議仲裁委員會通知其參加仲裁活動。

Article 24 A party may appoint an attorney to participate in the arbitration activities. A party who appoints an attorney to participate in the arbitration activities shall submit to the labor dispute arbitration commission a Power of Attorney signed or sealed by the party, and the Power of Attorney shall expressly state the authorized matters and powers.

第二十四條　【委托代理】當事人可以委托代理人參加仲裁活動。委托他人參加仲裁活動，應當向勞動爭議仲裁委員會提交有委托人簽名或者蓋章的委托書，委托書應當載明委托事項和權限。

Article 25 The legal representative of an employee who has lost all or part of his or her capacity of conduct in civil law shall participate in the arbitration activities on behalf of the employee; and where such an employee does not have a legal representative, the labor dispute arbitration commission shall designate a representative for the employee. For a deceased employee, the close relative or attorney of the deceased employee shall participate in the arbitration activities.

第二十五條　【法定代理和指定代理】喪失或者部分喪失民事行為能力的勞動者，由其法定代理人代為參加仲裁活動；無法定代理人的，由勞動爭議仲裁委員會為其指定代理人。勞動者死亡的，由其近親屬或者代理人參加仲裁活動。

Article 26 The labor dispute arbitration shall be conducted openly, except one that shall not be conducted openly as agreed on by the parties or involves a national secret, trade secret or personal privacy.

第二十六條　【仲裁公開】勞動爭議仲裁公開進行，但當事人協議不公開進行或者涉及國家秘密、商業秘密和個人隱私的除外。

Section II Application and Acceptance

第二節　申請和受理

Article 27 The time limitation period for application for arbitration of a labor dispute shall be one year. The time limitation period for arbitration shall be counted as of the date when a party knows or should know that its right has been violated.

The time limitation period prescribed in the preceding paragraph shall be discontinued upon one party's claiming a right against the other party or requesting a right's remedy to the relevant authority or the other party's agreeing to perform an obligation. The time limitation

第二十七條　【仲裁時效】勞動爭議申請仲裁的時效期間為一年。仲裁時效期間從當事人知道或者應當知道其權利被侵害之日起計算。

前款規定的仲裁時效，因當事人一方向對方當事人主張權利，或者向有關部門請求權利救濟，或者對方當事人同意履行義務而中斷。從中斷時起，仲裁時效期間重新計算。

period shall be recounted from the time of the interruption.
Where for a force majeure or any other proper reason a party cannot apply for arbitration within the time limitation period for arbitration prescribed in the first paragraph hereof, the time limitation period for arbitration shall be suspended. The time limitation period for arbitration shall continue being counted at the date when the reason for suspension of the time limitation period disappears.
Where a dispute arises from the delayed payment of labor remunerations during the period of existence of a labor relationship, an employee's application for arbitration shall not be subject to the time limitation period for arbitration prescribed in the first paragraph hereof; but if a labor relationship is terminated, an employee shall apply for arbitration within one year as of the date of termination of the labor relationship.

因不可抗力或者有其他正當理由，當事人不能在本條第一款規定的仲裁時效期間申請仲裁的，仲裁時效中止。從中止時效的原因消除之日起，仲裁時效期間繼續計算。
勞動關系存續期間因拖欠勞動報酬發生爭議的，勞動者申請仲裁不受本條第一款規定的仲裁時效期間的限制；但是，勞動關系終止的，應當自勞動關系終止之日起一年內提出。

Article 28 To apply for arbitration, an applicant shall submit a written application for arbitration and copies thereof as per the number of respondents.
The written application for arbitration shall expressly state the following matters:

(1). Name, gender, age, occupation, work unit and residence of an employee, name and residence of an employer, and names and titles of the legal representative or principal of an employer;

(2). Arbitral claims and supporting facts and reasons; and

(3). Evidence, sources of evidence, and names and residences of witnesses.
Where a party has difficulty in writing an application for arbitration, the party may apply for arbitration verbally, and a labor dispute arbitration commission shall record it in writing and notify the other party.

第二十八條　【仲裁申請】申請人申請仲裁應當提交書面仲裁申請，並按照被申請人人數提交副本。
仲裁申請書應當載明下列事項：

（一）勞動者的姓名、性別、年齡、職業、工作單位和住所，用人單位的名稱、住所和法定代表人或者主要負責人的姓名、職務；

（二）仲裁請求和所根據的事實、理由；

（三）證據和證據來源、證人姓名和住所。
書寫仲裁申請確有困難的，可以口頭申請，由勞動爭議仲裁委員會記入筆錄，並告知對方當事人。

Article 29 Within five days as of receiving an application for arbitration, the labor dispute arbitration commission, if considering that the requirements for acceptance are satisfied, shall accept the application and notify the applicant; or if considering that the requirements for acceptance are not satisfied, shall notify in writing the applicant of the rejection of the application and explain the reasons. Where a labor dispute arbitration commission decides not to accept an application for arbitration or fails to make a decision before the prescribed time limit, an applicant may bring an action in the people's court for matters on the labor dispute.

第二十九條　【仲裁申請的受理和不予受理】勞動爭議仲裁委員會收到仲裁申請之日起五日內，認為符合受理條件的，應當受理，並通知申請人；認為不符合受理條件的，應當書面通知申請人不予受理，並說明理由。對勞動爭議仲裁委員會不予受理或者逾期未作出決定的，申請人可以就該勞動爭議事項向人民法院提起訴訟。

Article 30 Within five days after accepting an application for arbitration, the labor dispute arbitration commission shall serve a copy of the written application for arbitration on a respondent.
Within ten days after receiving a copy of the written application for arbitration, a respondent shall submit a statement of defense to the labor dispute arbitration commission. Within five days after receiving the statement of defense, the labor dispute arbitration commission shall submit a copy of the statement of defense to the applicant. The failure of a respondent to submit a statement of defense shall not affect the conduct of arbitration procedures.

第三十條　【仲裁申請送達與仲裁答辯書的提供】勞動爭議仲裁委員會受理仲裁申請後，應當在五日內將仲裁申請書副本送達被申請人。
被申請人收到仲裁申請書副本後，應當在十日內向勞動爭議仲裁委員會提交答辯書。勞動爭議仲裁委員會收到答辯書後，應當在五日內將答辯書副本送達申請人。被申請人未提交答辯書的，不影響仲裁程序的進行。

Section III Tribunal Hearing and Awarding

第三節　開庭和裁決

Article 31 The arbitral tribunal system shall be adopted for a labor dispute arbitration commission to decide labor dispute cases. An arbitral tribunal shall comprise three arbitrators, including a chief arbitrator. A simple labor dispute case may be arbitrated by a sole arbitrator.

第三十一條　【仲裁庭組成】勞動爭議仲裁委員會裁決勞動爭議案件實行仲裁庭制。仲裁庭由三名仲裁員組成，設首席仲裁員。簡單勞動爭議案件可以由一名仲裁員獨任仲裁。

Article 32 A labor dispute arbitration commission shall notify in writing the parties of information on the composition of an arbitral tribunal within five days after the date of accepting an application for arbitration.

第三十二條　【書面通知仲裁庭組成情況】勞動爭議仲裁委員會應當在受理仲裁申請之日起五日內將仲裁庭的組成情況書面通知當事人。

Article 33 Under any of the following circumstances, an arbitrator shall recuse himself or herself, and a party shall have the right to apply for recusal verbally or in writing:

(1). Being a party in the case or a close relative of a party or attorney thereof;

(2). Having an interest relationship with the case;

(3). Having any other relationship with a party or attorney thereof in the case, which may affect the rendering of a fair award; or

(4). Meeting in private a party or attorney thereof, or accepting a treat or gift from a party or attorney thereof.
A labor dispute arbitration commission shall timely make a decision on an application for recusal and notify verbally or in writing the party of its decision.

第三十三條　【仲裁員回避】仲裁員有下列情形之一，應當回避，當事人也有權以口頭或者書面方式提出回避申請：

（一）是本案當事人或者當事人、代理人的近親屬的；

（二）與本案有利害關系的；

（三）與本案當事人、代理人有其他關系，可能影響公正裁決的；

（四）私自會見當事人、代理人，或者接受當事人、代理人的請客送禮的。
勞動爭議仲裁委員會對回避申請應當及時作出決定，並以口頭或者書面方式通知當事人。

Article 34 Where an arbitrator is under the circumstance of Article 33(4) of this Law, asks for or accepts bribes, practices favoritism for personal gain or renders an award by perverting the law, such an arbitrator shall bear the legal liability according to law. A labor dispute arbitration commission shall dismiss such an arbitrator.

第三十四條　【仲裁員的法律責任】仲裁員有本法第三十三條第四項規定情形，或者有索賄受賄、徇私舞弊、枉法裁決行為的，應當依法承擔法律責任。勞動爭議仲裁委員會應當將其解聘。

Article 35 An arbitral tribunal shall notify both parties of the date and place of hearing at least five days before a hearing. For proper reasons, a party may request the postponement of a hearing at least three days before a hearing. Whether a hearing shall be postponed shall be decided by a labor dispute arbitration commission.

第三十五條　【開庭通知與延期開庭】仲裁庭應當在開庭五日前，將開庭日期、地點書面通知雙方當事人。當事人有正當理由的，可以在開庭三日前請求延期開庭。是否延期，由勞動爭議仲裁委員會決定。

Article 36 Where after receiving a written notice an applicant refuses to participate in a hearing without proper reasons or withdraw in the midst of a hearing without the permit of

第三十六條　【視為撤回仲裁裁決和缺席裁決】申請人收到書面通知，無正當理由拒不到庭或者未經仲裁庭同 the arbitral tribunal, the applicant shall be deemed as having dropped the application for arbitration.
Where after receiving a written notice a respondent refuses to participate in a hearing without proper reasons or withdraw in the midst of a hearing without the permit of the arbitral tribunal, an award may be rendered in the absence of the respondent.

意中途退庭的，可以視為撤回仲裁申請。
被申請人收到書面通知，無正當理由拒不到庭或者未經仲裁庭同意中途退庭的，可以缺席裁決。

Article 37 Where an arbitral tribunal considers that an authentication is necessary for a specialized matter, the arbitral tribunal may delegate the authentication of the specialized matter to an authentication agency as agreed on by the parties; or where the parties do not have or cannot reach an agreement on it, the authentication shall be conducted by an authentication agency designated by the arbitral tribunal.
At the request of a party or as required by an arbitral tribunal, an authentication agency shall send the authenticators to participate in the hearing. With the permit of the arbitral tribunal, the parties may question the authenticators.

第三十七條　【鑒定】仲裁庭對專門性問題認為需要鑒定的，可以交由當事人約定的鑒定機構鑒定；當事人沒有約定或者無法達成約定的，由仲裁庭指定的鑒定機構鑒定。
根據當事人的請求或者仲裁庭的要求，鑒定機構應當派鑒定人參加開庭。當事人經仲裁庭許可，可以向鑒定人提問。

Article 38 The parties shall have the right to cross-examination and debate in the process of arbitration. At the end of cross-examination or debate, the chief arbitrator or sole arbitrator shall hear the final statements of both parties.

第三十八條　【質證、辯論、陳述最後意見】當事人在仲裁過程中有權進行質證和辯論。質證和辯論終結時，首席仲裁員或者獨任仲裁員應當征詢當事人的最後意見。

Article 39 The arbitral tribunal shall invoke evidence that is adduced by the parties and has been found to be true as the basis for determining facts.
Where an employee cannot adduce any evidence that is related to an arbitral claim but controlled by an employer, an arbitral tribunal may require the employer to provide it within a specified period of time. An employer that fails to provide it within the specified period of time shall bear the adverse consequences.

第三十九條　【證據及舉證責任】當事人提供的證據經查證屬實的，仲裁庭應當將其作為認定事實的根據。
勞動者無法提供由用人單位掌握管理的與仲裁請求有關的證據，仲裁庭可以要求用人單位在指定期限內提供。用人單位在指定期限內不提供的，應當承擔不利後果。

Article 40 All arbitral tribunals shall maintain written records of hearings. A party or any other arbitration participant, considering that there is any omission or mistake in the record of its statements, shall have the right to apply for correction. If the record is not corrected, such an application for correction shall be recorded.
The written record shall be signed or sealed by the arbitrators, recorder, parties and other arbitration participants.

第四十條　【仲裁庭審筆錄】仲裁庭應當將開庭情況記入筆錄。當事人和其他仲裁參加人認為對自己陳述的記錄有遺漏或者差錯的，有權申請補正。如果不予補正，應當記錄該申請。
筆錄由仲裁員、記錄人員、當事人和其他仲裁參加人簽名或者蓋章。

Article 41 After a party applies for arbitration of a labor dispute, the two parties may reach a settlement on their own. Where a settlement agreement is reached, the application for arbitration may be dropped.

第四十一條　【當事人自行和解】當事人申請勞動爭議仲裁後，可以自行和解。達成和解協議的，可以撤回仲裁申請。

Article 42 Before rendering an award, an arbitral tribunal shall conduct mediation first.
Where an agreement is reached through mediation, an arbitral tribunal shall make a mediation record.
A mediation record shall expressly state the arbitral claims and results of agreement by the parties. A mediation record shall be signed by the arbitrators, on which the seal of the labor dispute arbitration commission shall be affixed, and served on both parties. A mediation record shall take effect after being signed by both parties.
Where mediation fails or one party regrets before a mediation record is served, an arbitral tribunal shall timely render an award.

第四十二條　【仲裁庭調解】仲裁庭在作出裁決前，應當先行調解。
調解達成協議的，仲裁庭應當制作調解書。
調解書應當寫明仲裁請求和當事人協議的結果。調解書由仲裁員簽名，加蓋勞動爭議仲裁委員會印章，送達雙方當事人。調解書經雙方當事人簽收後，發生法律效力。
調解不成或者調解書送達前，一方當事人反悔的，仲裁庭應當及時作出裁決。

Article 43 The arbitral tribunal shall render an award for each labor dispute case within 45 days as of the date when an application for arbitration is accepted by a labor dispute arbitration commission. Where a case is complicated and requires an extension of the above prescribed period of time, with the approval of the chairman of a labor dispute arbitration commission, extension may be made and shall be notified in writing to the parties, but the period of extension shall not exceed 15 days. Where an arbitral tribunal fails to render an award before the above or extended period of time, a party may bring an action in the people's court for the labor dispute matters.
When rendering an award in a labor dispute case, the arbitral tribunal may first render an award on the part of facts that have been ascertained.

第四十三條　【仲裁審理時限及先行裁決】仲裁庭裁決勞動爭議案件，應當自勞動爭議仲裁委員會受理仲裁申請之日起四十五日內結束。案情複雜需要延期的，經勞動爭議仲裁委員會主任批准，可以延期並書面通知當事人，但是延長期限不得超過十五日。逾期未作出仲裁裁決的，當事人可以就該勞動爭議事項向人民法院提起訴訟。
仲裁庭裁決勞動爭議案件時，其中一部分事實已經清楚，可以就該部分先行裁決。

Article 44 For a case of recovery of the labor remunerations, medical expenses for a work-related injury, economic indemnity, or compensation, upon an application of a party, an arbitral tribunal may render an award of prior execution, and transfer the case to the people's court for execution.
The following requirements shall be satisfied for an arbitral tribunal to render an award of prior execution:

第四十四條　【先予執行】仲裁庭對追索勞動報酬、工傷醫療費、經濟補償或者賠償金的案件，根據當事人的申請，可以裁決先予執行，移送人民法院執行。
仲裁庭裁決先予執行的，應當符合下列條件：

(1). The relationships of rights and obligations between the parties are clear; and

（一）當事人之間權利義務關系明確；

(2) Without prior execution, the living of an applicant will be seriously affected.
An employee applying for prior execution may not provide a security.

（二）不先予執行將嚴重影響申請人的生活。
勞動者申請先予執行的，可以不提供擔保。

Article 45 An arbitral award shall be rendered according to the majority opinions of the arbitrators, and the dissenting opinion of a minority arbitrator shall be recorded in writing.
Where an arbitral tribunal fails to form the opinions of a majority, the arbitral award shall be rendered according to the opinion of the chief arbitrator.

第四十五條　【作出裁決】裁決應當按照多數仲裁員的意見作出，少數仲裁員的不同意見應當記入筆錄。仲裁庭不能形成多數意見時，裁決應當按照首席仲裁員的意見作出。

Article 46 An arbitral award shall expressly state the arbitral claims, disputed facts, reasons for rendering an award, result of rendering an award and date of rendering an award. An arbitral award shall be signed by the arbitrators, on which the seal of the labor dispute arbitration commission shall be affixed. An arbitrator with a dissenting opinion on the award may or may not sign the award.

第四十六條　【裁決書】裁決書應當載明仲裁請求、爭議事實、裁決理由、裁決結果和裁決日期。裁決書由仲裁員簽名，加蓋勞動爭議仲裁委員會印章。對裁決持不同意見的仲裁員，可以簽名，也可以不簽名。

Article 47 Except as otherwise provided for by this Law, an arbitral award on any of the following labor disputes shall be final, and an arbitral award shall take effect at the date of rendering of the award:

第四十七條　【終局裁決】下列勞動爭議，除本法另有規定的外，仲裁裁決為終局裁決，裁決書自作出之日起發生法律效力：

(1). A dispute over the recovery of labor remunerations, medical expenses for a work-related injury, economic indemnity, or compensation, in an amount not exceeding the 12-month local monthly minimum wage level; and

（一）追索勞動報酬、工傷醫療費、經濟補償或者賠償金，不超過當地月最低工資標准十二個月金額的爭議；

(2). A dispute over the working hours, breaks and vacations, social insurance, etc., arising from the execution of state labor standards.

（二）因執行國家的勞動標准在工作時間、休息休假、社會保險等方面發生的爭議。

Article 48 An employee, who disagrees to an arbitral award as provided for in Article 47 of this Law, may bring an action in the people's court within 15 days after receiving an arbitral award.

第四十八條　【勞動者提起訴訟】勞動者對本法第四十七條規定的仲裁裁決不服的，可以自收到仲裁裁決書之日起十五日內向人民法院提起訴訟。

Article 49 An employer, who has evidence to prove that an arbitral award as provided for in Article 47 of this Law is rendered under any of the following circumstances, may apply for revocation of the arbitral award to the intermediate people's court at the place of residence of the labor dispute arbitration commission within 30 days after receiving the arbitral award:

第四十九條　【用人單位申請撤銷終局裁決】用人單位有證據證明本法第四十七條規定的仲裁裁決有下列情形之一，可以自收到仲裁裁決書之日起三十日內向勞動爭議仲裁委員會所在地的中級人民法院申請撤銷裁決：

(1). An arbitral award is wrong in the application of a law or administrative regulation;

（一）適用法律、法規確有錯誤的；

(2). The labor dispute arbitration commission has no jurisdiction;

（二）勞動爭議仲裁委員會無管轄權的；

(3). The legal procedure is violated;

（三）違反法定程序的；

(4). The evidence used to render the arbitral award is forged;

（四）裁決所根據的證據是偽造的；

(5). The other party has concealed evidence that is enough to affect the rendering of a fair award; and

（五）對方當事人隱瞞了足以影響公正裁決的證據的；

(6). An arbitrator in arbitrating the case asks for or accepts bribes, practices favoritism for personal gain or renders an award by perverting law.
After a formed collegiate bench has examined and verified that an arbitral award is under any of the circumstances in the preceding paragraph, the people's court shall rule to revoke the arbitral award.
Where the people's court rules to revoke an arbitral award, a party may bring an action in the people's court for the labor dispute matters within 15 days after receiving a ruling paper.

（六）仲裁員在仲裁該案時有索賄受賄、徇私舞弊、枉法裁決行為的。
人民法院經組成合議庭審查核實裁決有前款規定情形之一的，應當裁定撤銷。
仲裁裁決被人民法院裁定撤銷的，當事人可以自收到裁定書之日起十五日內就該勞動爭議事項向人民法院提起訴訟。

Article 50 A party, who disagrees to an arbitral award in any labor dispute case other than one as provided for in Article 47 of this Law, may bring an action in the people's court within 15 days after receiving an arbitral award; and where an action is not brought upon the expiration of the above prescribed period of time, an arbitral award shall take effect.

第五十條　【不服仲裁裁決提起訴訟】當事人對本法第四十七條規定以外的其他勞動爭議案件的仲裁裁決不服的，可以自收到仲裁裁決書之日起十五日內向人民法院提起訴訟；期滿不起訴的，裁決書發生法律效力。

Article 51 A party shall execute an effective mediation record or arbitral award according to the prescribed period of time. Where one party fails to execute the same before the prescribed period of time, the other party may apply for execution to the people's court according to the relevant provisions of the Civil Procedure Law. The people's court accepting the application shall execute the same according to law.

第五十一條　【生效調解書、裁決書的執行】當事人對發生法律效力的調解書、裁決書，應當依照規定的期限履行。一方當事人逾期不履行的，另一方當事人可以依照民事訴訟法的有關規定向人民法院申請執行。受理申請的人民法院應當依法執行。

Chapter IV Supplementary Provisions

第四章　附則

Article 52 This Law shall apply to a labor dispute arising between a public institution that adopts an employment system and a staffer thereof, except as otherwise provided for by a law or administrative regulation or the provisions of the State Council.

第五十二條　【事業單位勞動爭議的處理】事業單位實行聘用制的工作人員與本單位發生勞動爭議的，依照本法執行；法律、行政法規或者國務院另有規定的，依照其規定。

Article 53 No any fees shall be charged for the labor dispute arbitration. The funds of a labor dispute arbitration commission shall be secured by the finance authority.

第五十三條　【仲裁不收費】勞動爭議仲裁不收費。勞動爭議仲裁委員會的經費由財政予以保障。

Article 54 This Law shall be effective as of May 1, 2008.

第五十四條　【本法生效時間】本法自2008年5月1日起施行。

【法寶引證碼】CLI.1.100677(EN)　　北大法寶www.lawinfochina.com

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