

**LAW OF THE PEOPLE'S REPUBLIC OF CHINA ON PUBLIC SERVANTS
ORDER OF THE PRESIDENT OF THE PEOPLE'S REPUBLIC OF CHINA**

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The Law of the People's Republic of China on Public Servants, adopted at the 15th Meeting of the Standing Committee of the Tenth National People's Congress of the People's Republic of China on April 27, 2005, is hereby promulgated and shall go into effect as of January 1, 2006.

Hu Jintao

President of the People's Republic of China

April 27, 2005

Law of the People's Republic of China on Public Servants

(Adopted at the 15th Meeting of the Standing Committee of the Tenth National People's Congress on April 27, 2005)

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Chapter I General Provisions

Article 1 This Law is enacted in accordance with the Constitution and for the purpose of regularizing the administration of public servants, safeguarding their lawful rights and interests, improving supervision over them, building up a contingent of public servants with high quality, promoting a diligent and clean government and enhancing its efficiency.

Article 2 For the purposes of this Law, public servants are workers who perform official duties according to law, are members of the administrative establishment of the State, and whose salaries and welfare benefits are paid by the government.

Article 3 This Law is applicable to the duties and rights as well as the administration of public servants. Where there are other provisions contained in the laws governing the election, appointment and removal of, and the supervision over, the leading persons among public servants, and the duties and rights and the administration of judges, procurators, etc., those provisions shall be applicable.

Article 4 In application of the public servant system, Marxism-Leninism, Mao Zedong Thought, Deng Xiaoping Theory and the important thought of “Three Represents” shall be upheld as the guidance, the basic line for the primary stage of socialism shall be implemented, the cadre line and policy of the Communist Party of China shall be carried out, and the principle that cadres are under the administration of the Party shall be adhered to.

Article 5 Public servants shall be administered in adherence to the principles of openness, equality, competition and selection on the basis of merits, and in compliance with the statutory limits of authority, requirements, standards and procedures.

Article 6 Public servants shall be administered in adherence to the principle of laying equal stress on supervision and restriction on the one hand and on encouragement and safeguard on the other.

Article 7 Public servants shall be appointed in adherence to the principles of appointing people on their merits and people with both political integrity and professional competence, with stress placed on practical achievements in work.

Article 8 The State administers public servants by grouping them in different categories in order to improve administrative efficiency and raise the level of scientific management.

Article 9 When performing their official duties according to law, public servants shall be protected by law.

Article 10 The department in charge of public servants at the central level shall be responsible for the comprehensive administration of public servants nationwide. The local departments in charge of public servants at or above the county level shall be responsible for the comprehensive administration of public servants within the areas under their respective jurisdictions. The department in charge of public servants at a higher level shall direct the administration of public servants conducted by such department at a lower level. The

departments in charge of public servants at various levels shall direct the administration of public servants conducted by the various organs at the same level.

Chapter II Qualifications, Duties and Rights of Public Servants

Article 11 A public servant shall meet the following qualifications:

- (1) holding the nationality of the People's Republic of China;
- (2) having reached the age of 18;
- (3) upholding the Constitution of the People's Republic of China;
- (4) being a person of good morality;
- (5) being physically qualified for normal performance of duties;
- (6) having the education and ability commensurate with the requirements of the post; and
- (7) having other qualifications specified by law.

Article 12 Public servants shall perform the following duties:

- (1) exemplarily observing with the Constitution and laws;
- (2) conscientious by performing their duties in compliance with the specified limits of authority and procedures and endeavoring to increase their work efficiency;
- (3) wholeheartedly serving the people and accepting supervision by the people;
- (4) safeguarding the security, honor and interests of the State;
- (5) being faithful in the discharge of their duties, diligently fulfilling their responsibilities, and abiding by and implementing the decisions made and the instructions given by higher authorities in accordance with law;
- (6) guarding State secrets and job secrets ;
- (7) abiding by discipline, faithfully adhering to professional ethics and exemplarily observing public morality;
- (8) being clean and upright, and impartial and honest in their ways; and
- (9) performing other duties provided for by law.

Article 13 Public servants shall have the following rights:

- (1) being provided with the working conditions necessary for the performance of their duties;
- (2) being free from being removed from office, demoted and discharged, and free from disciplinary action, unless on statutory grounds and through statutory procedures;
- (3) getting salaries, remunerations, and enjoying welfare benefits and insurance;

- (4) having access to training;
- (5) putting forward criticisms and proposals regarding the work of their organs and the leading persons;
- (6) lodging appeals and accusations;
- (7) applying for resignation; and
- (8) enjoying other rights provided for by law.

Chapter III Posts and Ranks

Article 14 The State practices the system of categorized posts among public servants.

The posts held by public servants shall, according to the nature and characteristics of the post and administrative needs, be categorized as comprehensive administration, professional skills and administrative law enforcement. Where separate administration is required for a post due to its specific characteristics, the State Council may, in accordance with this Law, set up an additional category for such post. The scope covered by the different categories of posts shall be prescribed by the State separately.

Article 15 The State establishes an order of posts held by public servants on the basis of the categories of such posts.

Article 16 The posts of public servants are divided into leading and non-leading posts.

The levels of the leading posts include: chief and deputy at the central level, chief and deputy at the provincial and ministerial level, chief and deputy at the department and bureau level, chief and deputy at the county and division level, chief and deputy at the township and section level.

The levels of non-leading posts are set up at or below the department and bureau level.

Article 17 The leading posts under the category of comprehensive administration shall be established in accordance with the Constitution, relevant laws, levels of posts and institutions.

The non-leading posts under the category of comprehensive administration include: inspector, deputy inspector, analyst, associate analyst, senior section member, junior section member, section member and office clerk.

The order of posts for the public servants under the categories other than the category of comprehensive administration shall be prescribed separately by the State in accordance with this Law.

Article 18 The various government departments shall set up specific posts for the public servants thereof in accordance with the established functions, institutional echelons, limits of the authorized size, number of posts and structural proportion, and define the official duties and responsibilities as well as the qualifications for holding a post.

Article 19 The posts of public servants shall correspond with the relevant ranks. The corresponding relations between the posts and ranks of public servants shall be defined by the State Council.

The posts and ranks of public servants provide the basis for determining their salaries and other benefits.

The rank of a public servant shall be determined on the basis of the post he holds, his political integrity and professional competence, his achievements in work, and his educational qualifications and seniority. A public servant remaining at the same post may be promoted in rank according to State regulation.

Article 20 The State shall establish ranks corresponding with relevant posts in light of the working characteristics of the people's police as well as public servants of the Customs and diplomatic missions abroad.

Chapter IV Recruitment and Employment

Article 21 Public servants for non-leading posts at or below the level of senior section member and at other levels of corresponding posts shall be recruited and employed through open examination, strict review, competition on an equal footing and selection on the merits.

When recruiting public servants in accordance with the provisions of the preceding paragraph, the authorities of the national autonomous regions may, in accordance with law and relevant regulations, give appropriate considerations to the ethnic people who register for examination.

Article 22 The department in charge of public servants at the central level shall be responsible for making arrangements for recruitment and employment of public servants for the government departments at the central level and the departments and institutions directly under them. The department in charge of public servants at the provincial level shall be responsible for making arrangements for recruitment and employment of public servants of the various local government departments, and where necessary, the department in charge of public servants at the provincial level may authorize the department in charge of public servants at the level of a city divided into districts to make such arrangements.

Article 23 A person who registers for examination of public servants shall, in addition to the qualifications specified in Article 11 of this Law, meet the qualifications required for the post he intends to hold as specified by the department in charge of public servants at or above the provincial level.

Article 24 The following persons shall not be recruited as public servants:

- (1) persons on whom criminal punishment has been imposed due to committing a crime;
- (2) persons who have been discharged from public employment; and
- (3) other persons who are not to be recruited as public servants, as prescribed by law.

Article 25 Public servants shall be recruited and employed within the limits of the authorized size, and when there are vacancies of corresponding posts to be filled up.

Article 26 Before recruiting and employing public servants, a public notice of entrance examination shall be issued. In a public notice of entrance examination shall be clearly stated the posts, the number of public servants needed, the qualifications for examinees, the application materials required to be submitted and other matters for attention.

Recruiting departments shall take measures to facilitate citizens' registration for examination.

Article 27 Recruiting departments shall examine the applications for registration for examination in accordance with the qualifications required of the examinees. The application materials submitted by examinees shall be true and accurate.

Article 28 The examination for recruitment and employment of public servants shall be conducted in the forms of written examination and interviews. The contents of the examinations shall be specified in accordance with the basic ability required of public servants and the different categories of posts.

Article 29 Recruiting departments shall, on the basis of the examination results, decide on the candidates for review and reexamine their qualifications for registration for examination, conduct review and arrange for their physical check-up.

The items of and standards for physical check-up shall be based on the requirements of the posts. The specific measures in this regard shall be formulated by the government department at the central level in charge of public servants, in conjunction with the health administration department under the State Council.

Article 30 Recruiting departments shall, on the basis of the examination results, and the results of the review and physical check-up, make a name list of the persons to be recruited, and make it known to the public.

At the expiration of the period for such publicity, the recruiting department at the central level shall submit the name list of the persons to be recruited to the department in charge of public servants at the central level for the record; and the various local recruiting departments shall submit the name lists of the persons to be recruited to the departments in charge of public servants at the provincial level or at the level of a city divided into districts for examination and approval.

Article 31 Upon approval by the department in charge of public servants at or above the provincial level, simplified procedures or other methods for test and appraisal may be adopted for recruiting public servants for special posts.

Article 32 The trial period for a newly recruited public servant shall be one year. If he is qualified at the expiration of the trial period, he shall be employed; otherwise, his recruitment shall be cancelled.

Chapter V Assessment

Article 33 Assessment of public servants shall be conducted in compliance with the limits of authorized administration, and in an all-round way, covering their political integrity, ability, diligence, achievements and incorruptibility, with special attention paid to actual achievements in work.

Article 34 The assessment of public servants shall be divided into routine and regular assessments. Regular assessments shall be made on the basis of routine assessment.

Article 35 Regular assessment of the public servants who are non-leading members shall be made annually. The public servants themselves shall firstly give their summaries in light of the duties and responsibilities of their posts and relevant requirements. After listening to the opinions from the masses, the leading person in charge shall make a proposal concerning the grades of the assessment, and then the leading person of the department or an authorized appraisal committee shall decide on the grades of the assessment.

The regular assessment of the leading persons shall be conducted by the department in charge in accordance with relevant regulations.

Article 36 The results of regular assessment are divided into four grades, namely, excellent, competent, basically competent, and not competent.

Public servants themselves shall be informed of the results of the regular assessment in writing.

Article 37 The results of regular assessment shall serve as the basis for adjustment of the posts, ranks and salaries of public servants as well as for rewards, training and dismissal of public servants.

Chapter VI Post Appointment and Removal

Article 38 The election system and appointment system shall be applied among public servants in respect of their posts. The tenure system shall, in accordance with the State regulations, be applicable in respect of the posts of leading persons.

Article 39 A public servant to whom the election system is applicable shall take the post he is elected to when the result of election comes into effect; and he shall not renew the term of office at the expiration of his term of office, or if he resigns, or is removed or dismissed from office during his term of office, the post shall be terminated accordingly.

Article 40 Where a public servant under the appointment system passes the examination conducted at the expiration of his trial period, or there is a change in connection to his post, or he ceases to hold the public service post, or other circumstances necessitate his appointment or removal, he shall accordingly be appointed or removed within the limits of authorized administration and through the statutory procedures.

Article 41 Public service posts shall be appointed within the authorized size and number of the posts, and when there are the necessary vacancies to be filled up.

Article 42 For a public servant to hold a concurrent post outside his own department due to the need of work, the matter shall be subject to approval by the department concerned, and he shall not receive any remuneration for such post.

Chapter VII Post Promotion and Demotion

Article 43 A public servant to be promoted to a higher office shall meet the requirements and qualifications in terms of ideological and political quality, work capability, educational level and work experience.

Promotion of public servants to higher posts shall be done level by level. For a public servant who is especially excellent or there is a special need for work, he may be promoted by breaking conventions or by skipping one level in accordance with relevant regulations.

Article 44 Where a public servant is promoted to a leading post, the following procedures shall be used:

- (1) on the basis of democratic recommendation, deciding on the candidate for review;
- (2) arranging for review, studying and setting forth proposals for the post to be assigned to, and deliberating on them within a certain scope, where necessary;
- (3) discussing and deciding on the candidate within the limits of authorized administration; and
- (4) completing the formalities for appointment in accordance with relevant regulations. For promoting a public servant to a non-leading post, the procedures specified in the preceding paragraph shall be followed *mutatis mutandis*.

Article 45 When there is a vacancy for a leading post at or below the level of the chief of the department or bureau in the body set up within a department, the candidate for the vacancy may be selected through competition among people working within the department or system.

When there is a vacancy for a leading post at or below the level of the chief of the department or bureau or for a non-leading post at or above the level of associate analyst and other corresponding levels, a candidate for such a vacancy may be selected openly from among people in the community.

Candidates for beginners of judges and procurators may be decided on through open selection from among people in the community, that is, from among the persons who have passed the unified judicial examinations conducted by the State and are qualified for such posts.

Article 46 When a public servant is to be promoted to a leading post, the publicity system prior to his assumption of the post and the trial system shall be carried out in accordance with relevant regulations.

Article 47 If a public servant is determined to be incompetent through regular assessment, he shall be demoted to a post at the next lower level in compliance with the prescribed procedures.

Chapter VIII Reward

Article 48 A public servant or a collective of public servants that has fulfilled the official duties outstandingly, or has made remarkable achievements and contributions, or has performed other outstanding meritorious deeds shall be rewarded. The principle of combining moral encouragement with material reward, taking former as the main form, shall be applied.

The reward to a collective of public servants shall be applicable to an organization set up in accordance with the order of establishment or to a working team formed for the fulfillment of a special task.

Article 49 A public servant or a collective of public servants that meets one of the following conditions shall be rewarded:

- (1) being loyal to official duties, enthusiastic in work and having made remarkable achievements;
- (2) observing rules of discipline, performing official duties with honesty, being honest and upright, being fair in handling matters, and playing an outstandingly exemplary role;
- (3) bringing about remarkable economic or social benefits through invention and innovation in work or by putting forward rationalization proposals;
- (4) having made outstanding contributions to the enhancement of unity of the nationalities and to the maintenance of social stability;
- (5) having attained outstanding successes in protecting public property and economizing on the use of resources and property of the country;
- (6) having performed meritorious services in preventing or obviating accidents, thus protecting the interests of the State and the people from losses or reducing such losses;
- (7) having made contributions by disregarding personal safety under special circumstances such as emergency rescue and disaster relief;
- (8) having performed meritorious deeds in fighting against violations of laws and rules of disciplines;
- (9) having won honor and interests for the country in foreign exchanges; or
- (10) having had other outstanding achievements.

Article 50 Rewards include: a Citation; a Citation for Merit, Third Class; a Citation for Merit, Second Class; a Citation for Merit, First Class; and conferring of an honorary title.

A public servant or a collective of public servants rewarded shall be commended and be given monetary awards in one lump sum or other material benefits.

Article 51 Rewarding of a public servant or a collective of public servants shall be subjected to decision or approved in compliance with the specified limits of authority and procedures.

Article 52 Under one of the following conditions, the reward given to a public servant or a collective of public servants shall be revoked:

- (1) obtaining the reward through fraud and deception;
- (2) concealing grave mistakes when applying for the reward or seriously going against the prescribed procedures; or

(3) other conditions under which the reward should be revoked in accordance with the provisions of laws and regulations.

Chapter IX Penalties

Article 53 Public servants shall observe discipline and are not allowed to commit any of the following acts:

- (1) spreading views impairing the reputation of the country, or organizing or participating in activities aimed at opposing the country, such as assemblies, marches and demonstrations;
- (2) organizing or joining illegal organizations, organizing or participating in strikes;
- (3) neglecting duties and adversely affecting the work;
- (4) refusing to implement the decisions and orders made by the higher authorities according to law;
- (5) suppressing criticism and resorting to retaliation;
- (6) misleading and cheating the leadership and the public by means of fraud and deception;
- (7) committing corruption, offering or accepting bribes, and seeking personal gains or benefits for another person by taking advantage of official position;
- (8) violating financial and economic discipline and wasting the resources and property of the country;
- (9) abusing powers and infringing upon the lawful rights and interests of citizens, legal persons or other organizations;
- (10) disclosing State secrets or job secrets;
- (11) impairing the honor and interests of the country in foreign exchanges;
- (12) participating in or supporting activities such as pornography, drug-taking, gambling and superstition;
- (13) violating professional ethics and social morals;
- (14) engaging or participating in profit-making activities, and concurrently holding a post in an enterprise or other profit-making organizations;
- (15) being absent from work without leave or failing to return to work without justifiable reasons after finishing work-related mission or at the expiration of leave; and
- (16) committing other acts in violation of rules of discipline.

Article 54 If a public servant, when performing official duties, deems that a decision or an order made by higher authorities is erroneous, he may put forward a proposal to the higher authorities for correcting or revoking the decision or order. If the higher authorities refuse to change the decision or order, or demands immediate implementation, he shall implement the decision or order, and the higher authorities shall be accountable for the outcome of the implementation, while the public servant shall bear no responsibility for it. However, if he

implements a decision or an order which is obviously against the law, he shall bear due responsibility according to law.

Article 55 If a public servant should bear disciplinary liability due to his violation of law or rules of discipline, a disciplinary action shall be taken against him in accordance with this Law; and if the circumstances in which the rules of discipline are violated are minor and he has mended his ways after criticism and education, he may be exempted from such action.

Article 56 Disciplinary actions include: warning, recording of a demerit, recording of a serious demerit, demotion, removal from office and discharge from public employment.

Article 57 A disciplinary action taken against a public servant shall be based on clear facts, verified evidence, accurate determination of the nature of the case, proper handling, lawful procedures and complete formalities.

If a public servant violates discipline, the department imposing disciplinary actions shall make the decision to initiate an investigation into the circumstances of the violation, and inform the public servant himself of the facts ascertained through investigation and the basis on which a disciplinary action is to be taken against him. The public servant shall have the right to make a statement and explain himself.

If a department imposing disciplinary actions deems that a disciplinary action should be taken against a public servant, it shall make a decision to such an effect within the prescribed time limit and in compliance with the limits of authorized administration and the prescribed procedures. The public servant himself shall be informed of such decision in writing.

Article 58 During the period of being subjected to disciplinary action, a public servant shall not be promoted to a higher post or rank; and if, he is subjected to the recording of a demerit or a serious demerit, or is demoted to a lower rank, or removed from office, he shall not be promoted to a higher grade of the salary scale.

The periods of disciplinary actions are: 6 months for the warning; 12 months for the recording of a demerit; 18 months for the recording of a serious demerit; and 24 months for the demotion to a lower rank or removal from office.

A public servant who is removed from office shall be demoted in rank in accordance with relevant regulations.

Article 59 If a public servant who is subjected to a disciplinary action other than the discharge from public employment has shown repentance during the period of disciplinary action, and has ceased violation of discipline, the department deciding on such action shall, at the expiration of the period of the disciplinary action, lift the action and inform the public servant himself of the lift in writing.

After a disciplinary action is lifted, promotion to a higher grade of the salary scale, a higher rank or post shall no longer be affected by the former disciplinary action. However, the lift of a disciplinary action for demotion to a lower rank or removal from office shall not thus be deemed as the reinstatement in the former rank or post.

Chapter X Training

Article 60 A department shall conduct training among public servants on the basis of classified grades and categories and in light of the requirements of official duties of public servants and the need for enhancing the quality of public servants.

The State sets up institutions specializing in training for public servants. A department may, in light of need, entrust other training institutions with the training of public servants as well.

Article 61 A department shall conduct training for the newly recruited persons who have just taken their posts during the trial period; training for the public servants who have been promoted to leading posts shall be arranged before they take the posts or within one year after they have taken the leading posts; special professional training shall be arranged for the public servants engaged in special work; and in-service training for all public servants shall be arranged in order to update their knowledge and increase their work capability. And among the public servants who hold professional and technical posts, professional and technical training for them shall be arranged in accordance with the requirements for continued education among professional and technical persons.

The State shall, in a planned manner, improve training among reserve leading persons.

Article 62 Training of public servants shall be administered through registration.

The period of time for training among public servants shall be determined by the department in charge of public servants in accordance with the requirements for training specified in Article 61 of this Law.

Training received by a public servant and his academic record shall serve as one of the bases for his assessment, appointment and promotion.

Chapter XI Exchange and Avoidance

Article 63 The State applies an exchange system among public servants.

Public servants may be exchanged within the contingent of public servants, and may also be exchanged with persons engaged in official duties from State-owned enterprises and public institutions, people's organizations and non-government organizations.

The forms of exchange include assignment to another post, transfer and secondment for getting experience.

Article 64 Persons engaged in official duties from State-owned enterprises and public institutions, people's organizations and non-government organizations may be transferred to government departments to take leading posts or non-leading posts at or above the position of associate analyst and other positions at corresponding as well. The candidate to be transferred shall meet the qualifications specified in Article 11 of this Law and the qualifications required by the post to be taken, and he shall not be a person as specified in Article 24 of this Law. The department planning to accept the transfer of a person shall, in accordance with the provisions mentioned above, conduct strict review on the candidate to be accepted, and grant approval in compliance with the limits of authorized administration, and may give the candidate tests, when necessary.

Article 65 Public servants transferred between different posts shall possess the qualifications required by the posts to be taken, and such transfer shall be made within the limits of the authorized size and the number of posts.

Leading persons at or below the chief at the provincial or ministerial level shall be transferred between regions and departments in a planned way and with special attention paid to certain leading persons.

The public servants who hold leading posts of the bodies set up within a department or who hold non-leading posts of a special nature shall be transferred within the department in a planned way.

Article 66 Public servants may, in light of the need for training them to become experienced, be selected and sent to departments at the lower or higher levels, to departments in other regions and to State-owned enterprises and public institutions as the secondment for the purpose.

During the period of the secondment for training to become experienced, the organizational affiliation of the public servants with their original departments shall remain unchanged.

Article 67 Public servants shall obey the decisions made by the departments for exchange.

If a public servant himself applies for an exchange, the application shall be subject to approval within the limits of authorized administration.

Article 68 If public servants are connected by conjugal relationship, lineal blood relationship, collateral relative relationship by blood within three generations, or by close in-law relationship, they shall not take posts directly under the same leader within the same department or take the posts that are connected by a relationship directly between the lead and the led, and nor shall they work in the fields of organization, personnel affairs, discipline inspection, supervision, auditing or financial work in a department where one of the parties holds a leading post.

With regard to special regions or work of special nature, where adaptation need to be made in order to implement the avoidance system when making appointments, the regulations in this respect shall be formulated by the department in charge of public servants at or above the provincial level.

Article 69 Among public servants who hold the principal leading posts in departments at the township or county level, or in relevant departments, regional avoidance shall be implemented, except where otherwise provided for by law.

Article 70 When performing official duties, a public servant shall avoid the following circumstances:

- (1) His personal interests are involved;
- (2) The interests of the party with whom he is connected by the ties of kinship, as specified in the first paragraph of Article 68 of this Law, are involved; and
- (3) Other circumstances which may interfere with the performance of his official duties impartially.

Article 71 Where any circumstances arise which require a public servant's avoidance, he himself shall apply for avoidance; and the interested party shall have the right to apply for the public servant's avoidance. Other persons may provide information to the department concerned about the circumstances which require a public servant's avoidance.

The department shall examine the application made by the public servant himself or by the interested party, and make a decision on whether or not there is a need for avoidance, and it may also directly make the decision on avoidance in the absence of application.

Article 72 If there are other provisions stipulated by law on avoidance by public servants, such provisions shall apply.

Chapter XII Salary, Welfare and Insurance

Article 73 The uniform salary system of the State which combines posts with ranks shall be implemented among public servants.

The principle of distribution according to work shall be applied to the salary system of public servants, which embodies such factors as the duties and responsibilities, work capability, actual achievements in work as well as educational background and seniority, and maintains a rational difference in salaries between different posts and ranks.

The State shall set up a mechanism for normal increase in the salaries of public servants.

Article 74 The salary of a public servant includes the basic salary, allowances, subsidies and bonuses.

A public servant shall, in accordance with State regulations, enjoy such allowances as the extra regional allowances, allowances for poverty-stricken and outlying regions and post allowances.

A public servant shall, in accordance with State regulations, enjoy such subsidies and benefits as housing allowances and medical benefits.

Where a public servant is regarded as excellent or competent through regular assessment, he shall enjoy the year-end bonus in accordance with State regulations. The salaries of public servants shall be paid on time and in full.

Article 75 The salary standards of public servants shall be coordinated with the development of the national economy and be suited to progress of the society.

The State shall institute a salary survey system, under which regular surveys shall be conducted and comparisons be made between the salary standards of public servants and those of people at the corresponding levels who work in enterprises, and take the findings of the surveys and the results of comparisons as the basis for adjustment of the salary standards of public servants.

Article 76 Public servants shall enjoy welfare benefits in accordance with State regulations. The State shall raise the welfare standards of the public servants in line with the level of economic and social development.

Public servants shall follow the working hour system prescribed by the State and take holidays according to State regulations. Where a public servant work overtime in addition to statutory working days, he shall have deferred days off accordingly.

Article 77 The State establishes an insurance system for public servants to guarantee them access to assistance and compensation when they are retired, fall ill, are injured at work, give birth to babies, are unemployed, etc. When a public servant becomes disabled at work, he shall be entitled to benefits for the injured and disabled as prescribed by the State.

Where a public servant sacrifices himself for public interests, or dies while performing an official duty or dies from an illness because of work, his family members shall receive consolation money and preferential treatment prescribed by the State.

Article 78 No departments shall, on their own, alter the policies on the salaries, welfare benefits and insurance of public servants in violation of State regulations, or increase or reduce their salaries, welfare benefits or insurance without authorization. No departments shall hold up or deduct the salaries to public servants, or be in arrears with payment of the same.

Article 79 The expenditures required for payment of salaries, welfare benefits, insurance premiums and retirement pensions of public servants as well as for the recruitment and employment, training, reward and dismissal of public servants shall be guaranteed by having them listed in the financial budget.

Chapter XIII Resignation and Dismissal

Article 80 If a public servant wishes to resign from public employment, he shall submit a written application to the department in charge of appointment and removal. The said department shall, within 30 days from the date it receives the application, examine the application before giving approval, and in the case of the application submitted by a leading person who wishes to resign from public office, it shall do so within 90 days from the date it receives the application.

Article 81 A public servant shall not resign from public employment, if he:

- (1) has not served for the minimum number of years prescribed by the State;
- (2) is holding a special post involving State secrets or has not left the post for the number of years prescribed by the State for being relieved of such secrets;
- (3) has not finished the handling of important official business, which requires continued handling by him in person;
- (4) is subject to auditing or disciplinary investigation, or is a criminal suspect and the judicial proceedings have not been concluded; or
- (5) is not allowed to resign from public employment for other reasons, as prescribed by laws and administrative regulations.

Article 82 If a public servant holding a leading post is required by the provisions of law to resign from his post for a change of work, he shall go through the formalities for resignation.

A public servant holding a leading post, owing to his personal or other reasons, may apply for resignation from the leading post of his own accord.

Where a leading person commits a grave mistake or grossly neglects his duty in work, thus causing heavy losses to or exerting a bad influence on society, or, as a leading person, is held responsible for a major accident, he shall admit his mistake and resign from the leading post.

If a leading person who should admit his mistake and resign or is no longer suitable for holding the current leading post due to other reasons does not offer resignation, he shall be ordered to resign from the leading post.

Article 83 A public servant shall be dismissed, if he:

- (1) is regarded as incompetent in the annual assessment for two years running;
- (2) is inadequate for the present post and refuses to accept other arrangement;
- (3) refuses to accept reasonable arrangement for adjustment of his post, which is needed when the department he is working in is reorganized, dissolved, merged with another department, or streamlined;
- (4) fails to perform the duties of a public servant, fails to observe the discipline for public servants, fails to make any change for the better after persuasion, and therefore, is not suitable to remain in the department, but it is inappropriate to dismiss him as a disciplinary action, either; or
- (5) stays away from work without leave, or fails to return after the expiration of his official trip or leave for 15 days running without justifiable reasons, or for 30 days accumulated within one year.

Article 84 A public servant shall not be dismissed, if he:

- (1) becomes disabled while performing official duties and is confirmed as having lost or partially lost the ability to work;
- (2) is within the prescribed period of time for medical treatment after falling ill or being injured;
- (3) is in the period of pregnancy, maternity leave or breast-feeding, in the case of a female public servant; or
- (4) is not to be dismissed for other reasons, as prescribed by laws and administrative regulations.

Article 85 The dismissal of a public servant shall be decided within the limits of authorized administration. The public servant to be dismissed shall be informed in writing of the decision on his dismissal.

The public servant being dismissed may draw the dismissal pay or receive unemployment insurance in accordance with relevant State regulations.

Article 86 Whether resigning from his post or being dismissed, a public servant shall, before leaving the post, go through the procedures for handing over official duties, and when necessary, he may be subject to an auditing in accordance with relevant regulations.

Chapter XIV Retirement

Article 87 A public servant who reaches the age for retirement prescribed by the State or completely loses his ability to work, shall retire.

Article 88 If a public servant meets one of the following conditions and applies for retirement of his own free will, he may, upon approval by the department in charge of appointment and removal, retire before reaching the retirement age:

- (1) He has worked completely for 30 years;
- (2) He is less than five years away from the retirement age prescribed by the State and yet he has worked completely for 20 years; or
- (3) He meets the other conditions for retirement before reaching the retirement age, as prescribed by the State.

Article 89 After retirement, a public servant shall enjoy retirement pension and other benefits prescribed by the State, and the State shall provide the necessary service and assistance for their everyday life and health, encourage them to participate in social development by bringing their specialties into play.

Chapter XV Appeal and Accusation

Article 90 If a public servant is not satisfied with the following results of the handling of personnel affairs related to himself, he may, within 30 days from the date he comes to know the said handling, apply for a review to the original department handling the matter; if he is not satisfied with the result of the review, he may, within 15 days from the date he receives the decision made after the review, appeal to the department in charge of public servants at the same level or to a department at the next higher level of the original department handling the matter; and he may, skipping the review, directly lodge an appeal within 30 days from the date he comes to know the said handling:

- (1) disciplinary action;
- (2) dismissal or cancellation of employment;
- (3) demotion in post;
- (4) being regarded as incompetent through the regular assessment;
- (5) removal from office;
- (6) being refused the approval for his application for resignation or retirement before reaching the retirement age;
- (7) his salary is not fixed or held up or deducted or his welfare and insurance benefits are not held up or deducted in accordance with relevant regulations; or

(8) other matters for which he may lodge an appeal as prescribed by laws and regulations.

If a public servant is not satisfied with the decision made after handling of his appeal by a department at or below the provincial level, he may make an appeal again to a department at the next higher level of the department that has made the decision.

Where a public servant of an administrative department who lodges an appeal to an administrative supervisory department because he is not satisfied with a disciplinary action, the appeal shall be handled in accordance with the relevant provisions of the Law of the People's Republic of China on Administrative Supervision.

Article 91 The original department handling a matter shall, within 30 days from the date it receives the application for review, make a decision after the review. The department accepting and handling appeals lodged by public servants shall, within 60 days from the date it accepts an appeal, make a decision after the handling; and if the case is complicated, the time for making a decision may be properly extended, but such an extension shall not exceed 30 days.

During the period of review or appeal, the execution of the decision on disciplinary action shall not be discontinued.

Article 92 If the department accepting the appeal lodged by a public servant confirms, upon examination, that a personnel affair is handled erroneously, the original department handling the same shall correct it in time.

Article 93 If a public servant believes that the department he is working in and its leading persons have infringed upon his lawful rights and interests, he may, according to law, make an accusation to the department at a higher level or to a special department concerned. The department accepting the accusation shall, without delay, handle it in accordance with relevant regulations.

Article 94 When lodging an appeal or accusation, a public servant shall not make up a story, or lodge a false accusation against or frame up another person.

Chapter XVI Position Appointment

Article 95 A department may, in light of the need of work and upon approval by the department in charge of public servants at or above the provincial level, implement the appointment system for positions requiring highly professional knowledge and for auxiliary positions.

Where the positions specified in the preceding paragraph involve State secrets, the appointment system shall not be implemented.

Article 96 To engage public servants, a department may openly advertise for the purpose by reference to the procedures for examination and recruitment of public servants, and may also select and appoint the persons from among those who meet the qualifications.

A department shall engage public servants within the specified size of the establishment and the norm for its expenditure on salaries.

Article 97 A department shall, in accordance with the principles of equality, voluntariness and reaching agreement through consultation, conclude written contracts with the public servants it appoints, in which to specify the rights and duties of both the department and the public servants appointed. An appointment contract may be altered or terminated upon agreement reached by both parties through consultation.

The conclusion, alteration or termination of an appointment contract shall be reported to the department in charge of public servants at the same level for the record.

Article 98 An appointment contract shall include clauses concerning the term of the contract, the position and the limits of power and the responsibilities involved, salary, welfare and, insurance benefits and liabilities for breach of contract.

The term of an appointment contract shall be from one year to five years. A trial period may be agreed upon in an appointment contract, and it shall be from one month to six months.

An agreed-upon salary system shall, in accordance with State regulations, be carried out among the public servants employed under the appointment system, and the specific measures in this regard shall be formulated by the department in charge of public servants at the central level.

Article 99 A department shall administer its appointed public servants in accordance with this Law and the appointment contracts.

Article 100 The State shall set up an arbitration system for personnel disputes.

An arbitrator for personnel dispute shall, in accordance with the principles of legitimacy, impartiality and timely handling, safeguard the lawful rights and interests of both parties in a dispute according to law. A personnel dispute arbitration commission shall be established in light of need. A personnel dispute arbitration commission shall be composed of the representatives of the department in charge of public servants, of the employing department, and of the public servants employed under the appointment system, and legal experts.

Where a dispute arises over the fulfillment of the appointment contract between a public servant employed under the appointment system and the department he belongs to, an application for arbitration may be filed to a personnel dispute arbitration commission within 60 days from the date the dispute arises. If the party concerned is not satisfied with the arbitration award, it may bring a lawsuit before a people's court within 15 days from the date it receives the written arbitration award. Once an arbitration award goes into effect, if one of the parties concerned fails to comply with it, another party may apply to the people's court for enforcement.

Chapter XVII Legal Responsibility

Article 101 If a department, in violation of the provisions of this Law, commits one of the following acts, the leading department at or above the county level or the department in charge of public servants shall, in compliance with the limits of authorized administration and on the merits of each case, instruct the department in question to correct its mistakes or declare what it has done invalid; the leading persons to be held responsible and persons directly responsible for the violation shall, depending on the seriousness of the case, be subject to criticism and lecturing, or disciplinary action; and if the violation constitutes a crime, criminal responsibility shall be investigated in accordance with law:

- (1) failing to recruit, assign, transfer, appoint or promote public servants in keeping with the authorized size of the department, the number of posts and the qualifications required by the posts;
- (2) failing to give reward to, take disciplinary action against and have avoidance of, public servants and to handle their retirement in accordance with prescribed conditions;
- (3) failing to recruit, assign, transfer, appoint and promote public servants, or to have posts taken through competition, make public selections, or to conduct assessment, give reward and take disciplinary action in compliance with the prescribed procedures;
- (4) altering the standards of salary, welfare and insurance benefits of public servants in violation of State regulations;
- (5) disclosing examination questions, violating examination rules or committing other acts, which seriously impair the openness and impartiality in recruitment, competition for posts and public selection;
- (6) failing to accept or handle, in accordance with relevant regulations, appeals or accusations filed by public servants; and
- (7) other acts committed in violation of the provisions of this Law.

Article 102 Where public servants resign from public employment or retire, they shall not hold office in enterprises with which they have been directly related in work, or in other profit-making organizations, and they shall not engage in profit-making activities directly related to their original work-within three years after leaving their posts in the case of leading persons and within two years in the case of the others.

If a public servant violates the provisions of the preceding paragraph after his resignation from public employment or his retirement, the department in charge of public servants at the same level as the department where he originally worked shall instruct him to make correction within a time limit; if he fails to do so at the expiration of the time limit, the administrative department for industry and commerce at or above the county level shall confiscate his unlawful gains obtained during his employment, instruct the unit employing him to dismiss him, and shall, depending on the seriousness of the circumstances, impose on the employing units a fine of not less than the amount of the unlawful gains of the person under punishment, but not more than five times that amount.

Article 103 Where a department damages the reputation of a public servant due to its erroneous handling of specific personnel affairs, it shall make an apology to the public servant, rehabilitate his reputation and eliminate the bad effects; and if economic losses are caused therefrom, it shall make compensation according to law.

Article 104 If a staff member of the department in charge of public servants, in violation of the provisions of this Law, abuses his power, neglects his duty or engages in malpractices for personal gain, which constitutes a crime, he shall be investigated for criminal responsibility according to law; and if the violation is not serious enough to constitute a crime, disciplinary action shall be taken against him.

Chapter XVIII Supplementary Provisions

Article 105 For the purposes of this Law, leading members mean the leading persons of a department, excluding the persons holding leading posts in a body set up within the department.

Article 106 Except for the subsidiary staff doing odd jobs, the staff members of public institutions with the function of administering public affairs, as authorized by laws and regulations, shall, upon approval, be administered according to this Law, *mutatis mutandis*.

Article 107 This Law shall go into effect as of January 1, 2006. The Provisional Regulations of the State Council on Reward and Punishment of Staff Members of the State Administrative Departments, approved by the Standing Committee of the National People's Congress on October 23, 1957 and promulgated by the State Council on October 26, 1957, as well as the Provisional Regulations on Public Servants of the State, promulgated by the State Council on August 14, 1993, shall be abolished at the same time.