

# Trade Union Law of the People's Republic of China (2009 Amendment)

[Effective]

【Print】

## 中华人民共和国工会法(2009修正) [现行有效]

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Trade Union Law of the People's Republic of China

中华人民共和国工会法

(Adopted on April 3, 1992 at the 5th Session of the 7th National People's Congress; promulgated by Order No. 57 of the President of the People's Republic of China on April 3, 1992; amended according to the [Decision on Amending the Trade Union Law of the People's Republic of China](#) at the 24th Session of the Standing Committee of the 9th National People's Congress on Oct. 27, 2001; amended according to the [Decision on Amending Some Laws](#) issued by Order No. 18 of the President of the People's Republic of China adopted at the tenth session of the 11th Standing Committee of the National People's Congress on August 27, 2009)

(1992年4月3日第七届全国人民代表大会第五次会议通过 1992年4月3日中华人民共和国主席令第五十七号公布 根据2001年10月27日第九届全国人民代表大会常务委员会第二十四次会议《关于[修改<中华人民共和国工会法>的决定](#)》第一次修正 根据2009年8月27日中华人民共和国主席令第十八号第十一届全国人民代表大会常务委员会第十次会议《关于[修改部分法律的决定](#)》第二次修正)

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Article 1 This Law is formulated in accordance with the [Constitution](#) to protect the position of trade unions in State political, economic and social life, to clarify the rights and obligations of trade unions and to enable them to play their proper role in the development of China's socialist modernization.

Article 2 Trade unions are mass organizations formed by the working classes of their own free will. The All-China Federation of Trade Unions and all of its trade union organizations shall represent the interests of the employees and protect the legal rights and interests of the employees.

Article 3 All laborers doing physical or mental work in enterprises, public institutions and government organs within Chinese territory who earn their living primarily from wages shall have the right to participate in and form trade union organizations pursuant to the law, regardless of their nationalities, races, sexes, occupations, religious beliefs or educations. No organization or individual may hinder them from doing so or restrict them.

Article 4 Trade unions must abide by and safeguard the [Constitution](#) and use the [Constitution](#) as the standard for their basic activities, focus on the economic development, adhere to the socialist road and people's democratic dictatorship, insist on the leadership of the Chinese Communist Party and the guidance of Marxism Leninism, Mao Zedong Thought and Deng Xiaoping Theory, and persevere in reform and opening to the outside world, and the trade union work shall be carried out independently and voluntarily in accordance with the [Constitution](#) of Trade Unions. The trade union national representative assembly shall formulate or amend the Constitution of the All-China Federation of Trade Unions, which shall not be in conflict in any way with China's Constitution and laws. The State shall protect the legal rights and interests of trade unions and any infringement of these rights and interests shall be prohibited.

Article 5 Trade unions shall organize and educate employees to exercise their democratic rights pursuant to the provisions of China's [Constitution](#) and laws, to play their role as the nation's master, participate through various channels and formats in the management of national affairs, economic and cultural institutions and social matters, assist the people's governments in their work, uphold the leadership or the working classes and support the worker-peasant alliance which forms the basis of the people's democratic dictatorship of socialist state power.

Article 6 The basic function and duty of the trade unions is to safeguard the legal rights and interests of the employees. While upholding the overall rights and interests of the whole nation, trade unions shall, at the same time, represent and safeguard the rights and interests of employees. Trade unions shall coordinate the labor relations and

**第一条** 为保障工会在国家政治、经济和社会生活中的地位，确定工会的权利与义务，发挥工会在社会主义现代化建设事业中的作用，根据[宪法](#)，制定本法。

**第二条** 工会是职工自愿结合的工人阶级的群众组织。中华全国总工会及其各工会组织代表职工的利益，依法维护职工的合法权益。

**第三条** 在中国境内的企业、事业单位、机关中以工资收入为主要生活来源的体力劳动者和脑力劳动者，不分民族、种族、性别、职业、宗教信仰、教育程度，都有依法参加和组织工会的权利。任何组织和个人不得阻挠和限制。

**第四条** 工会必须遵守和维护[宪法](#)，以[宪法](#)为根本的活动准则，以经济建设为中心，坚持社会主义道路、坚持人民民主专政、坚持中国共产党的领导、坚持马克思列宁主义毛泽东思想邓小平理论，坚持改革开放，依照工会章程独立自主地开展工作。工会会员全国代表大会制定或者修改《中国工会章程》，章程不得与[宪法](#)和法律相抵触。国家保护工会的合法权益不受侵犯。

**第五条** 工会组织和教育职工依照[宪法](#)和法律的规定行使民主权利，发挥国家主人翁的作用，通过各种途径和形式，参与管理国家事务、管理经济和文化事业、管理社会事务；协助人民政府开展工作，维护工人阶级领导的、以工农联盟为基础的人民民主专政的社会主义国家政权。

**第六条** 维护职工合法权益是工会的基本职责。工会在维护全国人民总体利益的同时，代表和维护职工的合法权益。工会通过平等协商和集体合同制度，协调劳动关系，维护企业职工劳动

safeguard the labor rights and interests of the enterprise employees through equal negotiation and collective contract system. Trade unions shall, in accordance with legal provisions, organize the employees to participate in the democratic decision-making, democratic management and democratic supervision of their respective units through the employee representative assembly or other forms. A trade union must liaise closely with employees, listen to and reflect their views and requirements, care for their livelihood, assist them in overcoming difficulties and serve them wholeheartedly.

Article 7 A trade union shall mobilize and organize the employees to participate in the economic development actively, and to complete the production and work assignments conscientiously, educate the employees to improve their ideological thoughts and ethics, technological and professional, scientific and cultural qualities, and build a employee team with ideals, ethics, education and discipline.

Article 8 The All-China Federation of Trade Unions shall, in accordance with the principles of independence, equality, mutual respect and mutual non-interference in internal affairs, improve the relations of friendly cooperation with the trade union organizations of various other nations.

## Chapter 2 Trade Union Organizations

Article 9 Trade union organizations at all levels shall be established in accordance with the principle of democratic centralism. Trade union committees at all levels shall be elected by their general assemblies or representative assemblies. The close relatives of the major principals of an enterprise may not be elected as the members of the basic-level trade union committee of that enterprise. Trade union general assemblies and representative assemblies shall have the right to change or dismiss their elected representatives or committee members. Trade union committees at all levels shall be responsible to and shall submit work reports to general assemblies or representative assemblies at their respective levels and shall be subject to their supervision. Trade union organizations at the higher level shall lead the trade union organizations at the lower level.

Article 10 The trade union of an enterprise, public institution or government organ with 25 or more members shall establish a basic-level trade union committee; if the members are less than 25, a basic-level trade union committee may be established separately, or a basic-level trade union committee be established by the members of 2 units or more, or may an organizer be elected to organize activities for the members. If the number of female employee is relatively large, a trade union committee for female employees may be established under the leadership of the equivalent level trade union; if the number of female employee is relatively small, female employee member shall be included in the trade union committee. The towns and townships, and urban districts with a relatively large number of enterprise employees

权益。工会依照法律规定通过职工代表大会或者其他形式，组织职工参与本单位的民主决策、民主管理和民主监督。工会必须密切联系职工，听取和反映职工的意见和要求，关心职工的生活，帮助职工解决困难，全心全意为职工服务。

**第七条** 工会动员和组织职工积极参加经济建设，努力完成生产任务和工作任务。教育职工不断提高思想道德、技术业务和科学文化素质，建设有理想、有道德、有文化、有纪律的职工队伍。

**第八条** 中华全国总工会根据独立、平等、互相尊重、互不干涉内部事务的原则，加强同各国工会组织的友好合作关系。

## 第二章 工会组织

**第九条** 工会各级组织按照民主集中制原则建立。各级工会委员会由会员大会或者会员代表大会民主选举产生。企业主要负责人的近亲属不得作为本企业基层工会委员会成员的人选。各级工会委员会向同级会员大会或者会员代表大会负责并报告工作，接受其监督。工会会员大会或者会员代表大会有权撤换或者罢免其所选举的代表或者工会委员会组成人员。上级工会组织领导下级工会组织。

**第十条** 企业、事业单位、机关有会员二十五人以上的，应当建立基层工会委员会；不足二十五人的，可以单独建立基层工会委员会，也可以由两个以上单位的会员联合建立基层工会委员会，也可以选举组织员一人，组织会员开展活动。女职工人数较多的，可以建立工会女职工委员会，在同级工会领导下开展工作；女职工人数较少的，可以在工会委员会中设女职工委员。企业职工较多的乡镇、城市街道，可以建立基层工会的联合会。县级以上地方建立地

may establish the association of basic-level trade unions. A locality at county level or above shall establish a local all-level federation of trade unions. Several enterprises of the same industry or in industries of a similar nature may establish a national or local specific industry trade union, depending on their requirements. The All-China Federation of Trade Unions shall operate uniformly at a national level.

Article 11 The establishment of a basic-level trade union, local all-level federation of trade unions or a national or local specific industry trade union must be reported to the trade union organization at the next highest level for approval. The trade unions at the higher level may assign personnel to assist the direct the enterprises to establish trade unions, no unit or individual may obstruct.

Article 12 No unit or individual may cancel or consolidate trade union organizations. If a basic-level trade union organization's enterprise terminates its operations or its public institution or state organ is cancelled, the said trade union organization shall also be cancelled and the case be reported to the trade union at the next higher level. For the trade union cancelled according to the provisions of the preceding paragraph, the membership of its members may be reserved, and the specific management measures shall be formulated by the All-China Federation of Trade Unions.

Article 13 The trade union of an enterprise or public institution with 200 or more workers may establish full-time trade union chairman. The number of the full-time working personnel of the trade union shall be determined by the union and the enterprise or public institution through consultation.

Article 14 The All-China Federation of Trade Unions, local all-level federations of trade unions and specific industry trade unions shall have the legal person status of a social group. Basic-level trade union organizations meeting the legal person requirements stipulated by the [General Principles of Civil Law](#) shall be awarded the legal person status of a social group pursuant to the law.

Article 15 The terms of office of the basic-level trade union committee shall be three or five years each. The terms of office of the committees of the local all-level federations of trade unions and of the specific industry trade unions shall be five years each.

Article 16 A basic-level trade union committee shall hold general assembly or representative assembly periodically to discuss and decide on the major issues of the trade union work. The general assembly or representative assembly may be held temporarily upon the proposal of the basic-level trade union committee or more than one third of the trade union members.

Article 17 During their terms of office, a trade union chairman and deputy chairman shall not be arbitrarily transferred to other positions. When indeed necessary, approval shall be obtained from the

方各级总工会。同一行业或者性质相近的几个行业，可以根据需要建立全国的或者地方的产业工会。全国建立统一的中华全国总工会。

**第十一条** 基层工会、地方各级总工会、全国或者地方产业工会组织的建立，必须报上一级工会批准。上级工会可以派员帮助和指导企业职工组建工会，任何单位和个人不得阻挠。

**第十二条** 任何组织和个人不得随意撤销、合并工会组织。基层工会所在的企业终止或者所在的事业单位、机关被撤销，该工会组织相应撤销，并报告上一级工会。依前款规定被撤销的工会，其会员的会籍可以继续保留，具体管理办法由中华全国总工会制定。

**第十三条** 职工二百人以上的企业、事业单位的工会，可以设专职工会主席。工会专职工作人员的人数由工会与企业、事业单位协商确定。

**第十四条** 中华全国总工会、地方总工会、产业工会具有社会团体法人资格。基层工会组织具备[民法通则](#)规定的法人条件的，依法取得社会团体法人资格。

**第十五条** 基层工会委员会每届任期三年或者五年。各级地方总工会委员会和产业工会委员会每届任期五年。

**第十六条** 基层工会委员会定期召开会员大会或者会员代表大会，讨论决定工会工作的重大问题。经基层工会委员会或者三分之一以上的工会会员提议，可以临时召开会员大会或者会员代表大会。

**第十七条** 工会主席、副主席任期未满时，不得随意调动其工作。因工作需要调动时，应当征得本级工会委员会

respective level trade union committee and higher level trade union. General assembly or representative assembly must be held to discuss the dismissal of the trade union chairman or deputy chairman, and the chairman and deputy chairman may not be dismissed unless all members of the general assembly or half the representatives of the representative assembly approve the dismissal.

Article 18 From the day on which the full-time chairman, deputy chairman or the committee members take their posts, the periods of their labor contracts shall be extended automatically, the periods extended shall be equal to their respective terms of office; if the unfulfilled labor contract periods of the non-full-time chairman, deputy chairman or the committee members are shorter than their respective terms of office, the labor contract periods shall be extended until their terms of office expire. But those committing serious negligence or reaching the lawful age for retirement are exceptional.

### Chapter 3 Rights and Obligations of a Trade Union

Article 19 If an enterprise or public institution violates the provisions of the employee representative assembly system or other democratic management systems, the trade union of the said unit shall have the right to request corrections and ensure that the employees exercise their rights to democratic management pursuant to the law. The enterprise or public institution shall handle pursuant to law the matters that shall be submitted to the employee assembly or employee representative assembly for deliberation, approval and decision provided for by laws and regulations.

Article 20 A trade union shall assist and provide guidance to employees in signing labor contracts with an enterprise or a public institution managed as an enterprise. A trade union shall represent employees in equal negotiation and signing a collective contract with an enterprise or a public institution managed as an enterprise. The draft of a collective contract shall be submitted to the employee representatives or the complete body of employees for discussion and adoption. The trade union at the next higher level shall support and assist the trade union in signing the collective contract. If the enterprise violates the collective contract and infringes upon the rights and interests of the employees, the trade union may ask the enterprise to bear liabilities according to law; if the dispute over the performance of the collective contract can't be settled through consultation, the trade union may submit it to the arbitral agency of labor dispute for arbitration, if the arbitral agency refuses to accept the case or the trade union refuses to accept the finding of arbitration, a lawsuit may be brought before a people's court.

Article 21 A trade union which believes that an enterprise's or a public institution's punishment on an employee is inappropriate shall have the right to put forward its views on the matter. When unilaterally canceling the labor contract with an employee, the enterprise shall notify the trade union of the reasons in advance, if the trade union regards that

和上一级工会的同意。罢免工会主席、副主席必须召开会员大会或者会员代表大会讨论，非经会员大会全体会员或者会员代表大会全体代表过半数通过，不得罢免。

**第十八条** 基层工会专职主席、副主席或者委员自任职之日起，其劳动合同期限自动延长，延长期限相当于其任职期间；非专职主席、副主席或者委员自任职之日起，其尚未履行的劳动合同期限短于任期的，劳动合同期限自动延长至任期期满。但是，任职期间个人严重过失或者达到法定退休年龄的除外。

### 第三章 工会的权利和义务

**第十九条** 企业、事业单位违反职工代表大会制度和其他民主管理制度，工会有权要求纠正，保障职工依法行使民主管理的权利。法律、法规规定应当提交职工大会或者职工代表大会审议、通过、决定的事项，企业、事业单位应当依法办理。

**第二十条** 工会帮助、指导职工与企业以及实行企业化管理的事业单位签订劳动合同。工会代表职工与企业以及实行企业化管理的事业单位进行平等协商，签订集体合同。集体合同草案应当提交职工代表大会或者全体职工讨论通过。工会签订集体合同，上级工会应当给予支持和帮助。企业违反集体合同，侵犯职工劳动权益的，工会可以依法要求企业承担责任；因履行集体合同发生争议，经协商解决不成的，工会可以向劳动争议仲裁机构提请仲裁，仲裁机构不予受理或者对仲裁裁决不服的，可以向人民法院提起诉讼。

**第二十一条** 企业、事业单位处分职工，工会认为不适当的，有权提出意见。企业单方面解除职工劳动合同时，应当事先将理由通知工会，工会认为企业违反法律、法规和有关合同，要求重



the enterprise has violated the laws, regulations and relevant contracts and requests that the case be reinvestigated and dealt with anew, the enterprise shall deliberate the views of the trade union and notify the trade union of the handling result in written form. The trade union shall support and assist the employee who thinks that the enterprise has infringed upon his/her labor rights and interests, and applies for arbitration of labor dispute or brings a lawsuit before a people's court.

Article 22 If an enterprise or public institution has, in violation of the provisions of labor laws and regulations, infringed, as follows, upon the labor rights and interests of the employees, the trade union shall represent the employees to negotiate with the enterprise or public institution and request the enterprise or public institution to take measures for corrections; the enterprise or public institution shall deliberate and handle the case, and reply to the trade union; if the enterprise or public institution refuses to make corrections, the trade union may ask the local people's government to handle the case according to law:

- (1) pocketing part of the employees' wages;
- (2) failing to provide labor safety and health conditions;
- (3) extending the labor time arbitrarily;
- (4) infringing upon the special rights and interests of female employees and underage employees; and
- (5) other serious infringement upon the labor rights and interests of the employees.

Article 23 A trade union shall, pursuant to State regulations, supervise the concurrent design, concurrent construction, and concurrent use of the work conditions, and the safety and hygiene facilities of the main part of the project of a newly constructed or expanded enterprise or of an undergoing technological transformation. The said enterprise or its department in charge shall conscientiously deal with the views put forward by the trade union and shall notify the trade union of the outcome in written form.

Article 24 If a trade union discovers that an enterprise is breaking rules and regulations by directing or forcing workers to take risks or if distinct and significant hidden dangers or occupational hazards are discovered during the production process, the trade union shall have the right to suggest a resolution, and the enterprise shall study the problem and make a reply promptly; on discovering a situation where the personal safety of workers is jeopardized, a trade union shall have the right to suggest to the enterprise that the workers abandon the dangerous site and the said enterprise must decide promptly on the measures to resolve the matter.

Article 25 A trade union shall have the right to investigate into the issues of the infringement upon the legal rights and interests of the

new research handling, the enterprise should study the trade union's opinion, and notify the trade union in writing of the handling result. If the employee thinks that the enterprise has infringed upon his/her labor rights and interests and applies for arbitration or brings a lawsuit before the people's court, the trade union should support and assist him/her.

**第二十二条** 企业、事业单位违反劳动法律、法规规定,有下列侵犯职工劳动权益情形,工会应当代表职工与企业、事业单位交涉,要求企业、事业单位采取措施予以改正;企业、事业单位应当予以研究处理,并向工会作出答复;企业、事业单位拒不改正的,工会可以请求当地人民政府依法作出处理:

- (一) 克扣职工工资的;
- (二) 不提供劳动安全卫生条件的;
- (三) 随意延长劳动时间的;
- (四) 侵犯女职工和未成年工特殊权益的;
- (五) 其他严重侵犯职工劳动权益的。

**第二十三条** 工会依照国家规定对新建、扩建企业和技术改造工程中的劳动条件和安全卫生设施与主体工程同时设计、同时施工、同时投产使用进行监督。对工会提出的意见,企业或者主管部门应当认真处理,并将处理结果书面通知工会。

**第二十四条** 工会发现企业违章指挥、强令工人冒险作业,或者生产过程中发现明显重大事故隐患和职业危害,有权提出解决的建议,企业应当及时研究答复;发现危及职工生命安全的情况时,工会有权向企业建议组织职工撤离危险现场,企业必须及时作出处理决定。

**第二十五条** 工会有权对企业、事业单位侵犯职工合法权益的问题进行调

employees committed by the enterprise or public institution, and the units concerned shall give assistance.

Article 26 It is necessary that a trade union take part in the investigation and handling of an job-related accident resulting in a fatality or injury or other problems seriously endangering the health of employees. The trade union shall suggest resolutions to the relevant authorities and have the right to require the pursuit of the liability of personnel in charge held directly responsible and other responsible parties. The resolutions suggested by the trade union shall be studied and replied promptly.

Article 27 If an enterprise or public institution is subject to stop work or slow down measures, the trade union shall represent the employees to negotiate with the enterprise, public institution or other relevant authorities, make known the employees' views and requirements and propose resolutions. The enterprise or public institution shall meet the reasonable requirements raised by the employees. And the trade union shall assist the enterprise or public institution in its work so as to enable the normal production process to be resumed as quickly as possible.

Article 28 A trade union shall participate in the mediation in relation to labor disputes within its enterprise. Equivalent level trade union representatives shall participate in district labor dispute arbitration organizations.

Article 29 Trade union federations at the county level or above may provide their affiliated trade unions and employees with legal services.

Article 30 Trade unions shall assist the enterprises, public institutions and government organs in organizing employee collective welfare matters and wage, labor safety and hygiene and social insurance work.

Article 31 Trade unions shall, in conjunction with the enterprises and public institutions, educate the employees to adopt the attitude towards labor as the nation's master, to take good care of the properties of the State and of the enterprises, shall organize the employees to develop mass rationalization proposal and technological innovation activities, to undertake after-hours cultural and technical studies and occupational training, and shall organize the employees to develop recreational and sports activities.

Article 32 According to the entrustment of the governments, the trade unions shall, in conjunction with the relevant authorities, do a good job in the selection, commendation, fostering and management of the model workers and advanced labors (workers).

Article 33 The state organs shall listen to the view of the trade unions when drafting or amending the laws, statutory rules and regulations directly involving the rights and interests of the employees. The people's governments at the level of county or above shall, when formulating the national economic and social development plans, listen to the views of the equivalent level trade unions on the important issues

查，有关单位应当予以协助。

**第二十六条** 职工因工伤亡事故和其他严重危害职工健康问题的调查处理，必须有工会参加。工会应当向有关部门提出处理意见，并有权要求追究直接负责的主管人员和有关责任人员的责任。对工会提出的意见，应当及时研究，给予答复。

**第二十七条** 企业、事业单位发生停工、怠工事件，工会应当代表职工同企业、事业单位或者有关方面协商，反映职工的意见和要求并提出解决意见。对于职工的合理要求，企业、事业单位应当予以解决。工会协助企业、事业单位做好工作，尽快恢复生产、工作秩序。

**第二十八条** 工会参加企业的劳动争议调解工作。地方劳动争议仲裁组织应当有同级工会代表参加。

**第二十九条** 县级以上各级总工会可以为所属工会和职工提供法律服务。

**第三十条** 工会协助企业、事业单位、机关办好职工集体福利事业，做好工资、劳动安全卫生和社会保险工作。

**第三十一条** 工会会同企业、事业单位教育职工以国家主人翁态度对待劳动，爱护国家和企业的财产，组织职工开展群众性的合理化建议、技术革新活动，进行业余文化技术学习和职工培训，组织职工开展文娱、体育活动。

**第三十二条** 根据政府委托，工会与有关部门共同做好劳动模范和先进生产（工作）者的评选、表彰、培养和管理工作。

**第三十三条** 国家机关在组织起草或者修改直接涉及职工切身利益的法律、法规、规章时，应当听取工会意见。县级以上各级人民政府制定国民经济和社会发展规划，对涉及职工利益的重大问题，应当听取同级工会的意见。

involving the rights and interests of the employees. When the people's governments at the county level or above and their relevant authorities formulate important policies or measures on employment, wage, labor safety and hygiene, social insurance, etc, the equivalent level trade unions shall be invited to participate in the research work and the views of the said trade unions shall be taken into consideration.

Article 34 The people's governments at the county level or above may hold meetings or adopt appropriate methods to report the respective governments' important work plans and administrative measures relating to trade union work to their equivalent level trade unions and shall study and determine the ways of handling the suggestions and requests of the working masses reflected through the trade unions. The administrative departments of labor of all levels of people's governments shall, in conjunction with the representatives of their equivalent level trade unions and the enterprises, establish the trilateral negotiation system to jointly study and solve the major problems relating to labor relations.

#### Chapter 4 Basic-level Trade Union Organizations

Article 35 The employee representative assembly of a state-owned enterprise shall be the basic-level structure through which the enterprise executes democratic management as it is the body through which the employees may exercise their rights to democratic management in accordance with the legal provisions. The trade union committee of a state-owned enterprise shall be the working body of the employee representative assembly and shall be responsible for the daily affairs of the employee representative assembly and for inspecting and supervising the implementation of resolutions of the employee representative assembly.

Article 36 The trade union committee of a collective enterprise shall support and organize the employees' participation in democratic management and democratic supervision and shall safeguard the rights of employees to elect and dismiss administrative personnel and to determine important issues relating to operational management.

Article 37 The trade union committees of the enterprises and institutions apart from those provided for in Article 35 and Article 36 of this Law shall organize the employees' participation in the democratic management of the enterprises and public institutions through the corresponding methods of the enterprises and public institutions according to the legal provisions.

Article 38 Enterprises and public institutions shall listen to the views of the trade unions when studying the important issues relating to the operational management and development; and the participation of trade union representatives is necessary in the meetings convened to discuss matters, such as wages, welfare, labor safety and hygiene, and

县级以上各级人民政府及其有关部门研究制定劳动就业、工资、劳动安全卫生、社会保险等涉及职工切身利益的政策、措施时，应当吸收同级工会参加研究，听取工会意见。

**第三十四条** 县级以上地方各级人民政府可以召开会议或者采取适当方式，向同级工会通报政府的重要的工作部署和与工会工作有关的行政措施，研究解决工会反映的职工群众的意见和要求。各级人民政府劳动行政部门应当会同同级工会和企业方面代表，建立劳动关系三方协商机制，共同研究解决劳动关系方面的重大问题。

#### 第四章 基层工会组织

**第三十五条** 国有企业职工代表大会是企业实行民主管理的基本形式，是职工行使民主管理权力的机构，依照法律规定行使职权。国有企业的工会委员会是职工代表大会的工作机构，负责职工代表大会的日常工作，检查、督促职工代表大会决议的执行。

**第三十六条** 集体企业的工会委员会，应当支持和组织职工参加民主管理和民主监督，维护职工选举和罢免管理人员、决定经营管理的重大问题的权力。

**第三十七条** 本法第三十五条、第三十六条规定以外的其他企业、事业单位的工会委员会，依照法律规定组织职工采取与企业、事业单位相适应的形式，参与企业、事业单位民主管理。

**第三十八条** 企业、事业单位研究经营管理和发展的重大问题应当听取工会的意见；召开讨论有关工资、福利、劳动安全卫生、社会保险等涉及职工切身利益的会议，必须有工会代表参加。



social insurance, which involve the personal rights and interests of the employees. The enterprises and public institutions shall support the trade unions in carrying out their work pursuant to the law and the trade unions shall support the enterprises and public institutions in exercising the right to operation and management pursuant to the law.

Article 39 The election of employee representatives from the board of directors or board of supervisors of an enterprise shall be subject to the relevant provisions of the [Company Law](#).

Article 40 A basic-level trade union committee convening a meeting or organizing activities for employees shall do so in time outside production or work hours. If it is necessary to occupy production or work hours, prior approval of the enterprise or public institution shall be required. If a non-full-time trade union committee member of the basic-level trade union uses production or work hours to participate in a union meeting or undertake the trade union work not more than 3 workdays each month, the member's wages shall be issued as usual and other benefits shall not be affected.

Article 41 The full-time working personnel of the trade union committees of enterprises, public institutions or government organs shall have their wages, awards and bonuses paid by the units to which they belong. With regard to social insurance and other welfare benefits, the same treatment shall be enjoyed by them as that enjoyed by the said units' employees.

## Chapter 5 Trade Union Funds and Assets

Article 42 The sources of trade union funds shall be as follows:

- ((1) membership dues paid by union members;
- ((2) monthly allocations of 2% of the total wages of all of its employees paid to a trade union as funds by the enterprise, public institution or government organ which established the said trade union organization;
- ((3) income turned in by the enterprise or public institutions to which the trade union is subordinated;
- ((4) people's government subsidies; and
- ((5) other incomes. The funds allocated by the enterprise or public institution provided for in item 2) of the preceding paragraph shall be paid before tax collection. Trade union funds shall be used primarily to serve the employees and for the trade union activities. Detailed measures on the use of such funds shall be formulated by the All-China Federation of Trade Unions.

Article 43 If an enterprise or public institution delays or refuses the payment of trade union funds without justified reasons, the basic-level trade union or the trade union at the next higher level may apply to the

enterprise, public institution to support the union in carrying out its work, the union shall support the enterprise, public institution in exercising its management rights.

**第三十九条** 公司的董事会、监事会中职工代表的产生, 依照[公司法](#)有关规定执行。

**第四十条** 基层工会委员会召开会议或者组织职工活动, 应当在生产或者工作时间以外进行, 需要占用生产或者工作时间的, 应当事先征得企业、事业单位的同意。基层工会的非专职委员占用生产或者工作时间参加会议或者从事工会工作, 每月不超过三个工作日, 其工资照发, 其他待遇不受影响。

**第四十一条** 企业、事业单位、机关工会委员会的专职工作人员的工资、奖励、补贴, 由所在单位支付。社会保险和其他福利待遇等, 享受本单位职工同等待遇。

## 第五章 工会的经费和财产

**第四十二条** 工会经费的来源:

- (一) 工会会员缴纳的会费;
- (二) 建立工会组织的企业、事业单位、机关按每月全部职工工资总额的百分之二向工会拨缴的经费;
- (三) 工会所属的企业、事业单位上缴的收入;
- (四) 人民政府的补助;
- (五) 其他收入。前款第二项规定的企业、事业单位拨缴的经费在税前列支。工会经费主要用于为职工服务和工会活动。经费使用的具体办法由中华全国总工会制定。

**第四十三条** 企业、事业单位无正当理由拖延或者拒不拨缴工会经费, 基层工会或者上级工会可以向当地人民法

local people's court for order of payment; in case the enterprise of public institution refuses to execute the order of payment, the trade union may apply to the people's court for enforcement according to law.

Article 44 A trade union shall work out its own budget and final accounts, as well as its own fund inspection and supervisory systems in accordance with the principle of independent accounting. All levels of trade unions shall establish fund inspection committees. The fund income and expenditure of trade unions at all levels shall be investigated by the equivalent level fund inspection committees and periodic reports shall be made to the members' general assemblies or representative assemblies and be subject to supervision. A trade union general assembly or representative assembly shall have the right to put forward suggestions on the use of trade union funds. The use of trade union funds shall be subject to the supervision of the State according to law.

Article 45 People's governments at all levels and enterprises, public institutions and government organs shall provide the necessary facilities, venues and other material requirements of trade union organizations handling office matters and arranging union activities.

Article 46 No organization or individual may occupy, misappropriate or arbitrarily allocate a trade union's assets, funds or immovable property allocated by the State for use by the trade union.

Article 47 The jurisdictional framework of those enterprises and public institutions serving employees to which the trade unions are subordinated shall not be altered arbitrarily.

Article 48 Persons retiring from positions with trade unions at the county level or above shall receive the same benefits as that of the persons working for State organs.

## Chapter 6 Legal Responsibilities

Article 49 A trade union shall have the right to submit the infringement upon its legal rights and interests violating the provisions of this Law to the people's government or the departments concerned for handling, or to bring a lawsuit before the people's court.

Article 50 Those, in violation of the provisions of Article 3, Article 11 of this Law that obstruct the employees from participating in or organizing trade unions according to law or that obstruct the trade unions at the next higher levels from assisting and giving guidance in the establishment of trade unions shall be ordered by the administrative departments of labor to make corrections; those refusing to make corrections shall be submitted by the administrative departments of labor to the people's governments at the level of county or above for handling; those causing serious results by the means of violence or threats and constituting crimes shall be investigated into for criminal

院申请支付令；拒不执行支付令的，工会可以依法申请人民法院强制执行。

**第四十四条** 工会应当根据经费独立原则，建立预算、决算和经费审查监督制度。各级工会建立经费审查委员会。各级工会经费收支情况应当由同级工会经费审查委员会审查，并且定期向会员大会或者会员代表大会报告，接受监督。工会会员大会或者会员代表大会有权对经费使用情况提出意见。工会经费的使用应当依法接受国家的监督。

**第四十五条** 各级人民政府和企业、事业单位、机关应当为工会办公和开展活动，提供必要的设施和活动场所等物质条件。

**第四十六条** 工会的财产、经费和国家拨给工会使用的不动产，任何组织和个人不得侵占、挪用和任意调拨。

**第四十七条** 工会所属的为职工服务的企业、事业单位，其隶属关系不得随意改变。

**第四十八条** 县级以上各级工会的离休、退休人员的待遇，与国家机关工作人员同等对待。

## 第六章 法律责任

**第四十九条** 工会对违反本法规定侵犯其合法权益的，有权提请人民政府或者有关部门予以处理，或者向人民法院提起诉讼。

**第五十条** 违反本法第三条、第十一条规定，阻挠职工依法参加和组织工会或者阻挠上级工会帮助、指导职工筹建工会的，由劳动行政部门责令其改正；拒不改正的，由劳动行政部门提请县级以上人民政府处理；以暴力、威胁等手段阻挠造成严重后果，构成犯罪的，依法追究刑事责任。

responsibilities.

Article 51 Those, in violation of the provisions of this Law, that make vindictive attacks by transferring the working personnel of trade unions performing their duties according to law from their posts without justified reasons shall be ordered by the administrative departments of labor to make corrections; and shall make compensation if any loss is caused. Those that insult, defame or make personal injuries to the trade union working personnel performing duties according to law and thus committed crimes shall be investigated for criminal liability by applying the Criminal Law of the People's Republic of China; in case a crime hasn't been constituted, the public security departments shall give punishment according to the [Public Security Administration Punishment Law of the People's Republic of China](#).

Article 52 Those, in violation of the provisions of this Law, who is under any of the following circumstances shall be ordered by the administrative departments of labor to resume the employees' work and reissue the remuneration that should be paid during the cancellation of labor contracts, or be ordered to make compensation of two times the annual income of the said employees:

(1) the employees' labor contracts are cancelled because of the employees' participation in trade union activities; or

(2) the labor contracts of the trade union working personnel are cancelled because of their performance of the duties provided for by this Law.

Article 53 Those, in violation of the provisions of this Law, committing any of the following acts shall be ordered to make corrections and be dealt with by the people's governments at the level of county or above according to law:

(1) hindering the trade union organizations in organizing the employees to exercise the democratic rights through the employee representative assemblies or other forms according to law;

(2) illegally canceling or consolidating the trade union organizations;

(3) hindering the trade unions from participating in the investigation and handlings of the job-related accidents resulting in fatality or personal injuries of the employees and other infringement upon the legal rights and interests of the employees; and

(4) refusing to make equal negotiation without justified reasons.

Article 54 For those, in violation of the provisions of Article 46 of this Law, occupying the trade union funds and refusing to return, the trade unions may bring lawsuits before the people's courts, request the return of the funds and compensation for losses.

**第五十一条** 违反本法规定，对依法履行职责的工会工作人员无正当理由调动工作岗位，进行打击报复的，由劳动行政部门责令改正、恢复原工作；造成损失的，给予赔偿。对依法履行职责的工会工作人员进行侮辱、诽谤或者进行人身伤害，构成犯罪的，依法追究刑事责任；尚未构成犯罪的，由公安机关依照[治安管理处罚法](#)的规定处罚。

**第五十二条** 违反本法规定，有下列情形之一的，由劳动行政部门责令恢复其工作，并补发被解除劳动合同期间应得的报酬，或者责令给予本人年收入二倍的赔偿：

(一) 职工因参加工会活动而被解除劳动合同的；

(二) 工会工作人员因履行本法规定的职责而被解除劳动合同的。

**第五十三条** 违反本法规定，有下列情形之一的，由县级以上人民政府责令改正，依法处理：

(一) 妨碍工会组织职工通过职工代表大会和其他形式依法行使民主权利的；

(二) 非法撤销、合并工会组织的；

(三) 妨碍工会参加职工因工伤亡事故以及其他侵犯职工合法权益问题的调查处理的；

(四) 无正当理由拒绝进行平等协商的。

**第五十四条** 违反本法第四十六条规定，侵占工会经费和财产拒不返还的，工会可以向人民法院提起诉讼，要求返还，并赔偿损失。

Article 55 The working personnel, in violation of the provisions of this Law, damaging the rights and interests of the employees or trade unions shall be ordered by the equivalent level trade unions or the trade unions at the next higher levels to make corrections or be given punishment; those under serious circumstances shall be dismissed according to the Constitution of the All-China Federation of Trade Unions; those causing losses shall bear the responsibilities for compensation; and those constituting crimes shall be investigated into for criminal responsibilities.

## Chapter 7 Supplementary Provisions

Article 56 The specific measures for the implementation of this Law of the trade unions of state organs shall be formulated by the All-China Federation of Trade Unions together with the relevant state organs.

Article 57 This Law shall take effect from the date of promulgation. The [Trade Union Law of the People's Republic of China](#), issued on June 29, 1950 by the People's Central Government, shall be annulled simultaneously.

**第五十五条** 工会工作人员违反本法规定，损害职工或者工会权益的，由同级工会或者上级工会责令改正，或者予以处分；情节严重的，依照《中国工会章程》予以罢免；造成损失的，应当承担赔偿责任；构成犯罪的，依法追究刑事责任。

## 第七章 附则

**第五十六条** 中华全国总工会会同有关国家机关制定机关工会实施本法的具体办法。

**第五十七条** 本法自公布之日起施行。1950年6月29日中央人民政府颁布的《[中华人民共和国工会法](#)》同时废止。