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Speeches/Documents

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The Trade Union Law is promulgated for the purpose of defining in explicit terms the legal status, functions and duties of trade union organizations in the new democratic state, thereby enabling the working class throughout the country to become better organized and thus play its proper part in new democratic construction.

Chapter One GENERAL PRINCIPLES

Article 1 Trade unions are mass organizations of the working class formed on a voluntary basis. All wage workers, including manual and brain workers in enterprises, institutions and schools on Chinese territory whose wages constitute their sole or main means of livelihood, and all wage workers in irregular employment shall have the right to organize trade unions.

Article 2 Trade unions shall be organized on the principle of democratic centralism, in accordance with the Constitution of the All-China Federation of Trade Unions as adopted by the All-China Labour Congress. Trade union committees at all levels shall be set up by election at general membership meetings or congresses. Members of trade unions shall have the right, in accordance with the Constitution of the Trade Unions, to dismiss and replace at any time any delegate or committee member whom they have elected. Trade union committees at all levels shall submit reports on their work to the rank and file membership they represent or to their congresses and shall observe the decisions and directives of their respective higher trade union organizations.

Article 3 Trade unions are mass organizations formed in accordance with the Constitution and resolutions adopted by the All-China Labour Congress and various congresses of industrial unions (including the cultural and educational workers' unions and government employees' unions). The trade unions have their own nationwide independent and unified system of organization, with the All-China Federation of Trade Unions as the highest leading body. When trade unions are established, they should submit reports thereon to the All-China Federation of Trade Unions or its affiliated industrial unions or local trade unions, which, after proper examination and approval, shall undertake to refer the matter to the local people's governments for registration.

Article 4 All other bodies not organized in accordance with Article 3 of this Law shall not be called trade unions, and shall not be entitled to the rights laid down in this Law.

Chapter Two THE RIGHTS AND DUTIES OF TRADE UNIONS

Article 5 Trade unions in enterprises operated by the state or by co-operatives shall have the right to represent

workers and staff members in taking part in administering production and in concluding collective agreements with the managements.

Article 6 Trade unions in private enterprises shall have the right to represent workers and staff members in conducting negotiations and talks with the owners of these private enterprises, in taking part in the labour capital consultative conferences and in concluding collective agreements with the owners of these private enterprises.

Article 7 The duty of trade unions is to protect the interests of workers and staff members, exercise supervision to ensure that the managements or the owners conscientiously carry out labour protection, labour insurance, wage standards, factory sanitation and safety measures as stipulated in the laws and decrees of the government and other relevant regulations and directives, and to take measures for improving the material and cultural life of workers and staff members.

Article 8 Trade union organizations at all levels in enterprises operated by the state or by co-operatives shall have the right to ask the managements at corresponding levels to submit reports on their work to general membership meetings or representative conferences convened by the trade union committees. They shall also have the right to represent workers and staff members in taking part in the administrative committees or administrative meetings at corresponding levels.

Article 9 In order to safeguard the fundamental interests of the working class, trade unions shall carry out the following tasks according to the Constitution and their decisions:

a.

Educate and organize workers and staff members to uphold the laws and decrees of the People's Government and to carry out the policies of the People's Government in order to consolidate the people's state power led by the working class;

b.

Educate and organize workers and staff members to adopt a new attitude towards labour, to observe labour discipline; organize labour emulation drives and other production campaigns, in order to ensure the fulfilment of production plans;

c.

Protect public property, oppose corruption, waste and bureaucracy, and fight against saboteurs in enterprises operated by the state or by co-operatives and in institutions and schools;

d.

Promote in private enterprises the policy of developing production and of benefiting both labour and capital, and oppose acts in violation of government laws and decrees or acts detrimental to production.

Article 10 The people's governments at all levels shall allocate to the All-China Federation of Trade Unions, industrial unions and local trade unions the necessary buildings and furnishings to enable them to carry out their office work, hold meetings, and organize educational, recreational and collective welfare activities. The people's governments at all levels shall also give the trade unions similar treatment in the use of the post, telegraph, telephone, railway, highway and navigation facilities as are enjoyed by government institutions at corresponding levels.

Article 11 When the managements or the owners want to transfer or discharge a trade union committee member elected by the trade union members, they must obtain the consent of the trade union committee concerned in advance and such transfer or discharge cannot be carried out until the said trade union committee has reported the matter to a higher trade union committee and obtained its approval.

Article 12 Members of trade union committees at all levels or their representatives, when provided with credentials issued by their respective trade unions, may inspect the work places and hostels belonging to the enterprises, institutions or schools affiliated with the said trade unions. The managements or the owners shall not refuse such inspections, except in certain specially stipulated cases.

Chapter Three PRIMARY TRADE UNION ORGANIZATIONS

Article 13 In factories, mines, business establishments, farms, institutions, schools and other productive or administrative units with 25 or more workers and staff members, a primary trade union committee may be set up (such as factory, mine or institution committee). In those employing less than 25 persons an organizer may be elected, who shall have the same rights as a primary trade union committee. The regulations governing the organization of primary trade union committees shall be formulated by the All-China Federation of Trade Unions or the national committees of the respective industrial unions.

Article 14 Apart from the primary trade union organizations formed in accordance with Articles 3 and 13 of this Law, and approved by the industrial unions or the local trade unions, no other organizations in factories, mines, business establishments, farms, institutions, schools and other productive or administrative units shall be entitled to the rights enjoyed by the primary trade union organizations.

Article 15 The number of members of a primary trade union organization who are full-time trade union functionaries shall be determined in accordance with the total number of workers and staff members employed in each factory, mine, business establishment, farm, institution, school and other productive or administrative unit. The ratio shall be as follows:

Number of workers and staff members

Number of full-time trade union functionaries

200-500

1

501-1000

2

1001-1500

3

1501-2500

4

2501-4000

5

Another full-time trade union functionary may be added for every additional two thousand workers and staff members in units employing over four thousand workers and staff members. When necessary, primary trade union committees in units employing less than two hundred workers and staff members may have one fulltime trade union functionary upon the approval of a higher trade union committee.

Article 16 When a primary trade union committee has been elected the management or the owner shall be notified of the names of the committee members. The management or the owner shall, in accordance with the decisions of the primary trade union committee, release from work those members who are going to take up fulltime job in the trade union.

Article 17 Full-time trade union functionaries shall be paid by the trade unions, at a rate not less than what they previously received. They shall continue to share in labour insurance and other welfare facilities paid for by the management or the owner. On the expiry of their term of office, the management or the owner shall ensure that they return to their original jobs or be given other jobs at the same rate of wages.

Article 18 The managements or owners of factories, mines, business establishments, farms, institutions, schools and other productive or administrative units shall not obstruct the activities of the primary trade union committees and the general membership meetings or representative conferences summoned by the primary trade union committees. But meetings and conferences called by trade unions should be held outside the prescribed working hours. When such meetings and conferences have to be held during working hours due to special circumstances, the consent of the managements or owners should be obtained. If members of a primary trade union committee who are not full-time trade union functionaries have to conduct trade union activities during working hours, the trade union shall inform the management or owner thereof. But the total working hours thus used by any such member shall not exceed two working days per month. In such cases, the wages of such members shall be paid by the management or owner in full.

Article 19 Elections of representatives to a people's representative conference or deputies to people's congress, in accordance with the directives of the people's governments at municipal (county) level or above, or elections of delegates to trade union congresses, in accordance with the directives of the trade union committees at provincial or municipal level or above, may be held during working hours, if necessary. In private enterprises, delegates of workers and staff members to the above-mentioned and other conventions shall be paid for the period of their attendance by the organizations which call such conventions.

Article 20 The managements or the owners of factories, mines, business establishments, farms, institutions, schools and other productive or administrative units which employ one hundred or more workers and staff members shall provide free of charge the necessary buildings and other facilities (water, electricity, furniture, etc.) for office use by the primary trade union committees and shall provide, permanently or temporarily, a suitable place for general membership meetings or representative conferences. Those employing less than one hundred workers and staff members, if unable to provide separate offices for the trade unions, shall provide desks for the exclusive use of trade unions in rooms which are in general use. Trade unions may also hold meetings in such rooms.

Article 21 When the managements or the owners of factories, mines, business establishments, farms, institutions, schools and other productive or administrative units want to engage workers or staff members they shall inform the primary trade union committees, which shall have the right to protest, within three days, if they discover that such engagements violate any law or decree of the People's Government or run counter to collective agreements. Disputes arising from the managements or owners disagreeing to such protests shall be dealt with in accordance with the Rules of Procedure for Settling Labour Disputes.

Article 22 When the managements or the owners of factories, mines, business establishments, farms, institutions, schools and other productive or administrative units want to discharge workers or staff members, they shall inform the primary trade union committees ten days in advance of their names, together with the reasons for discharge. The primary trade union committees shall have the right to protest, within seven days, if they discover that such discharge violates any law or decree of the People's Government or runs counter to collective agreements.

Disputes arising from the managements or the owners disagreeing to such protests shall be dealt with in accordance with the Rules of Procedure for Settling Labour Disputes.

Articles 21 and 22 shall not apply in the case of personnel appointed by the people's governments at all levels.

Chapter Four TRADE UNION FUNDS

Article 23 The trade unions shall set up their own system of budgeting, drawing up of financial reports, accounting and auditing on the principle of independent administration of their funds.

Article 24 Trade union funds shall be drawn from the following sources:

a.

Membership dues paid by trade union members in accordance with the Constitution of the All-China Federation of Trade Unions;

b.

The managements or the owners of factories, mines, business establishments, farms, institutions, schools and other productive or administrative units shall each month allocate to their respective trade

union organizations, as trade union funds, a sum equal to 2 per cent of the total amount of the real wages (including those paid in currency, in kind and in meals) of all workers and staff members employed (excluding agents of the owners of private enterprises). Of this sum, an amount equal to 1.5 per cent of the total amount of real wages shall be used for the purpose of promoting cultural and educational activities for the workers and staff members;

c.

Income from cultural and sports activities sponsored by the trade unions; (d) Subsidies from the people's governments at various levels.

Article 25 Regulations governing the disposal of the funds of the trade union committees at all levels shall be formulated by the All-China Federation of Trade Unions.

Chapter Five SUPPLEMENTARY PROVISIONS

Article 26 This Law shall come into force after it is adopted and promulgated by the Central People's Government Council.