

People's Mediation Law of the People's Republic of China

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The People's Mediation Law of the People's Republic of China has been passed at the sixteenth meeting of the Standing Committee of the Eleventh National People's Congress (NPC) on August 28, 2010. It is hereby promulgated and shall take effect on January 1, 2011.

Hu Jintao, President of the People's Republic of China

August 28, 2010

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Chapter 1 General Provisions

Article 1 This Law has been enacted in pursuance to the Constitutional Law for the purposes of perfecting the people's mediation system, setting standards for the people's mediation activities, resolving the disputes among the people in a timely manner and safeguarding the harmony and stability of the society.

Article 2 The people's mediation mentioned in this Law refers to the activities of the people's mediation committee in facilitating the parties concerned to reach a mediation agreement voluntarily through persuasion, giving guidance and other methods on the basis of equality in negotiation and resolving the disputes among the people.

Article 3 In mediating the disputes among the people, the people's mediation committee shall abide by the following principles:

- (1) Carry out mediation on the basis of voluntariness from the parties concerned and equality;
- (2) Not in violation of laws, regulations and State's policies; and
- (3) Respect the rights of the parties concerned. The parties concerned shall not be prevented from defending their own rights through channels such as arbitration, administration and administration of justice according to law due to mediation.

Article 4 In mediating the disputes among the people, the people's mediation committee shall not collect any charges.

Article 5 The administrative department for justice under the State Council shall be responsible for providing guidance on the people's mediation work nationwide. The administrative department for

justice under the local People's Government at county level and higher shall be responsible for providing guidance on the people's mediation work for its own administrative districts.

The basic-level people's court shall provide operational guidance to the people's mediation committee in mediating disputes among the people.

Article 6 The State encourages and supports the people's mediation work. In respect of the funds required for people's mediation work, the local People's Government at county level and higher shall render the necessary support and assurance. In respect of the people's mediation committee and people's mediators with outstanding contributions, they shall be recognized and rewarded in accordance with the State's provisions.

Chapter 2 People's Mediation Committee

Article 7 The people's mediation committee is a community-based organization set up for mediation of disputes among people according to law.

Article 8 The villagers committees and the residents committees shall set up the people's mediation committee. Enterprises and public institutions shall set up the people's mediation committee according to needs.

The people's mediation committee shall be made up of three to nine committee members. One person shall be appointed as the chairman. When necessary, several deputy chairmen may be appointed.

The people's mediation committee shall have female members. Areas residing with multi-ethnic groups shall have members of the minority ethnic groups.

Article 9 Committee members of the people's mediation committee from the villagers committees and the residents committees shall be elected through villagers meeting or villagers' representatives meeting, and residents' meeting. Committee members of the people's mediation committee set up by enterprises and public institutions shall be elected through staff congress or staff representative congress or trade union organization.

The committee members of the people's mediation committee shall serve a three-year term and may be re-elected and re-appointed.

Article 10 The administrative department for justice under the local People's Government at county level shall conduct a count on the setup of the people's mediation committee within its own administrative districts, at the same time, report the situation of the people's mediation committee and the staff composition and adjustment on timely basis to the basic-level people's court at the domicile.

Article 11 The people's mediation committee shall establish and strengthen all types of mediation working systems, listen to the opinions of the general public and be subject to the supervision from the general public.

Article 12 The villagers committees, the resident committees, the enterprises and the public institutions shall provide the working conditions and necessary working funds for carrying out the work of the people's mediation committee.

Chapter 3 People's Mediators

Article 13 People's mediators shall be assumed by the committee members of the people's mediation committee and personnel appointed by the people's mediation committee.

Article 14 People's mediators shall engage in mediation work based on fairness, decency and enthusiasm, at the same time, they shall be assumed by adult citizens with certain level of culture, policies and legal knowledge.

The administrative department for justice under the People's Government at county level shall periodically conduct operational training for people's mediators.

Article 15 Where a people's mediator has any of the following behaviors in the course of mediation work, the people's mediation committee at his location shall administer criticism and education, and order him to correct. Where the circumstance is severe, the electing or appointing organization shall remove him from office or terminate the appointment:

- (1) Showing favoritism to one party;
- (2) Insult a party;
- (3) Demand, accept property or seek other improper benefits; and
- (4) Divulge individual privacy or commercial secret of the party.

Article 16 In engaging in mediation work, the people's mediator shall be granted appropriate subsidy for loss of working hours. Where the engagement in mediation work causes injury or disability, and living in hardship, the local People's Government shall provide the necessary medical and living assistance. Where a people's mediator loses his life in the course of people's mediation work, his spouse and children shall be comforted and compensated, and be given privileges according to the State's provisions.

Chapter 4 Mediation Proceeding

Article 17 The party may apply to the people's mediation committee for mediation. The people's mediation committee may also take initiative to mediate. When one party clearly refuses mediation, the mediation shall not proceed.

Article 18 Where a dispute is suitable to be resolved through people's mediation mode, the basic-level people's court or public security organ may, prior to accepting and hearing it, notify the parties to apply to the people's mediation committee for mediation.

Article 19 The people's mediation committee may appoint one or several people's mediators to carry out mediation based on the needs of mediating the dispute. The parties may also select one or several people's mediators to carry out mediation.

Article 20 The people's mediator may invite the relatives, neighbors, or colleagues of the parties to be involved in the mediation according to the needs of the mediating the dispute and after consent is given by the parties. He may also invite people with professional knowledge or specific experience, or the personnel from relevant social organization to be involved in the mediation.

The people's mediation committee shall support local people from the society who is impartial, decent, enthusiastic in mediation and approved by the community to be involved in mediation.

Article 21 In mediating the disputes among the people, a people's mediator shall adhere to principles, be conversant with the laws and be reasonable, and uphold justice.

Mediation of dispute among the people shall be timely and conducted locally, and shall prevent the conflict from intensifying.

Article 22 A people's mediator may adopt multiple approaches to mediate disputes among the people according to different circumstances of disputes. He shall listen fully to the statements of the parties, explain the relevant laws, regulations and the State's policies, be patient in giving guidance, propose solution for the dispute on the basis of fair negotiation, mutual understanding and compromise between the parties so as to assist the parties in reaching a mediation agreement on voluntary basis.

Article 23 The parties shall enjoy the following rights during the people's mediation activities:

- (1) Select or accept the people's mediator;
- (2) Accept mediation, refuse mediation or request to end the mediation;
- (3) Request the mediation to be conducted openly or not to be conducted openly; and
- (4) Express the will independently and reach the mediation agreement voluntarily.

Article 24 The parties shall fulfill the following obligations during the people's mediation activities:

- (1) Truthfully state the facts of the dispute;
- (2) Comply with the order of mediation site and respect the people's mediator; and
- (3) Respect the other party in exercising the rights.

Article 25 In the process of mediating the dispute, where the people's mediator discovers that the dispute may get intensified, he shall adopt targeted preventive measures. In respect of dispute that may lead to public security case or criminal case, he shall report it to the local public security organ or other relevant department promptly.

Article 26 Where the people's mediator, in mediating a dispute, is unable to mediate, it shall end the mediation and notify the parties that they may safeguard their own rights through other channels such as arbitration, administration, or administration of justice according to law based on the relevant provisions in the laws and regulations.

Article 27 The people's mediator shall record the condition of mediation. The people's mediation committee shall set up mediation work files and file the materials such as mediation registration, mediation work records, written mediation agreements etc for record.

Chapter 5 Mediation Agreement

Article 28 Where a mediation agreement is reached upon mediation by the people's mediation committee, a written mediation agreement may be produced. Where the parties deem it unnecessary to produce a written mediation agreement, it may adopt the approach of verbal agreement and the people's mediator shall record the content of the agreement.

Article 29 The written mediation agreement may specify the following matters:

- (1) Basic information of the parties;
- (2) Main facts and contentious matters of the dispute, as well as the responsibilities of the respective parties; and
- (3) The content, method of fulfillment and time limit has concluded in the mediation agreement by the parties.

The written mediation agreement shall take effect on the day when each party signs, affixes seal or makes a fingerprint, and the people's mediator signs and affix seal of the people's mediation committee. Each party shall hold one copy of the written mediation agreement and the people's mediation committee shall retain one copy.

Article 30 Verbal mediation agreement shall take effect on the day when all parties come to an agreement.

Article 31 Mediation agreement concluded upon mediation by the people's mediation committee shall be legally binding and the parties shall fulfill according to the agreement.

The people's mediation committee shall carry out supervision of the fulfillment of mediation agreement and urge the parties to fulfill the agreed obligations.

Article 32 After mediation agreement has been concluded upon mediation by the people's mediation committee, should dispute arise between the parties in respect of fulfillment of mediation agreement or the content of the mediation agreement, one party may file a lawsuit with the People's Court.

Article 33 After mediation agreement has been concluded upon mediation by the people's mediation committee, where both parties deem necessary, they may apply to the People's Court jointly for judicial confirmation within thirty days from the day the mediation agreement takes effect. The People's Court shall conduct a review of the mediation agreement promptly and confirm the validity of the mediation agreement according to law.

Where the People's Court confirms that the mediation agreement is valid, one party refuses to fulfill or has not completely fulfill, the other party may apply to the People's Court for mandatory execution.

Where the People's Court confirms that the mediation agreement is invalid, the parties may alter the original mediation agreement or conclude a few mediation agreement through the people's mediation approach. It may also file a lawsuit with the People's Court.

Chapter 6 Supplementary Provisions

Article 34 Villages and towns, residential districts and social groups or other organizations may refer to the relevant provisions in this Law in setting up people's mediation committees according to needs to mediate disputes among the people.

Article 35 This Law shall take effect on January 1, 2011.