

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

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Order of the President of the People's Republic of China

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The People's Mediation Law of the People's Republic of China, which was adopted at the 16th meeting of the Standing Committee of the 11th National People's Congress of the People's Republic of China on August 28, 2010, is hereby promulgated, and shall come into force on January 1, 2011.

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

August 28, 2010

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

(Adopted at the 16th meeting of the Standing Committee of the 11th National People's Congress of the People's Republic of China on August 28, 2010)

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Chapter I General Provisions

Article 1 To improve the people's mediation system, regulate the people's mediation activities, timely solve disputes among the people and maintain social harmony and stability, this Law is formulated pursuant to the Constitution.

Article 2 The term "people's mediation" as mentioned in this Law refers to a process that a people's mediation commission persuades the parties concerned to a dispute into reaching a mediation agreement on the basis of equal negotiation and free will and thus solves the dispute between them.

Article 3 People's mediation commissions shall observe the following principles for the mediation of disputes among the people:

1. Mediating on the basis of free will and equality of the parties concerned;
2. Abiding by laws, regulations and policies of the state; and
3. Respecting the rights of the parties concerned, and refraining from stopping the parties concerned from protecting their rights through arbitration, administrative means or judicial means in the name of mediation.

Article 4 People's mediation commissions may not charge fees for the mediation of disputes among the people.

Article 5 The administrative department of justice under the State Council shall be

Article 5 The administrative department of justice under the State Council shall be responsible for guiding the people's mediation work of the whole nation, while the administrative departments of justice of the local people's governments at or above the county level shall be responsible for guiding the people's mediation work within their respective administrative regions.

The grassroots people's courts shall provide guidance to the people's mediation commissions in their mediation of disputes among the people.

Article 6 The state encourages and supports the people's mediation work. The local people's governments at or above the county level shall appropriately guarantee the funds needed for the people's mediation work, and commend and reward people's mediation commissions and people's mediators that make outstanding contributions according to the relevant state provisions.

#### Chapter II People's Mediation Commissions

Article 7 People's mediation commissions are mass-based organizations legally formed to settle disputes among the people.

Article 8 Villagers' committees and neighborhood committees shall form the people's mediation commissions. Enterprises and public institutions have the discretion to form or not form the people's mediation commissions based on their own needs.

A people's mediation commission is composed of 3 up to 9 members. It shall have one director and, if necessary, two or more deputy directors.

A people's mediation commission shall have female members and, as in an area of multiethnic population, have members from ethnic minorities.

Article 9 The members of the people's mediation commission of a villagers' committee or neighborhood committee shall be selected at the villagers' meeting, the villagers' representative meeting or the residents' meeting; while those of the people's mediation commission of an enterprise or a public institution shall be selected by the employees' assembly, the employees' representative meeting or the labor union.

The term of office of the members of the people's mediation commissions is three years, and any of them can be reelected as a member thereof upon the expiration of the term.

Article 10 The administrative department of justice of a county people's government shall collect statistics about the formation of the people's mediation commissions in this administrative region and inform the local grassroots people's courts of the composition of the people's mediation commissions, the members thereof and any changes therein.

Article 11 People's mediation commissions shall establish systems and rules for the mediation work, hear opinions from the people and subject their mediation work to the supervision of the people.

Article 12 Villagers' committees, neighborhood committees, enterprises and public institutions shall provide working conditions and necessary funds for the people's mediation commissions to carry out the mediation work.

#### Chapter III People's Mediators

Article 13 People's mediators shall be members of and persons hired by the people's mediation commissions.

Article 14 People's mediators must be adult citizens who are impartial, decent and dedicated to the people's mediation work, and have a certain level of education, policy understanding and legal knowledge.

The administrative departments of justice of the county people's governments shall provide vocational trainings for the people's mediators on a regular basis.

Article 15 Where a people's mediator commits any of the following acts in the mediation work, the people's mediation commission which he belongs to shall criticize and educate him and order him to correct; if the circumstances are serious, the entity which recommends or appoints him shall dismiss him from the position or employment:

1. Showing favoritism to a party concerned;
  2. Insulting a party concerned;
  3. Asking for or accepting money or goods, or seeking for other illicit benefits;
- or
4. Divulging the individual privacy or trade secret of a party concerned.

Article 16 People's mediators shall be properly subsidized for loss of working time. Where a people's mediator gets injured or disabled in the process of doing the mediation work, the local people's government shall provide necessary assistance for his medical care and livelihood. Where a people's mediator dies for the mediation work, the spouse and children thereof shall get compensation and preferential treatment according to the relevant state provisions.

#### Chapter IV Mediation Proceedings

Article 17 The parties concerned to a dispute may apply to a people's mediation commission for mediation, and a people's mediation commission may also voluntarily offer to mediate. However, no mediation may be made if one party has expressly refused to settle the dispute by mediation.

Article 18 For a dispute solvable by mediation, the grassroots people's court or the public security organ concerned may, before accepting the case, notify the parties concerned that they can apply to a people's mediation commission for mediating the dispute.

Article 19 Based on the needs for mediating a dispute, a people's mediation commission may designate one or more people's mediators, or the parties concerned may select one or more people's mediators.

Article 20 Based on the needs for mediating a dispute, a people's mediator may, upon the consent of the parties concerned, invite the relatives, neighbors or colleagues of the parties concerned, persons with specialized knowledge or experiences and persons from the relevant social organizations to participate in the mediation process.

People's mediation commissions encourage impartial, decent persons who are dedicated to the mediation work and are approved of by the people to participate in the mediation work.

Article 21 In the process of mediating disputes among the people, people's mediators shall stick to principles, make legal reasoning and do justice to the parties concerned.

The disputes among the people shall be mediated in a timely manner and on the spot

so as to prevent the intensification of disputes.

Article 22 People's mediators may adopt various means to mediate disputes among the people in light of the actual circumstances of disputes, hear the statements of the parties concerned, explain the relevant laws, regulations and state policies, patiently persuade the parties concerned, propose solutions on the basis of equal negotiations and mutual understanding between the parties concerned, and help them reach a mediation agreement on free will.

Article 23 In the people's mediation of a dispute, the parties concerned are entitled to:

1. Select or accept the people's mediators;
2. Accept or refuse the mediation, or require the termination thereof;
3. Require that the mediation be made publicly or privately; and
4. Freely express their wills and reach a mediation agreement on free will.

Article 24 In the people's mediation of a dispute, the parties concerned are obliged to:

1. Truthfully state the facts of the dispute;
2. Abide by the order of the mediation scene and respect the people's mediators; and
3. Respect the other party's exercise of rights.

Article 25 The people's mediators shall take pertinent precautions if a dispute is likely to get intensified in the process of mediation and timely report to the local public security organ or other competent department if a dispute is likely to become a public security case or criminal case.&nbsp;

Article 26 If the mediation efforts fail, the people's mediators shall terminate the mediation process and, pursuant to the relevant laws and regulations, notify the parties concerned that they may protect their rights by arbitration, administrative means or judicial means.

Article 27 People's mediators shall note down the mediation process. People's mediation commissions shall set up files for the mediation work and place the mediation registration documents, mediation records and mediation agreements on file.

#### Chapter V Mediation Agreement

Article 28 A written mediation agreement can be made once an agreement is reached between the parties concerned upon mediation by a people's mediation commission. If the parties believe it unnecessary to make a written mediation agreement, an oral agreement can be made, in which case the people's mediators shall note down the contents of the oral agreement.

Article 29 A written mediation agreement may contain:

1. The basic information about the parties concerned;
2. The major facts of the dispute, the disputed matter, and the liabilities of all parties concerned; and
3. The contents of the mediation agreement reached by the parties concerned, and the mode and term for fulfilling the agreement.

A written mediation agreement shall become effective from the date when the parties concerned affix their signatures, seals or fingerprints and the people' s mediators affix their signatures and the seal of the people' s mediation commission on it. Each of the parties concerned shall hold one copy and the people' s mediation commission shall also keep one.

Article 30 An oral mediation agreement shall become effective from the date when the parties concerned reach the agreement.

Article 31 A mediation agreement reached upon mediation by a people' s mediation commission is binding to all parties concerned, and the parties concerned shall fulfill it as agreed.

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The people' s mediation commission shall oversee the fulfillment of the mediation agreement and urge the parties concerned to honor their obligations as agreed.

Article 32 Where, after a mediation agreement is reached upon mediation by a people' s mediation commission, the parties concerned have a dispute regarding the fulfillment or contents of the mediation agreement, they may bring a lawsuit to the people' s court.

Article 33 After a mediation agreement is reached upon mediation by a people' s mediation commission, when necessary, the parties concerned may jointly apply to the people' s court for judicial confirmation within 30 days after the mediation agreement becomes effective, and the people' s court shall examine the agreement and confirm its effect in a timely manner.

After the people' s court confirms the effect of the mediation agreement, if one party concerned refuses to perform or fails to fully perform it, the other party may apply to the people' s court for enforcement.

If the people' s court confirms that the mediation agreement is invalid, the parties concerned may alter the original agreement or reach a new agreement through people' s mediation, or bring a lawsuit to the people' s court.

#### Chapter VI Supplementary Provisions

Article 34 If it is necessary, villages, towns, sub-districts, social organizations and other organizations may form people' s mediation commissions under the guidance of this Law to mediate disputes among the people.

Article 35 This Law shall come into force on January 1, 2011.