

吉林省法规规章汇编

(2017.11 ~ 2018.11)

吉林省司法厅 编

吉林人民出版社



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COLLECTION OF JILIN-ENACTED
REGULATIONS AND RULES

(2017.11 ~ 2018.11)

吉林省司法厅 编

Compiled by Jilin Provincial Department of Justice

吉林人民出版社

Jilin People's Publishing House

编写说明

一、为了更好地适应我国对外开放的最新需要，方便国内外人士准确查阅吉林省地方性法规、政府规章的英文译本，吉林省司法厅编辑了本汇编。

二、本汇编收集了2017年11月至2018年11月吉林省人民代表大会及其常务委员会制定修订和集中修改的地方性法规21件、吉林省人民政府制定修订和集中修改的政府规章5件。

三、本汇编编辑的地方性法规、政府规章英文译本由吉林省人民政府法律服务中心组织翻译、审定。本汇编所编入的英文译本与中文文本表述不一致的，以省人大、省政府正式公布的文本为准。

四、本汇编在编辑和翻译过程中，得到了社会各界多方面的支持与协助，具体翻译和审定工作由吉林省人民政府法律服务中心吕研同志完成。本汇编在编辑、翻译过程中得到了吉林大学韩兴华教授、东北师范大学王峙焯教授等专家、学者的大力支持，在此一并致以衷心的感谢。

吉林省司法厅
二〇一九年八月

EDITOR'S NOTE

1.To fit in with the new needs of China's opening to the outside world, Jilin Provincial People's Department of Justice has compiled the present collection, so that people of various circles, both at home and abroad, can read up accurately the English version of the enacted local regulations and government rules of Jilin Province.

2.The present collection consists of 21 local regulations, which the revisions and centralized modification enacted by the Jilin provincial people's congress or its standing committee and 5 sets of government rules formulated by the people's Government of Jilin Province from November 2017 to November 2018.

3.The English version of local laws and regulations in this present collection is organized to translate and finalize by Jilin Provincial People's Government Legal Service Center. Where any discrepancy arises between the English version and the original Chinese version, the Chinese version officially promulgated by the Provincial People's Congress and the provincial government shall prevail.

4.In the process of compilation and translation of this collection, we received the great support and assistance and all the social circles; the actual translation and revision work had finished by Lvyan from Jilin Provincial People's Government Legal Service Center. In the process of translation, the editing, which have been supported by the Professor Han Xinghua from Jilin University, the Professor Wang Zhizhuo from Northeast Normal University and other experts etc. Here with we would like to express our sincere thanks to all of them.

Jilin Provincial People's Department of Justice

August, 2019

目 录

Contents

2018 年制定修订的地方性法规和省政府规章

(一) 2018 年制定修订的地方性法规

1. 吉林省企业工资集体协商条例	(2)
Regulations of Jilin Province on Collective Wage Negotiation of Enterprises.....	(3)
2. 吉林省安全生产条例	(26)
Regulations of Jilin Province on Work Safety.....	(27)
3. 吉林省促进中小企业发展条例	(58)
Regulations of Jilin Province on the Promotion of Development of Small and Medium-sized Enterprises.....	(59)
4. 吉林省公证条例	(86)
Regulations of Jilin Province on Notarization.....	(87)
5. 吉林省专利条例	(110)
Regulations of Jilin Province on Patent.....	(111)
6. 吉林省城镇饮用水水源保护条例	(132)
Regulations of Jilin Province on the Protection of Urban Drinking Water Source...	(133)
7. 吉林省组织实施宪法宣誓制度办法	(158)
Measures of Jilin Province for Organizing the Constitution Oath-Taking	

Ceremonies of State Functionaries	(159)
8. 吉林省黑土地保护条例	(164)
Regulations of Jilin Province on Black-Soil Land Protection	(165)
9. 吉林省技术市场条例	(188)
Regulations of Jilin Province on Technology Market	(189)
10. 吉林省统计管理条例	(206)
Regulations of Jilin Province on Statistics Administration	(207)
11. 吉林省测绘地理信息条例	(234)
Regulations of Jilin Province on Surveying and Mapping Geographic Information	(235)
12. 吉林省公路水运工程质量和安全生产条例	(258)
Regulations of Jilin Province on Quality and Production Safety of Road and Water Transport Projects	(259)
13. 吉林省农作物种子条例	(286)
Regulations of Jilin Province on Crop Seeds	(287)

(二) 2018 年制定修订的省政府规章

1. 吉林省教育督导规定	(322)
Provisions of Jilin Province on Educational Supervision	(323)
2. 吉林省专业技术人员继续教育规定	(336)
Provisions of Jilin Province on Continuing Education of Professional Technicians	(337)

2018 年集中修改的地方性法规和省政府规章

(一) 2018 年集中修改的地方性法规

1. 吉林省人民代表大会常务委员会关于废止和修改《吉林省农业环境保护管理条例》等 12 部地方性法规的决定…………… (350)
Decision of the Standing Committee of the National People's Congress of Jilin Province on Amending and Abolishing 12 Local Regulations Including *Regulations of Jilin Province on Administration of Agricultural Environmental Protection* …… (351)
2. 吉林省档案条例…………… (376)
Regulations of Jilin Province on Archives…………… (377)
3. 吉林伊通火山群国家级自然保护区管理条例…………… (394)
Regulations of Jilin Province on Administration of Yitong Volcanic Cluster National Nature Reserve …… (395)
4. 吉林省民用建筑节能与发展新型墙体材料条例…………… (404)
Regulations of Jilin Province on Energy Saving and New Wall Materials Development of Civil Buildings …… (405)
5. 吉林省燃气管理条例…………… (424)
Regulation of Jilin Province on Administration of Fuel Gas…………… (425)
6. 吉林向海国家级自然保护区管理条例…………… (442)
Regulations of Jilin Province on Administration of Xianghai National Nature

Reserve	(443)
7. 吉林省全民健身条例	(456)
Regulations of Jilin Province on National Fitness	(457)
8. 吉林省收费罚款没收财物管理条例	(476)
Regulations of Jilin Province on Administration of Charges, Fines, and Confiscated Property	(477)
9. 吉林省实施《中华人民共和国人民防空法》办法	(492)
Measures of Jilin Province on Implementation of <i>Civil Air Defense Law of the People's Republic of China</i>	(493)

(二) 2018 年集中修改的省政府规章

1. 吉林省人民政府关于废止和修改部分省政府规章的决定	(508)
Decisions of the People's Government of Jilin Province on Abolishing and Amending Some Local Regulations	(509)
2. 吉林省财政票据管理办法	(514)
Measures of Jilin Province on the Administration of Financial Instruments	(515)
3. 吉林省促进散装水泥和预拌混凝土、预拌砂浆发展办法	(530)
Measures of Jilin Province on Promoting the Development of Bulk Cement, Ready-Mixed Concrete and Ready-Mixed Mortar	(531)
4. 吉林省禁止猎捕陆生野生动物实施办法	(540)
Measures of Jilin Province on Prohibiting Hunting and Catching Terrestrial Wildlife	(541)

2018 年制定修订的 地方性法规和省政府规章

Local Regulations and provincial Government
Rules formulated and revised in 2018

(一) 2018 年制定修订的地方性法规

(一) Local Regulations formulated and revised in 2018

吉林省企业工资集体协商条例

(2017年12月1日吉林省第十二届人民代表大会常务委员会第三十八次会议通过)

第一章 总 则

第一条 为了规范企业工资集体协商行为，维护劳动关系双方的合法权益，促进劳动关系和谐稳定，根据《中华人民共和国劳动法》《中华人民共和国劳动合同法》《中华人民共和国工会法》等法律、法规，结合本省实际，制定本条例。

第二条 本省行政区域内的企业开展工资集体协商，签订和履行工资专项集体合同，适用本条例。

第三条 本条例所称工资集体协商，是指职工方与企业方依法就企业内部工资分配制度、工资分配形式、工资收入水平、工资支付办法等与劳动报酬相关的事项进行平等协商、签订工资集体合同的行为。

第四条 工资集体协商是调整和确定企业收入分配制度和分配标准等工资事项的基本形式。

第五条 工资集体协商应当遵循合法、公开、平等、诚信的原则，兼顾职工和企业双方利益，保障职工实际收入水平与企业劳动生产率、经济效益相适应，维护劳动关系和谐稳定，促进企业发展。

Regulations of Jilin Province on Collective Wage Negotiation of Enterprises

(Adopted at the 38th Meeting of the Standing Committee of the 12th National People's Congress of Jilin Province on December 1st, 2017)

Chapter I General Provisions

Article 1. These Regulations are formulated for the purposes of standardizing the collective wage negotiation behavior of enterprises, safeguarding the legitimate rights and interests of both sides of labor relations, and promoting harmony and stability in labor relations, in accordance with *the Labor Law of the People's Republic of China, the Labor Contract Law of the People's Republic of China, the Trade Union Law of the People's Republic of China*, and other laws and regulations, in the light of actual circumstances in this Province.

Article 2. These Regulations shall apply to the enterprises within the administrative area of this Province to enter into collective negotiation on wages and to sign and perform special collective contracts for wages.

Article 3. The term "collective negotiation on wages" as referred to in these Regulations refers to equal negotiation between workers and enterprises on matters related to labor remuneration, such as the internal wage distribution system, the form of wage distribution, the level of wage income, the method of payment of wages, and signing the collective contract for wages in accordance with the law.

Article 4. The collective wage negotiation is a basic form for adjustment and determination of enterprises' income distribution system and distribution standards.

Article 5. The collective negotiation on wages shall follow the principles of legality, openness, equality and honesty, take into account the interests of both workers and enterprises, safeguard the actual income level of workers commensurate with the productivity and economic benefits of the enterprise, maintain harmonious and stable labor relations and promote the development of enterprises.

第六条 各级人民政府应当依法推动企业与职工开展工资集体协商，加大对工资分配的宏观调控力度。

第七条 县级以上人民政府人力资源和社会保障行政部门负责指导、协调和监督工资集体协商工作。

县级以上总工会和产业工会、行业工会负责指导、帮助职工方开展工资集体协商工作。

企业联合会（企业家协会）、工商业联合会等企业代表组织，应当在劳动密集型区域和行业建立企业方组织，协调、帮助和指导企业方开展工资集体协商工作。

人力资源和社会保障行政部门、工会和企业代表组织应当建立健全劳动关系三方协调机制，研究处理工资集体协商等劳动关系协调工作中的重大问题。

第二章 工资集体协商代表

第八条 开展工资集体协商，企业方、职工方应当确定各自的协商代表。

双方代表人数应当对等，并为奇数，每方三至九人，不得相互兼任。

企业中女职工、劳务派遣工、残疾职工、少数民族职工、农民工凡是占到职工总数百分之八以上的，应当有协商代表。

第九条 工会工作人员不得担任企业方的协商代表；企业负责人、出资人、人力资源部门负责人不得担任职工方协商代表。

第十条 企业方协商代表由企业法定代表人确定。

职工方协商代表由企业工会提名，并经职工代表大会或者职工大会通过，也

Article 6. The people's governments at all levels shall, in accordance with law, promote collective wage negotiation between enterprises and workers, and strengthen macro-control over wage distribution.

Article 7. The administrative departments of human resources and social security of the people's governments at the county level and upwards shall be responsible for guiding, coordinating and supervising the collective negotiation of wages.

The general trade unions and industrial trade unions at the county level and upwards are responsible for guiding and assisting workers to carry out collective wage negotiation.

The representative organizations of enterprises, such as enterprise federations (associations of entrepreneurs) and industrial and commercial federations, shall establish enterprise-side organizations in labor-intensive regions and industries to coordinate, assist and guide enterprises in carrying out collective wage negotiation work.

The administrative departments of human resources and social security, trade unions and representative organizations of enterprises shall establish and improve the tripartite coordination mechanism of labor relations to study and deal with the major problems in collective wages negotiation and the coordination of work relations.

Chapter II The Representatives for Collective Wages Negotiation

Article 8. As for carrying out collective wage negotiation, both the enterprise and the worker shall determine their respective representatives for the negotiation.

The number of representatives from both parties shall be equal and an odd number, three to nine for each side. The representative shall not hold a concurrent post for the other party.

In the enterprise, the female worker, the labor dispatch worker, the disabled worker, the minority worker and the migrant worker, who account for more than 8 percent of the total number of workers, shall have a representative for negotiation.

Article 9. The trade union staff shall not play the role of representative for negotiation on behalf of the enterprise; the principal of the enterprise, the investor and the head of the human resource department shall not act as the representative on behalf of the workers.

Article 10. The representative for negotiation on behalf of the enterprise shall be determined by the legal representative of the enterprise.

The representative on behalf of the workers shall be nominated by the trade union of the

可以由本企业工会组织职工民主推举产生。

未建立工会的企业，职工方协商代表由上一级工会指导企业职工民主推举，并经半数以上职工同意产生。

协商代表产生后三日内应在本企业予以公示。

第十一条 协商双方各自确定一名首席代表。

企业方首席代表由法定代表人担任或者其书面委托的其他企业方协商代表担任。

职工方首席代表由企业工会主席或者其书面委托的其他协商代表担任，也可以由职工方协商代表推举产生。未建立工会的，首席代表从职工方协商代表中推举产生。

协商双方首席代表可以各自聘请一至两名相关专业人员作为本方协商顾问，但人数不得超过本方协商代表总数的三分之一。协商顾问可以参加协商，为本方提供专业指导和服务。

第十二条 协商代表应当真实反映和代表本方的意愿，履行下列职责：

- （一）收集、提供工资集体协商有关的信息资料；
- （二）参加工资集体协商，提出协商意见；
- （三）及时向本方通报工资集体协商情况并接受本方人员的询问；
- （四）参加工资集体协商争议的处理；
- （五）监督工资集体合同的履行；
- （六）法律、法规规定的其他职责。

第十三条 协商代表应当保守在工资集体协商过程中知悉的商业秘密。

企业方和职工方均不得采取威胁、收买、欺骗等手段干扰工资集体协商，影

enterprise, and elected by the worker's congress or the worker's meeting, or may be elected by the worker's democratic election under the organization of trade union.

As for the enterprises without a trade union, the representative on behalf of the workers shall be democratically elected by the staff and workers of the enterprise, under the guidance of the upper-level trade union, and approved by more than half of the workers.

The representative for negotiation shall be publicized in the enterprise within three days after the nomination.

Article 11. Both parties to the negotiation shall each determine a chief representative.

The chief representative of the enterprise shall be acted by the legal representative or a representation for negotiation from other enterprises by his written commission.

The chief representative on behalf of workers shall be the chairman of the trade union of the enterprise or other representatives for negotiation entrusted by him in writing, or may be elected by the representatives on behalf of the workers. If no union is established, the chief representative shall be elected from the representatives on behalf of the workers.

The chief representatives of both parties may each employ one to two relevant professionals as their own negotiation adviser, but the number of advisers shall not exceed one third of the total number of representatives. The adviser may participate in the negotiation to provide the professional guidance and service to the party.

Article 12. The representative for negotiation shall truly reflect and represent the will of the party, and perform the following duties:

- (1) Collecting and providing information related to collective wages negotiation;
- (2) Participating in the collective negotiation to put forward opinions;
- (3) Timely informing the party of the collective wage negotiation situations and accepting the inquiry of the party's personnel;
- (4) Participating in the dispute settlement of collective negotiation on wages;
- (5) Supervising the performance of the collective contract for wages;
- (6) Other duties as stipulated by laws and regulations.

Article 13. The representatives for negotiation shall keep the trade secrets known in the process of collective negotiation.

Neither the enterprise nor the workers shall take the measures such as threat, purchase and deception to interfere with the collective negotiation on wages or to affect the result of the

响协商结果。

第十四条 企业应当为协商代表提供参加工资集体协商所必需的条件。协商代表参加工资集体协商期间，视为正常劳动。

第十五条 协商代表的任期与工资集体合同期限相同，工资集体合同期满不再续订的，协商代表任期结束。职工方协商代表在任期内，企业无正当理由不得解除与其签订的劳动合同或者降低其工资、福利等待遇标准。

企业确因工作需要变更职工方协商代表工作岗位的，应当事先征求协商代表本人意见，如协商代表本人不同意，应当报上一级工会协商处理。

第十六条 职工方协商代表未依法履行职责或者因故不能履行职责的，职工代表大会或者职工大会会有权进行更换，也可以由本企业工会组织职工民主推举更换。尚未建立职工代表大会或者职工大会的企业，经半数以上职工同意，可以更换职工方协商代表。

第十七条 县级以上人力资源和社会保障行政部门应当会同同级总工会和企业代表组织，建立专职工资集体协商指导员队伍，指导、帮助企业和职工开展工资集体协商。

第三章 工资集体协商内容

第十八条 企业方和职工方应当就本企业下列劳动报酬等内容进行协商：

- （一）工资分配制度、形式，工资标准；
- （二）职工年度平均工资水平及其调整幅度；
- （三）工作时间，工资支付办法；

negotiation.

Article 14. The enterprises shall provide the negotiation representatives with the necessary conditions for participating in collective wage negotiation. The negotiation representatives shall be deemed as being normal working during the period of collective wages negotiation.

Article 15. The term of office for a negotiation representative shall be the same as the term for the collective contract of wages. When the collective contract of wages expires without renewal, the term of office for the representative shall be ended. During the term of office for a worker as negotiation representative, the enterprise shall not release the labor contract with him or reduce the salary, welfare and other treatment standards.

As for the enterprise indeed needs to change the working position of a negotiation representative on behalf of workers, the representative shall be consulted in advance, and if the representative does not agree, the enterprise shall report to the trade union at the next higher level for negotiation and treatment.

Article 16. As for a negotiation representative on behalf of workers fails to perform his or her duties in accordance with the law or fails to perform his/ her duties for any reason, the worker's congress or the worker's meeting shall have the right to carry out the replacement, or the trade union organization of the enterprise shall organize the democratic election. If the worker's congress or the worker's meeting is not found in an enterprise, the negotiation representative may be replaced upon the consent of more than half of the workers.

Article 17. The administrative department of human resources and social security at the county level and upwards shall, in conjunction with the general trade union of the corresponding level and the representative of the enterprise, establish a team of full-time instructors to guide and help enterprises and workers to conduct collective negotiation on wages.

Chapter III Contents of Collective Wages Negotiation

Article 18. The enterprise and the workers shall negotiate on the following aspects:

- (1) The wage distribution system, the distribution form, and the wage standard;
- (2) The average annual wage level of the workers and the adjustment range;
- (3) Working hours and methods of wages payment;