

Judges Law of the People's Republic of China

(Adopted at the 12th Meeting of the Standing Committee of the Eighth National People's Congress on February 28, 1995, promulgated by Order No. 38 of the President of the People's Republic of China on February 28, 1995, and amended in accordance with the Decision on Amending the Judges Law of People's Republic of China adopted at the 22nd Meeting of the Standing Committee of the Ninth National People's Congress on June 30, 2001)

Contents

Chapter I General Provisions

Chapter II Functions and Duties

Chapter III Obligations and Rights

Chapter IV Qualifications for a Judge

Chapter V Appointment and Removal

Chapter VI Posts to Be Avoided

Chapter VII Grades of Judges

Chapter VIII Appraisal

Chapter IX Training

Chapter X Awards

Chapter XI Punishment

Chapter XII Salary, Insurance and Welfare

Chapter XIII Resignation and Dismissal

Chapter XIV Retirement

Chapter XV Petition and Complaint

Chapter XVI Commission for Examination and Assessment of Judges

Chapter XVII Supplementary Provisions

Chapter I

General Provisions

Article 1 This law is enacted in accordance with the Constitution to enhance the quality of judges, to strengthen the administration of judges, and to ensure that the People's Courts independently exercise judicial authority according to law, that judges perform their functions and duties according to law and that law is administered impartially.

Article 2 Judges are judicial persons who exercise the judicial authority of the State according to law, and they include the presidents, vice-presidents, members of judicial committees, chief judges and associate chief judges of divisions, judges and assistant judges of the Supreme People's Court, local People's Courts at various levels and special People's Courts such as military courts.

Article 3 Judges shall faithfully implement the Constitution and laws, and serve the people wholeheartedly.

Article 4 Judges, when performing their functions and duties according to law, shall be protected by law.

Chapter II

Functions and Duties

Article 5 The functions and duties of a judge are as follows :

(1) to take part in a trial as a member of a collegial panel or to try a case alone according to law; and

(2) to perform other functions and duties as provided by law.

Article 6 Presidents, vice-presidents, members of judicial committees, and chief judges and associate chief judges of divisions shall, in addition to the judicial functions and duties, perform other functions and duties commensurate with their posts. Chapter III

Obligations and Rights

Article 7 Judges shall perform the following obligations:

(1) to strictly observe the Constitution and laws;

(2) to take facts as the basis and laws as the criterion when trying cases, to handle cases impartially, and not to bend the law for personal gain;

(3) to protect the litigation rights of the participants in proceedings according to law;

(4) to safeguard the State interests and public interests, and to safeguard the lawful rights and interests of natural persons, legal persons and other organizations;

(5) to be honest and clean, faithful in the discharge of duties, to observe discipline and professional ethics;

(6) to keep State secrets and the secrets of judicial work; and

(7) to accept legal supervision and supervision by the masses.

Article 8 Judges shall enjoy the following rights:

(1) to have the power and working conditions which are essential to the performance of the functions and duties of judges;

(2) to brook no interference from administrative organs, public organizations or individuals in trying cases according to law;

(3) to be not removed, demoted or dismissed from the post, and to be not given a sanction, without statutory basis and without going through statutory procedures;

(4) to be remunerated for work and to enjoy insurance and welfare benefits;

(5) to enjoy safety of the person, property and residence as ensured by law;

(6) to receive training;

(7) to lodge petitions or complaints; and

(8) to resign their posts.

Chapter IV

Qualifications for a Judge

Article 9 A judge shall possess the following qualifications:

(1) to be of the nationality of the People's Republic of China;

(2) to have reached the age of 23;

(3) to endorse the Constitution of the People's Republic of China;

(4) to have fine political and professional quality and to be good in conduct;

(5) to be in good health; and

(6) to have worked in law for at least two years in the case of a graduate from a four-year course in the law specialty of an institution of higher education or a graduate from a four-year course in a non-law specialty of such an institution who possesses the professional knowledge of law, and to have worked in law for at least three years in the case of the said graduate to be appointed judge of a Higher People's Court or the Supreme People's Court; to have worked in law for at least one year in the case of a person holding a Master of Law degree or Doctor of Law degree; or a person holding a master's degree or doctor's degree of non-law specialty who possesses the professional knowledge of law, and to have worked in law for at least two years in the case of the said person to be appointed judge of a Higher People's Court or the Supreme People's Court.

The judicial persons who, before this Law is implemented, do not possess the qualifications as provided by sub-paragraph (6) of the preceding paragraph shall receive training. The specific measures shall be formulated by the Supreme People's Court.

Where it is really difficult to apply the provisions in sub-paragraph (6) of the first paragraph regarding the academic qualifications, such qualifications for judges may, upon examination and approval by the Supreme People's Court and within a limited period of time, be relegated to include graduates from a two-or-three-year course in the law specialty of an institution of higher education.

Article 10 None of the following persons may hold the post of a judge:

(1) persons who have been subjected to criminal punishment for commission of a crime; or

(2) persons who have been discharged from public employment.

Chapter V

Appointment and Removal

Article 11 A judge shall be appointed or removed from the post in accordance with the limit of authority for, and procedures of, appointment or removal as prescribed by the Constitution and laws.

The President of the Supreme People's Court shall be elected or removed by the National People's Congress. The vice-presidents, members of the judicial committee, chief judges and associate chief judges of divisions and judges shall be appointed or removed by the Standing Committee of the National People's Congress upon the suggestions of the President of the Supreme People's Court.

The presidents of the local People's Courts at various levels shall be elected or removed by the local People's Congress at various levels. The vice-presidents, members of the judicial committees, chief judges and associate chief judges of divisions and judges shall be appointed or removed by the standing committees of the people's congresses at the corresponding levels upon the suggestions of the presidents of those courts.

The appointment or removal of the presidents of the Intermediate People's Courts set up in prefectures of the provinces or autonomous regions or set up in the municipalities directly under the Central Government shall be decided on by the standing committees of the people's congresses of provinces, autonomous regions or municipalities directly under the Central Government on the basis of the nominations made by the respective councils of chairmen. The vice-presidents, members of the judicial committees, chief judges and associate chief judges of divisions and judges shall be appointed or removed by the standing committees of the people's congresses of the provinces, autonomous regions or municipalities directly under the Central Government upon the suggestions of the presidents of the Higher People's Courts.

The presidents of the local People's Courts at various levels set up in the national autonomous areas shall be elected or removed by the people's congresses at various levels of the national autonomous areas. The vice-presidents, members of the judicial committees, chief judges and associate chief judges of divisions and judges shall be appointed or removed by the standing committees of the people's congresses at the corresponding levels upon the suggestions of the presidents of those courts.

The assistant judges of the People's Courts shall be appointed or removed by the presidents of the courts where they work.

The measures for the appointment or removal of the presidents, vice-presidents, members of the judicial committees, chief judges and associate chief judges of divisions and judges of the Special People's Courts such as the military courts shall be formulated by the Standing Committee of the National People's Congress separately.

Article 12 Persons to be appointed judges for the first time shall be selected, through strict examination and appraisal, from among those who have passed the uniform national judicial examination and who are the best qualified for the post, in conformity with the standards of having both ability and political integrity.

Persons to be appointed presidents or vice-presidents of People's Courts shall be selected from among the best judges and other people who are best qualified for the post.

Article 13 If a judge is found to be in any of the following circumstances, a suggestion shall be submitted according to law for his or her removal from the post:

- (1) having forfeited the nationality of the People's Republic of China;
- (2) having been transferred out of a court;
- (3) having no need to maintain his or her original post after a change of post;
- (4) being determined to be incompetent in the post through appraisal;
- (5) being unable to perform the functions and duties of a judge for a long period of time due to poor health;
- (6) having retired from the post;
- (7) having resigned the post, or having been dismissed; or
- (8) being disqualified from continuing to hold the post because of violation of discipline or law or commission of a crime.

Article 14 Once the organ discovers that the appointment of a person as judge made by it is in violation of the provisions of this Law governing the qualifications for judges, it shall revoke the appointment. Where a court at a higher level discovers that the appointment of a judge made by a court at a lower level is in violation of the provisions governing the qualifications for judges, the former shall suggest to the latter that it revoke the appointment in accordance with law or that the it, in accordance with law, suggest to the standing committee of the people's congress at the same level that it revoke the appointment.

Article 15 No judges may concurrently be members of the standing committees of the people's congresses, or hold posts in administrative organs, procuratorial organs, enterprises or institutions, or serve as lawyers.

Chapter VI

Posts to Be Avoided

Article 16 Judges who are connected by husband-wife relationship, or who are directly related by blood, collaterally related within three generations, or closely related by marriage may not, at the same time, hold the following posts:

(1) the president, vice- presidents, members of the judicial committee, chief judges or associate chief judges of divisions in the same People's Court;

(2) the president, vice-presidents, judges or assistant judges in the same People's Court;

(3) the chief judge, associate chief judges, judges or assistant judges in the same division; or

(4) presidents or vice-presidents of the People's Courts at the levels next to each other.

Article 17 No judge may, within two years after leaving his or her post from a People's Court, serve as an agent ad litem or a defender in the capacity of a lawyer.

No judge may, after leaving his or her post from a People's Court, serve as an agent ad litem or a defender in a case being handled by the court where he or she previously held a post.

No spouse or children of a judge may serve as an agent ad litem or a defender in a case being handled by the court where the judge holds a post.

Chapter VII

Grades of Judges

Article 18 Judges are divided into twelve grades.

The President of the Supreme People's Court is the Chief Justice, and judges from the second to the twelfth grade are composed of associate justices, senior judges and judges.

Article 19 Grades of judges shall be determined on the basis of their posts, their actual working ability and political integrity, their professional competence, their achievements in judicial work and their seniority.

Article 20 Measures for the establishment of the grades and for their evaluation and promotion shall be formulated separately by the State.

Chapter VIII

Appraisal

Article 21 Appraisal of judges shall be conducted by the People's Courts the judges belong to.

Article 22 The appraisal of judges shall be carried out objectively and impartially, through the combined efforts of the leaders and masses, and routinely and annually.

Article 23 The appraisal of judges shall include their achievements in judicial work, their ideological level and moral character, their competence in judicial work and their mastery of law theories, their attitude in and style of work. However, emphasis shall be laid on their achievements in judicial work.

Article 24 The results of the annual appraisal shall fall into three grades: excellent, competent and incompetent.

The results of appraisal shall be taken as the basis for award, punishment, training, removal or dismissal of a judge, and for readjustment of his or her grade and salary.

Article 25 A judge shall be informed of the result of the appraisal in written form. If the judge disagrees with the result, he or she may apply for reconsideration.

Chapter IX

Training

Article 26 Theoretical and professional training for judges shall be carried out in a planned way.

The principles of integrating theory with practice, giving lectures in light of the needs, and emphasizing practical results shall be applied in the training of judges.

Article 27 The judges colleges and universities of the State and other institutions for training judges shall, in accordance with relevant regulations, undertake the task of training judges.

Article 28 The results of the studies of judges and appraisals made during their training shall be taken as one of the bases for their appointment and promotion.

Chapter X

Awards

Article 29 Judges who have made significant achievements and contributions in judicial work, or performed other outstanding deeds shall be rewarded.

The principle of combining moral encouragement with material reward shall be applied in rewarding judges.

Article 30 Judges who have any of the following achievements to their credit shall be rewarded:

- (1) having achieved notable successes in enforcing laws and handling cases impartially;
- (2) having accumulated rich experience in judicial practice that may serve as a guide in judicial work;
- (3) having made proposals for the reform of judicial work that have been adopted and have produced remarkable results;
- (4) having performed outstanding deeds in safeguarding the interests of the State, the collective and the people against heavy losses;
- (5) having performed outstanding deeds by bravely fighting against illegal or criminal acts;
- (6) having made judicial proposals that have been adopted and have produced remarkable results, or having scored outstanding successes in publicizing the importance of the legal system and guiding the work of the people's mediation committees;
- (7) having scored outstanding achievements in protecting State secrets and secrets of judicial work;
or
- (8) having performed other meritorious deeds.

Article 31 The awards include: Citation for Meritorious Deeds, Merit Citation Class III, Merit Citation Class II, Merit Citation Class I, and a title of honour.

The awards shall be authorized and procedures gone through in accordance with relevant regulations.

Chapter XI

Punishment

Article 32 No judge may commit any of the following acts:

(1) to spread statements damaging the prestige of the State; to join illegal organizations; to take part in such activities as assembly, procession and demonstration against the State; and to participate in strikes;

(2) to embezzle money or accept bribes;

(3) to bend law for personal gain;

(4) to extort confessions by torture;

(5) to conceal or falsify evidence;

(6) to divulge State secrets or secrets of judicial work;

(7) to abuse functions and powers; and to infringe upon the lawful rights and interests of natural persons, legal persons or other organizations;

(8) to neglect his or her duty so as to wrongly judge a case or to cause heavy losses to the party concerned;

(9) to delay the handling of a case so that work is adversely affected;

(10) to take advantage of the functions and powers to seek gain for himself or herself or other people;

(11) to engage in profit-making activities;

(12) to meet the party concerned or his or her agent without authorization and attend dinners or accept presents given by the party concerned or his or her agent; or

(13) to commit other acts in violation of law or discipline.

Article 33 A judge who has committed any of the acts listed in Article 32 of this Law shall be given sanctions; if the case constitutes a crime, he or she shall be investigated for criminal responsibility in accordance with law.

Article 34 The sanctions include: a disciplinary warning, a demerit recorded, a grave demerit recorded, demotion, dismissal from the post and discharge from public employment.

The salary of a judge who has been dismissed from the post shall at the same time be reduced and his or her grade be demoted.

Article 35 A sanction shall be authorized and procedures gone through in accordance with relevant regulations.

Chapter XII

Salary, Insurance and Welfare

Article 36 The salary system and scales for judges shall, in light of the characteristics of judicial work, be formulated by the State.

Article 37 The system under which the salaries of judges are increased regularly shall be practiced. The salary of a judge who has been confirmed through appraisal as being excellent or competent may be raised in accordance with regulations; the salary of a judge who has made special contributions may be raised in advance in accordance with regulations.

Article 38 Judges shall enjoy judicial allowances, regional allowances and other allowances and insurance and welfare benefits as prescribed by the State.

Chapter XIII

Resignation and Dismissal

Article 39 If a judge requests resignation, he or she shall present an application in written form before he or she shall be removed in accordance with the procedures as provided by law.

Article 40 A judge shall be dismissed if he or she is found to be in any of the following circumstances:

- (1) to be confirmed by annual appraisal as being incompetent for two successive years;
- (2) to be unqualified for the present post and decline to accept other assignments;
- (3) to refuse to accept reasonable transfer, which is necessitated by restructuring of the judicial organ or reduction of the size of the staff;
- (4) to have stayed away from work without leave or to have overstayed his or her leave without good reason for fifteen days or more in succession, or for thirty days or more in a year aggregated; or
- (5) to fail to perform a judge's duty, and make no rectification after criticism.

Article 41 A judge who is dismissed shall be removed from the post in accordance with the procedures as provided by law.

Chapter XIV

Retirement

Article 42 The retirement system regarding judge shall, in light of the characteristics of judicial work, be formulated separately by the State.

Article 43 After retirement judges shall enjoy the insurance of old-age pension and other benefits as prescribed by the State.

Chapter XV

Petition and Complaint

Article 44 If a judge disagrees with the sanction given to him or her or the disposition of his or her case by a People's Court, he or she may, within 30 days from the date of receiving the decision on the sanction or disposition, apply for reconsideration to the organ which gave the sanction or disposed of the case and shall have the right to appeal to the organ at a level higher than the organ which gave the sanction or disposed of the case.

The organ that receives the appeal must make a decision on it in accordance with regulations.

During the period of reconsideration or petition, execution of the decision on a sanction or disposition made with regard to a judge shall not be suspended.

Article 45 If a State organ or any of its functionaries commits an act infringing upon the rights of a judge as provided by Article 8 of this Law, the judge shall have the right to make a complaint.

If an administrative organ, a public organization or an individual interferes in a case that a judge is trying according to law, that organ, organization or individual shall be investigated for responsibility according to law.

Article 46 The petition or complaint made by a judge shall be true to facts. If a judge makes up a story or lodges a false accusation against an innocent person, he or she shall be investigated for responsibility according to law.

Article 47 Where the sanction given to a judge or the disposition of his or her case is wrong, it shall be put right without delay; if it has damaged the judge's reputation, the reputation shall be rehabilitated, the ill effects shall be eliminated and an apology shall be made; if it has caused financial losses to the judge, compensations shall be made. The persons who are directly responsible for retaliation shall be investigated for responsibility according to law.

Chapter XVI

Commission for Examination and Assessment of Judges

Article 48 A People's Court shall establish a commission for examination and assessment of judges.

The functions and duties of a commission for examination and assessment of judges are to guide the training, examination, appraisal and assessment of judges. Specific measures in this regard shall be formulated separately.

Article 49 The number of persons on a commission for examination and assessment of judges shall be five to nine.

The chairman of a commission for examination and assessment of judges shall be assumed by the president of the court it belongs to.

Chapter XVII

Supplementary Provisions

Article 50 In light of the need of judicial work, the Supreme People's Court may shall, in conjunction with the relevant departments, formulate measures to fix the proportion of judges to other staff members in the People's Courts at different levels.

Article 51 The State institutes a uniform judicial examination system for persons to be appointed judges or procurators for the first time, or to obtain the qualifications for lawyer. The judicial administration department under the State Council shall, in conjunction with the Supreme People's Court and the Supreme People's Procuratorate, formulate implementation measures for judicial examination. The judicial administration department under the State Council shall take charge of the implementation of the measures.

Article 52 The executors of the People's Courts shall be administered with reference to the relevant provisions of this Law.

Measures for the administration of the clerks of the People's Courts shall be formulated by the Supreme People's Court.

The administrative judicial personnel of the People's Courts shall be administered in accordance with the relevant regulations of the State.

Article 53 This law shall go into effect as of July 1, 1995.

Notice: All Rights Reserved to the Legislative Affairs Commission of the Standing Committee of the National People's Congress.