

Regulations on Collective Labour Contracts in Shanghai Municipality

(Passed on the 38th Session of the Standing Committee of the 12th Shanghai Municipal People's Congress on August 16, 2007)

Chapter I General Provisions

Article 1

On the basis of the actual circumstances in Shanghai Municipality, *these Regulations* are formulated in accordance with the provisions stipulated in the "Labour Law of the People's Republic of China", the "Labour Contract Law of the People's Republic of China" and the "Trade Union Law of the People's Republic of China" and other relevant laws and regulations, to regulate collective bargaining, the establishment and fulfillment of collective contracts, and to protect workers' legal rights and interests, for the purpose of building up and developing harmonious, stable labour relations.

Article 2

These Regulations apply to labour relation issues concerning the collective bargaining, the establishment and fulfillment of collective contracts between the enterprises and the employees within the jurisdiction of the Municipality.

Article 3

The "collective bargaining" mentioned in *these Regulations* refers to negotiations and consultations conducted by the employees of an enterprise as one party and the enterprise as the other on an equal footing over issues concerning Labour relations.

The "collective contract" mentioned in *these Regulations* refers to the written agreement on relevant issues concerning Labour relations between an enterprise and the employees of the enterprise through collective bargaining.

Article 4

The enterprises and their employees shall establish the collective bargaining mechanism, through which issues concerning labour relation issues shall be collectively negotiated or consulted.

The employees of an enterprise and the enterprise, on collective bargaining on labour relation issues, as well as the signing and fulfillment of a collective contract thereof, shall follow the principles of legality, fairness, equality, mutual respect, honesty and integrity, with the legitimate interests of both parties being duly considered.

Article 5

The Municipal and district/county Labour and Social Security Administrative Departments (hereinafter referred to as the Labour and Social Security Administrative Departments- LSSAD) shall exercise supervisory power within their own jurisdiction over proceedings including collective bargaining on labour relation issues and signing and fulfillment of the collective contracts by the employees and the enterprises.

Chapter II Collective Bargaining

Article 6

On collective bargaining over labour relation issues, representative negotiators (hereunder “negotiators”) and chief representative negotiators (hereunder “chief negotiators”) of the employees and the enterprises shall be elected to represent each party in accordance with the procedures prescribed in *these Regulations*. While the number of the negotiators from each party shall be determined through consultation between the two parties, while each party shall be presented by no less than three persons, and the number of the representatives from the enterprises shall not exceed those representing the employees.

Article 7

In the case of an enterprise where a trade union has already been established, the negotiators representing the employees shall be elected and designated by the trade union. If the enterprise has the committee of female employees, at least one female negotiator shall be designated. The chief

negotiator shall be the major head of the trade union.

If the trade union has not yet been established in the enterprise, the negotiators representing the employees shall be appointed democratically by the employees under the guidance of the trade union at higher level, and approved through majority rules of the employees while the chief negotiator representing the employees shall be democratically appointed by the negotiators.

The negotiators representing the enterprise shall be designated by the legal representative person of the enterprise, and the chief negotiator representing the enterprise shall be either the enterprise's legal representative person, or be appointed by the legal representative person in written form.

Based on the actual circumstances, both parties to the collective bargaining may invite relevant professionals to join their side as the negotiators, but the number of these third-party negotiators shall be no more than one third of the negotiators of that side.

Both parties to the collective bargaining may change their own negotiators, and such changes shall follow the same procedures through which negotiators are appointed or designated as provided by *these Regulations*.

Article 8

The term of a negotiator's appointment shall be defined by the party which the negotiator represents, and the maximum term shall not go beyond the duration of the collective contract; in case no consensus or collective contract is reached through the negotiations, the term shall last for six months since the date on which the negotiator is designated or appointed.

Article 9

The duties a negotiator shall perform include:

- (1) Participating in the collective bargaining;
- (2) Collecting relevant information and materials for the collective bargaining;
- (3) Listening to the opinions of the persons that are represented by him or her, and answering their queries;
- (4) Participating in the settlement of disputes arising from the collective bargaining; and
- (5) Other duties to be performed for collective bargaining.

Article 10

Activities by the appointed or designated negotiators who are employed in the enterprise such as participating in collective bargaining during working hours, and collecting relevant materials or information for collective bargaining for no more than three working days within the term of appointment or designation, shall be deemed as normal fulfillment of their work, and the salaries and other benefits of the negotiators shall not be affected.

The enterprise, without any justified reasons, shall not change the posts or positions of any negotiators representing the employees when the negotiators are performing their duties according to their appointment.

Article 11

The negotiators shall fulfill the following obligations:

- (1) Maintaining the normal production and work of the enterprise in order;
- (2) Keeping the enterprise's commercial secrets which are learnt in the course of collective bargaining; and
- (3) Observing the rules agreed by both parties to the collective bargaining and keeping the information acquired in the course of collective bargaining which is inappropriate for disclosure.

Article 12

The formulation, modification and decision on the rules or regulations of the enterprises over major issues which concern the immediate interests of the employees shall be agreed upon through collective bargaining with the employees. These major issues include:

- (1) Remuneration of Labour;
- (2) Working hours;
- (3) Rests and leaves;
- (4) Occupational health and safety;
- (5) Insurance benefits and welfare;
- (6) Training for employees;
- (7) Work discipline;
- (8) Work quota;
- (8) Other issues as prescribed by the laws and regulations.

The issues of the level of the employees' salaries and the mechanism of wage adjustment shall be determined through collective bargaining between the enterprise and the employees.

Collective bargaining over issues concerning the interests of employees may be initiated upon the request of the employees.

Article 13

Collective bargaining may be initiated upon the request of either party in written form. The other party shall give a reply in written form within 15 days upon receipt of the request, justified reasons shall be given as well if the request is to be declined.

Neither party shall refuse or delay in action if the requested collective bargaining is to deal with these following issues:

- (1) Staff downsizing involving over 20 job cuts, or staff downsizing less than 20 employees but concerning over 10 percent of the total number of staff;
- (2) Labour disputes leading to massive work stoppages and/or petitions to government authorities; and
- (3) Serious potential workplace hazards or occupational hazards found in the process of production.

Article 14

In an enterprise with a trade union, the union shall make requests for collective bargaining on behalf of the employees, and the requests for collective bargaining by the enterprise shall be presented to the union.

In an enterprise without a trade union, the requests for collective bargaining of the employees shall be made to the enterprise by representatives commissioned by the employees under the guidance of the trade union at the higher level; and the enterprise can either directly bring the requests for collective bargaining to its employees, or present the requests to the trade union at the higher level.

Article 15

Prior to the collective bargaining, both parties shall complete the following preparation work:

- (1) Commissioning or designating their own negotiators within 15 days since the date on which both parties agree on the collective bargaining, and accordingly notifying each other in written form of their respective negotiators;
- (2) Determining the time and venue of the collective bargaining through consultation;

(3) Collecting information and materials relevant to the issues that will be covered in the collective bargaining;

(4) Listening to the opinions and suggestions of the stakeholders concerning the forthcoming collective bargaining;

(5) Reviewing relevant laws, regulations and legal rules or provisions on collective bargaining;

(6) Drafting the plan of settlement or solution to the issues to be covered in the collective bargaining; and

(7) Completing the work other than the above for preparation of the collective bargaining.

Article 16

Meetings of the collective bargaining shall be jointly presided by the chief negotiators of the two parties. The party that raises the issue for bargaining shall give a description of the issue and put forward the plan of settlement or solution.

Meeting minutes of the collective bargaining shall be well kept and signed by the chief negotiators of the two parties.

Either party can request the other party to provide relevant materials and information, or to give explanations on the issues raised for bargaining.

Article 17

The trade union at the higher level shall guide the employees to conduct collective bargaining with the enterprise, and if necessary, send observers to look over the collective bargaining between the employees and the enterprise.

Article 18

In the case of merger, split or reorganization of the enterprise, the enterprise concerned shall conduct collective bargaining with the employees about the continuing fulfillment of the collective contracts; if an agreement is reached through consultation, the original collective contracts may continue to be fulfilled; otherwise, the collective bargaining shall be initiated anew between the two parties to deal with labour relation issues.

Article 19

When the collective bargaining is in process, the enterprise and the employees shall maintain the normal order of production and work in the workplace, and shall not take any action that may affect production, the order

of work or social stability.

Chapter III Collective Contracts

Article 20

Where collective bargaining is held for conclusion of a collective contract, the two parties to the bargaining shall agree on a draft collective contract, which shall be signed by the chief negotiators of the two parties. The text of the draft contract shall be submitted to the employees' congress or to all the employees for discussion. The negotiators representing the employees shall make an explanatory statement to the employees' congress or to all the employees on the details of the collective bargaining as well as the draft collective contract.

The draft collective contract shall be adopted through majority rules by the employees' congress or by all the employees.

Article 21

When a draft collective contract is adopted after discussions by the employees' congress or by all the employees, the chief negotiator representing the employees shall notify the enterprise of the results of the discussions and adoption in written form. The enterprise shall submit the collective contract to the Municipal or district/county labour and social security authorities within 10 days upon receipt of the written notice.

The enterprise shall provide the following documentation when submitting the collective contract:

- (1) The copy of the collective contract signed by the chief negotiators of both parties;
- (2) Briefing of the two parties and their negotiators to collective bargaining;
- (3) A summary on the process of the collective bargaining; and
- (4) A report of how the draft collective contract is discussed and adopted by the employees' congress, or by all the employees.

The collective contract shall become effective if the labour and social security authorities raise no objections within 15 days upon the date of receiving the copy of the collective contract.

Article 22

Special collective contracts concerning particular issues such as wage adjustment mechanism, occupational health and safety, and protection of female workers' rights and interests may be signed between the employees and the enterprises through collective bargaining.

Article 23

The standards of working conditions and Labour remuneration, etc., as stipulated in the collective contract shall not be lower than the minimum standards set by the state government and the Municipal government.

The standards of working conditions and Labour remuneration, etc., either stipulated in the labour contracts between the enterprise and the individual employees, or prescribed in the internal rules and regulations of the enterprise, shall not be lower than the standards as prescribed in the collective contract.

Chapter IV Sectoral & Regional Collective Contracts

Article 24

The trade unions in specific sectors such as construction industry, catering trade, etc., in regions below the county level may select and designate negotiators to conduct collective bargaining with the negotiators from the enterprises, and sign collective contracts covering the specific sector or region.

Article 25

Sectoral collective bargaining may be initiated to address the issues which concern the immediate interests of the employees in the specific industry or trade. These issues include:

- (1) The minimum wage level of the specific sector;
- (2) The minimum range of wage adjustment of the specific sector;
- (3) The work quotas and relevant measurement criteria for like or similar occupations in the specific sector;
- (4) The occupational health and safety standards for different occupations and positions in the specific sector;
- (5) The institutions of vocational training for employees of different occupations and positions in the specific sector;
- (6) Other issues that need to be addressed through sectoral collective

bargaining.

Article 26

The draft of sectoral collective labour contract shall be subject to approval of the legal representative persons of the enterprises concerned.

The draft sectoral collective labour contract shall be deemed as passed in the enterprises if the majority of the employees' representatives of the enterprise, or the majority of all the employees of the enterprise approves the draft of the sectoral collective labour contract.

Article 27

Regional collective bargaining may be initiated to address issues which concern the immediate interests of the employees working in the specific region. These issues include:

- (1) The minimum wage level in the region;
- (2) The minimum range of wage adjustment within the region;
- (3) Other issues that need to be addressed through regional collective bargaining.

Article 28.

The draft of regional collective labour contract shall be subject to approval of the legal representative persons of the enterprises concerned.

The draft of regional collective labour contract shall be deemed as passed once the regional employee representative congress, or the majority of the employee representatives of the enterprises that recognize the contract, or the majority of all the employees of those enterprises approves the draft.

Article 29.

Representatives of the enterprises or relevant trade unions shall submit the sectoral or regional collective labour contracts, together with other relevant materials, to the district/county labour and social security authorities.

The sectoral or regional collective labour contracts shall take effect if the labour and social security authorities raise no objection to the contracts within 15 days upon the date on which the collective contracts are received thereby.

Article 30

Sectoral or regional collective contracts concluded according to the laws and regulations shall have legal binding force on the enterprises and their employees that have approved the collective contract; and the standards of Labour conditions, Labour remuneration, etc. agreed in the collective contracts and labour contracts signed between the enterprises and the employees shall not be lower than the standards as stipulated in the sectoral or regional collective contracts.

Chapter V Settlement of Disputes

Article 31

A tri-partite labour relation coordination mechanism consisting of representatives from relevant governmental departments, the trade unions and representatives of the enterprises shall be established in the Municipality.

Article 32

Either party to the collective bargaining can apply to the competent labour and social security authorities for conciliation or settlement if one party refuses or delay the request for collective bargaining by the other party without justified reasons, or no consensus or a collective contract may be reached or concluded as a result of the collective bargaining. Meanwhile, the competent labour and social security authorities may initiate the procedure of conciliation or settlement at their discretion without application for conciliation or settlement by either party.

During the process of conciliation or settlement by competent labour and social security authorities for disputes arising from collective bargaining, the competent labour and social security authorities may handle the cases jointly with the representatives from the trade union at the same level and the representatives from the enterprises.

Article 33

If any disputes arise out of the performance of the collective contract, and the dispute or disputes are not settled even after consultation between the employees and the enterprises, both parties may submit the case to the competent labour and social security authorities for conciliation or settlement.

Article 34

In case that an enterprise breaches the collective contract, infringing on the labour rights and interests of the employees, the trade union may require the enterprise to shoulder the liabilities according to the law; if any disputes over the performance of the collective contract arise, and no agreement on settlement is reached even after consultation, the trade union may apply for labour arbitration or take legal actions.

Chapter VI Legal Liabilities

Article 35

In case that a violation of *these Regulations* proves to be in violation of any other laws or administrative regulations, in which there exist stipulations on penalties, these laws or administrative regulations shall apply.

Article 36

In case that the enterprise changes, without justified reasons, the post or position of a negotiator representing the employees in violation of the second clause of **Article 10** of *these Regulations*, the enterprise shall reinstate the concerned negotiator's post or position upon his or her request.

Article 37

In case that an enterprise refuses or delays collective bargaining in violation of the second clause of **Article 13** of *these Regulations*, the competent labour and social security authorities shall order the enterprise to make corrections accordingly.

Chapter VII Supplementary Provisions

Article 38

Collective bargaining over labour relation issues, establishment of collective contracts and fulfillment thereof by and between the branch of an enterprise and its employees shall refer to *These Regulations* with the consent of the legal representative person of the enterprise to bargaining and collective contract.

Collective bargaining over labour relations issues, establishment of collective contracts and fulfillment thereof by and between individually-owned businesses, privately-run non-enterprise organizations, etc. and their employees shall refer to *These Regulations* as well.

Article 39

These Regulations shall come into effect as of January 1st, 2008.

(In case of any discrepancy between the English translation and the original Chinese text, the Chinese text shall prevail. --- the translator)

上海市集体合同条例

2007年8月16日市十二届人大常委会第38次会议通过

第一章 总则

第一条 为了规范集体协商和签订、履行集体合同的行为，保护劳动者的合法权益，构建和发展和谐稳定的劳动关系，根据《中华人民共和国劳动法》、《中华人民共和国劳动合同法》和《中华人民共和国工会法》等法律、行政法规的有关规定，结合本市实际，制定本条例。

第二条 本市行政区域内的企业与职工一方就劳动关系有关事项进行集体协商和签订、履行集体合同，适用本条例。

第三条 本条例所称的集体协商，是指企业职工一方与企业就劳动关系有关事项进行平等协商的活动。

本条例所称的集体合同，是指企业职工一方与企业就劳动关系有关事项，通过集体协商签订的书面协议。

第四条 企业与职工一方应当建立集体协商机制，就劳动关系有关事项进行集体协商。

企业职工一方与企业就劳动关系有关事项进行集体协商和签订、履行集体合同应当遵循合法、公正、平等、相互尊重、诚实守信、兼顾双方合法利益的原则。

第五条 市和区、县劳动和社会保障行政管理部门(以下简称劳动保障行政部门)对本行政区域内的企业职工一方与企业就劳动关系有关事项进行集体协商和签订、履行集体合同进行监督。

第二章 集体协商

第六条 企业职工一方与企业就劳动关系有关事项进行集体协商，应当按照本条例规定的程序产生各自的协商代表和首席代表。协商代表具体人数由双方协商确定，但每方协商代表人数不得少于三人，企业一方的协商代表不得多于职工一方的协商代表。

第七条 已经建立工会的企业，职工一方的协商代表由本企业工会选派，建立女职工委员会的，应当有女性协商代表。首席代表由工会主要负责人担任。

尚未建立工会的企业，职工一方的协商代表由上级工会指导职工民主推荐，并经本企业半数以上职工同意，首席代表由协商代表民主推荐产生。

企业一方的协商代表由企业法定代表人指派，首席代表由法定代表人或者其书面委托的人担任。

集体协商双方根据实际需要可以聘请本企业以外的专业人员担任本方协商代表，但其人数不得超过本方协商代表人数的三分之一。

集体协商双方可以更换本方的协商代表。更换协商代表，应当遵守本条例规定的代表产生程序。

第八条 协商代表履行代表职责的期限，由被代表方确定，但最长至集体合同期满时为止；因集体协商达不成一致或者未能签订集体合同的，协商代表履行代表职责的期限为自担任协商代表起六个月。

第九条 协商代表应当履行下列职责：

(一)参加集体协商；(二)搜集与集体协商有关的情况和资料；

(三)听取本方人员的意见，回答本方人员的询问；

(四)参加集体协商争议的处理；(五)其他需要履行的集体协商职责。

第十条 本企业产生的协商代表在工作时间内参加集体协商，以及在履职期限内利用

不超过三个工作日的工作时间，从事搜集与集体协商有关资料等活动，视为提供了正常劳动，工资及各项福利不受影响。

职工一方的协商代表在履行代表职责期间，企业无正当理由不得变更其工作岗位。

第十一条 协商代表应当履行下列义务：

- (一)维护企业正常的生产、工作秩序；
- (二)保守在集体协商过程中知悉的企业商业秘密；
- (三)遵守集体协商双方约定的纪律，不散布协商过程中不宜外传的信息。

第十二条 企业在制定、修改或者决定下列直接涉及职工切身利益的规章制度或者重大事项时，应当与本企业职工一方进行集体协商后确定：

- (一)劳动报酬；
- (二)工作时间；
- (三)休息休假；
- (四)劳动安全卫生；
- (五)保险福利；
- (六)职工培训；
- (七)劳动纪律；
- (八)劳动定额；
- (九)法律法规规定的其他内容。

企业应当就职工工资水平、工资调整机制与本企业职工一方进行集体协商。

企业职工一方可以就涉及职工利益的事项要求企业与其进行集体协商。

第十三条 集体协商双方的任何一方均可以向对方以书面形式提出进行集体协商的建议。另一方在收到集体协商建议书之日起十五日内应当给予书面答复，拒绝集体协商的，应当有正当的理由。

集体协商的任何一方因下列事项向对方提出集体协商建议的，另一方不得拒绝或者拖延：

- (一)需要裁减人员二十人以上或者裁减不足二十人但占企业职工总数百分之十以上的；
- (二)劳动纠纷导致群体性停工、上访的；
- (三)生产过程中发现存在重大事故隐患或者职业危害的。

第十四条 已经建立工会的企业，由工会代表职工向企业一方提出集体协商；企业一方建议开展集体协商的，应当向本企业工会提出。

尚未建立工会的企业，由上级工会指导职工推举的代表向企业一方提出集体协商；企业一方建议开展集体协商的，可以向本企业职工直接提出，也可以向上级工会提出。

第十五条 集体协商双方在正式协商前应当进行下列准备工作：

- (一)自双方同意集体协商之日起十五日内产生协商代表，并书面告知对方；
- (二)协商确定集体协商的时间、地点；
- (三)搜集与本次集体协商议题有关的情况和资料；
- (四)听取各有关方面对本次集体协商的意见和建议；
- (五)了解与集体协商议题有关的法律、法规和其他有关规定；
- (六)草拟集体协商议题的解决方案；
- (七)其他需要准备的工作。

第十六条 集体协商会议由协商双方首席代表共同主持。提出协商议题的一方应当就议题的具体内容以及解决方案作出说明。

集体协商会议应当做好会议记录，协商双方首席代表应当在会议记录上签字。

协商双方可以就与协商议题相关的事项，要求对方提供相应的资料和说明。

第十七条 上级工会组织应当指导职工一方与企业进行集体协商，必要时可以派员观察职工一方与企业的集体协商活动。

第十八条 企业合并、分立、重组的，合并、分立、重组后的企业应当就集体合同继续履行事宜，与职工一方进行集体协商。协商一致的，原集体合同可以继续履行；协商不一致的，企业与职工一方应当就与劳动关系有关的事项重新进行集体协商。

第十九条 在进行集体协商期间，企业及其职工应当维护本企业正常的生产、工作秩序，不得采取任何影响生产、工作秩序或者社会稳定的行为。

第三章 集体合同

第二十条 以签订集体合同为目的的集体协商，协商一致的，应当形成集体合同草案，经协商双方首席代表签字后，作为草案的正式文本提交职工代表大会或者全体职工讨论。职工一方的协商代表就集体协商的情况和集体合同草案的内容应当向职工代表大会或者全体职工作出说明。

集体合同草案经全体职工代表半数以上或者全体职工半数以上同意，方获通过。

第二十一条 集体合同草案经职工代表大会或者全体职工讨论通过后，由职工一方的首席代表将讨论通过的情况书面告知企业一方。企业自收到书面告知之日起十日内，负责将集体合同报送市或者区、县劳动保障行政部门。

企业报送集体合同时，应当提交下列材料：

- (一)由协商双方首席代表签署的集体合同文本；
- (二)协商双方及其代表的基本情况；
- (三)集体协商过程的情况说明；
- (四)职工代表大会或者全体职工讨论通过集体合同草案情况的报告。

劳动保障行政部门自收到集体合同文本之日起十五日内未提出异议的，集体合同即行生效。

第二十二条 企业与职工一方经集体协商，就可以工资调整机制、劳动安全或者女职工权益保护等专项内容签订专项集体合同。

第二十三条 集体合同约定的劳动条件、劳动报酬等标准不得低于国家和市人民政府规定的最低标准。

企业与职工个人签订的劳动合同约定的劳动条件和劳动报酬等标准，或者企业规章制度规定的劳动条件和劳动报酬等标准，不得低于集体合同的规定。

第四章 行业性和区域性集体合同

第二十四条 县级以上区域内建筑业、餐饮服务业等行业的工会组织，可以选派代表与企业方面代表进行集体协商，签订行业性集体合同或者区域性集体合同。

第二十五条 下列涉及本行业职工切身利益的事项可以进行行业性集体协商：

- (一)本行业的最低工资标准；
- (二)本行业工资调整的最低幅度；
- (三)本行业同类工种的定额标准；
- (四)本行业各工种、岗位的劳动安全和卫生标准；

(五)本行业各工种、岗位的职工培训制度；

(六)其他需要进行行业性集体协商的事项。

第二十六条 行业性集体合同草案应当取得本行业企业法定代表人的认可。

行业性集体合同草案应当经认可该草案的企业全体职工代表半数以上或者全体职工半数以上同意，方获通过。

第二十七条 下列涉及本区域职工切身利益的事项可以进行区域性集体协商：

(一)本区域的最低工资标准；

(二)本区域工资调整的最低幅度；

(三)其他需要进行区域性集体协商的事项。

第二十八条 区域性集体合同草案应当取得本区域企业法定代表人的认可。

区域性集体合同草案应当经本区域职工代表大会，或者认可该草案的企业全体职工代表半数以上或者全体职工半数以上同意，方获通过。

第二十九条 行业性、区域性集体合同由企业方面代表或者工会组织负责将集体合同以及相关材料报送区、县劳动保障行政部门。

劳动保障行政部门自收到报送的集体合同之日起十五日内未提出异议的，集体合同即行生效。

第三十条 依法订立的行业性、区域性集体合同对认可该集体合同的企业及其职工具有约束力，企业与其职工签订的集体合同及劳动合同中约定的劳动条件、劳动报酬等标准不得低于行业性、区域性集体合同约定的标准。

第五章 争议的处理

第三十一条 本市建立由政府有关部门、工会和企业方面代表组成的劳动关系三方协调机制。

第三十二条 职工一方或者企业一方无正当理由拒绝或者拖延另一方的集体协商要求，或者双方在集体协商过程中不能达成一致或者签订集体合同的，集体协商的任何一方可以提请劳动保障行政部门协调处理。集体协商双方未提请协商处理的，劳动保障行政部门认为必要时，也可以进行协调处理。

劳动保障行政部门协调处理集体协商争议时，可以会同同级工会或者企业方面代表共同处理。

第三十三条 因履行集体合同发生争议，职工一方与企业协商解决不成的，双方均可以提请劳动保障行政部门协调处理。

第三十四条 企业违反集体合同，侵犯职工劳动权益的，工会可以依法要求企业承担责任；因履行集体合同发生争议，经协商解决不成的，工会可以依法申请仲裁、提起诉讼。

第六章 法律责任

第三十五条 违反本条例规定，法律、行政法规有处理规定的，适用有关法律、行政法规的规定。

第三十六条 违反本条例第十条第二款规定，无正当理由调整职工一方协商代表工作岗位的，经协商代表本人提出，企业应当恢复其原工作岗位。

第三十七条 违反本条例第十三条第二款规定，拒绝或者拖延集体协商的，劳动保障行政部门应当责令其改正。

第七章 附则

第三十八条 企业分支机构经企业法定代表人同意，与本分支机构的职工就劳动关系

有关事项进行集体协商和签订、履行集体合同的，依照本条例执行。

个体经济组织、民办非企业单位等组织和与其建立劳动关系的本单位职工就劳动关系有关事项进行集体协商和签订、履行集体合同的，依照本条例执行。

第三十九条 本条例自 2008 年 1 月 1 日起实施。