

中华人民共和国人力资源和社会保障部令

Decree of the Ministry of Human Resources and Social Security of the People's Republic of China

第 16 号

No.16

《在中国境内就业的外国人参加社会保险暂行办法》已经人力资源和社会保障部第 67 次部务会审议通过，并经国务院同意，现予公布，自 2011 年 10 月 15 日起施行。

The Interim Measures for Participation in Social Insurances of Foreigners Employed in China have been deliberated and passed at the 67th Administrative Meeting of the Ministry of Human Resources and Social Security and approved by the State Council. These Measures are hereby promulgated and shall come into force as of October 15, 2011.

部 长 尹蔚民

Yin Weimin (Minister)

二〇一一年九月六日

September 6, 2011

在中国境内就业的外国人参加社会保险暂行办法

INTERIM MEASURES FOR PARTICIPATION IN SOCIAL INSURANCES OF FOREIGNERS EMPLOYED IN CHINA

第一条 为了维护在中国境内就业的外国人依法参加社会保险和享受社会保险待遇的合法权益，加强社会保险管理，根据《中华人民共和国社会保险法》(以下简称社会保险法)，制定本办法。

ARTICLE 1 These Measures are formulated in accordance with the Law of the People's Republic of China for Social Insurances ("Social Insurance Law"), for the purpose of protecting the lawful rights and interests of Foreigners employed in China to participate in social insurances and enjoy the benefits of social insurances, as well as for the purpose of strengthening the management of social insurances.

第二条 在中国境内就业的外国人，是指依法获得《外国人就业证》、《外国专家证》、《外国常驻记者证》等就业证件和外国人居留证件，以及持有《外国人永久居留证》，在中国境内合法就业的非中国国籍的人员。

ARTICLE 2 "Foreigner employed in China" means a person who is not of Chinese nationality holding employment certificates and foreigner residence permit certificates such as Work Permit for Foreigners, Foreign Expert Certificate,

and Permit for Permanent Foreign Journalists, as well as Foreigner Permanent Residence Certificate, and who is employed lawfully with the territory of China.

第三条 在中国境内依法注册或者登记的企业、事业单位、社会团体、民办非企业单位、基金会、律师事务所、会计师事务所等组织(以下称用人单位)依法招用的外国人,应当依法参加职工基本养老保险、职工基本医疗保险、工伤保险、失业保险和生育保险,由用人单位和本人按照规定缴纳社会保险费。

ARTICLE 3 Foreigners employed by organizations duly incorporated or registered in China such as enterprises, public institutions, social organizations, private non-enterprise entities, foundations, law firms, accounting firms, etc. (“Employer”), shall participate in basic pension insurance for employees, basic medical insurance for employees, work related injury insurance, unemployment insurance and maternity insurance. The insurance premiums shall be paid by the Employer and the foreigner pursuant to the applicable regulations.

与境外雇主订立雇用合同后,被派遣到在中国境内注册或者登记的分支机构、代表机构(以下称境内工作单位)工作的外国人,应当依法参加职工基本养老保险、职工基本医疗保险、工伤保险、失业保险和生育保险,由境内工作单位和本人按照规定缴纳社会保险费。

A foreigner, who has concluded an employment contract with his overseas employer and then dispatched to any branch or representative office duly incorporated or registered in China (“Domestic Work Unit”), shall participate in basic pension insurance for employees, basic medical insurance for employees, work related injury insurance, unemployment insurance and maternity insurance. The insurance premiums shall be paid by the Domestic Work Unit and the foreigner pursuant to the applicable regulations.

第四条 用人单位招用外国人的，应当自办理就业证件之日起 30 日内为其办理社会保险登记。

ARTICLE 4 An Employer who employs any foreigner shall product the social insurance registration for the foreigner within 30 days upon issuance of his/her employment certificate.

受境外雇主派遣到境内工作单位工作的外国人，应当由境内工作单位按照前款规定为其办理社会保险登记。

The Domestic Work Unit shall product the social insurance registration for the foreigner who is dispatched to China by his/her overseas employer.

依法办理外国人就业证件的机构，应当及时将外国人来华就业的相关信息通报当地社会保险经办机构。社会保险经办机构应当定期向相关机构查询外国人办理就业证件的情况。

The agencies issuing the employment certificate for the foreigners shall report the employment related information of the foreigners in China to the local social insurance agencies. The social insurance agencies shall regularly inquire about the status of the employment certificates of foreigners with the relevant agencies.

第五条 参加社会保险的外国人，符合条件的，依法享受社会保险待遇。

ARTICLE 5 Where a foreigner participating in the social insurances satisfies the prescribed conditions, he/she may enjoy the social insurance benefits.

在达到规定的领取养老金年龄前离境的，其社会保险个人账户予以保留，再次来中国就业的，缴费年限累计计算；经本人书面申请终止社会保险关系的，也可以将其社会保险个人账户储存额一次性支付给本人。

If a foreigner leaves China before he/she is qualified for enjoying the pension benefits, his/her individual social insurance account shall be maintained and his/her period of contributions may be accumulated when he/she is employed in China again; upon his/her written application for termination of the social insurance relationship, the balance in his/her private social insurance account may be refunded in a lump sum.

第六条 外国人死亡的，其社会保险个人账户余额可以依法继承。

ARTICLE 6 The balance in a foreigner's private social insurance account may be inherited according to law in case of his/her death.

第七条 在中国境外享受按月领取社会保险待遇的外国人，应当至少每年向负责支付其待遇的社会保险经办机构提供一次由中国驻外使、领馆出具的生存证明，或者由居住国有关机构公证、认证并经中国驻外使、领馆认证的生存证明。

ARTICLE 7 A foreigner, who receives social insurance benefits outside China on a monthly basis, shall at least once a year provide the social insurance agency responsible for paying his/her social insurance benefits with an existence certificate issued by China embassy or consulate, or an existence certificate notarized by competent authority in the country where he/she lives in and certified by China embassy or consulate.

外国人合法入境的，可以到社会保险经办机构自行证明其生存状况，不再提供前款规定的生存证明。

A foreigner who lawfully enters into China may prove his/her existence by personal presence at the relevant social insurance agency, and therefor is not required to provide the existence certificate mentioned in the preceding paragraph.

第八条 依法参加社会保险的外国人与用人单位或者境内工作单位因社会保险发生争议的，可以依法申请调解、仲裁、提起诉讼。用人单位或者境内工作单位侵害其社会保险权益的，外国人也可以要求社会保险行政部门或者社会保险费征收机构依法处理。

ARTICLE 8 Where there is a dispute between a foreigner participating in the social insurances and his/her Employer or Domestic Work Unit, either party may apply for mediation, arbitration or file an action according to law. Where an Employer or a Domestic Work Unit infringes the foreigner's lawful rights and interests, he /she may apply with the social insurance administrative authority or social insurance premiums collecting agency for lawful settlement.

第九条 具有与中国签订社会保险双边或者多边协议国家国籍的人员在中国境内就业的，其参加社会保险的办法按照协议规定办理。

ARTICLE 9 Social insurances for foreigners employed in China with nationalities of countries who have concluded bilateral or multilateral treaties upon social insurance with China shall be handled in accordance with respective treaties.

第十条 社会保险经办机构应当根据《外国人社会保障号码编制规则》，为外国人建立社会保障号码，并发放中华人民共和国社会保障卡。

ARTICLE10 The agencies responsible for social insurances shall formulate the Social Security Numbering Rules for Foreigners, assign the social security number and distribute the social security cards of the People's Republic of China to foreigners.

第十一条 社会保险行政部门应当按照社会保险法的规定，对外国人参加社会保险的情况进行监督检查。用人单位或者境内工作单位未依法为招用的外国人办理社会保险登记或者未依法为其缴纳社会保险费的，按照社会保险法、《劳动保障监察条例》等法律、行政法规和有关规章的规定处理。

ARTICLE11 The social insurance administrative authorities shall supervise and inspect the participation of foreigners in social insurances in accordance with the Social Insurance Law. Where an Employer or a Domestic Work Unit fails to complete the social insurance registration for any employed foreigner, or fails to pay the social insurance premium for any foreigner, it shall be handled in accordance with the applicable laws, regulations and rules, including the Social Insurance Law and the Regulations for Supervision over Labor Security.

用人单位招用未依法办理就业证件或者持有《外国人永久居留证》的外国人的，按照《外国人在中国就业管理规定》处理。

Where an Employer employs any foreign who does not hold a valid employment certificate or the Foreigner Permanent Residence Certificate, it shall

be handled in accordance with the Regulations for Administration of Employment of Foreigners in China.

第十二条 本办法自 2011 年 10 月 15 日起施行。

ARTICLE 12 These Measures shall come into force as of October 15, 2011.

附件：

Annex:

外国人社会保障号码编制规则

Social Security Numbering Rules for Foreigners

外国人参加中国社会保险，其社会保障号码由外国人所在国家或地区代码、有效证件号码组成。外国人有效证件为护照或《外国人永久居留证》。所在国家或地区代码和有效证件号码之间预留一位。其表现形式为：

XXX X

XXXXXXXXXXXXXXXXX

(国家或地区代码) (预留位) (有效证件号码)

For a foreigner who participates in the social insurances in China, his/her social security number shall be composed of the code of his/her home country or region and the number of valid identity certificate. The valid identity certificate of the foreigner shall mean passport or Foreigner Permanent Residence Certificate. A digit between the code of home country or region and the number of valid identity certificate shall be reserved. It is represented as:

XXX X XXXXXXXXXXXXXXXXX

Code of Foreigner's Home Country or Region (3-digit English letters)

Reserved Digit (one digit number 0-9)

Number of Valid Identity Numbers

1 . 外国人所在国家或地区代码按"ISO 3166-1-2006"国家及其地区的名称代码的第一部分国家代码规定的 3 位英文字母表示 , 如德国为 DEU , 丹麦 DNK。遇国际标准升级时 , 人力资源和社会保障部统一确定代码升级时间。The code of foreigner's home country or region shall be 3-digit English letters of the country code in the first part as defined in the country/region code of ISO 3166-1-2006 Standard, such as Germany: DEU and Denmark: DNK. In case of any change to the international standard, the effective date of the new code will be determined by the Ministry of Human Resources and Social Security.

取得在中国永久居留资格的外国人所在国家或地区代码与其所持《外国人永久居留证》号码中第 1-3 位的国家或地区代码一致 (也为三位) 。

The code of home country or region of the foreigner who has received the permanent residence certificate in China shall be consistent with the code of country or region in digit 1 to digit 3 (also in 3 digits) included in the number of his/her Foreigner Permanent Residence Certificate.

2 . 预留位 1 位 , 默认情况为 0 , 在特殊情况时 , 可填写数字为 1 至 9。

2. The reserved digit shall be one digit, and the default number is "0". In case of a special circumstance, it may be a number from "1" to "9".

3 . 编制使用外国人有效护照号码 , 应包含全部英文字母和阿拉伯数字 , 不包括其中的"."、"-"等特殊字符。编制使用《外国人永久居留证》号码 , 为该证件号码中第 4-15 位号码。

3. If the number of the foreigner's valid passport is used, it shall include all English letters and Arabic numbers indicated on the passport, but exclude the special characters such as "." or "-". If the number of Foreigner Permanent Residence Certificate is used, it shall be the numbers from digit 4 to digit 15 contained in the number of certificate.

(1) 以在我国某用人单位工作的持护照号 G01234-56 的德籍人员为例，其社会保障号码为：DEU0G0123456

国家或地区代码	预留位	有效护照号码
DEU	0	G0123456

(1) For example, where a German person is employed by an Employer in China. Provided that his passport number is G01234-56, his social security number shall be DEU0G0123456.

Code of Country or Region: DEU

Reserved Digit: 0

Number of Valid Passport: G0123456

(2) 以在我国某用人单位工作的持《外国人永久居留证》号 DNK324578912056 的丹麦籍人员为例，其社会保障号码为：DNK0324578912056

国家或地区代码	预留位	《外国人永久居留证》号码
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DNK

0

3245789

12056

(2) For example, where Danish person is employed by an Employer in China. Provided that the number of his Foreign Permanent Residence Certificate is DNK324578912056, his social security number shall be DNK0324578912056.

Code of Country or Region: DNK

Reserved Digit: 0

Number of Foreign Permanent Residence Certificate: 324578912056

4 . 数据库对外国人社会保障号码预留 18 位长度 (其中有效护照号码最多为 14 位) 。编制号码不足 18 位的 , 不需要补足位数。

4. The database will reserve 18-digit length for the foreigner social security number (of which, the number of valid passport shall be no more than 14-digit). Where the assigned number is less than 18 digits, it shall be made up to 18 digits.

5 .外国人社会保障号码在中国唯一且终身不变。其证件号码发生改变时 , 以初次参保登记时的社会保障号码作为唯一标识 , 社会保险经办机构应对参保人员的证件类型、证件号码变更情况进行相应的记录。

5. A foreigner's social security number is unique in China and will not be changed throughout his/her life. In case of any change to the foreigner's number of identity certificate, his/her social security number in the first registration shall

remain unchanged, but the social insurance agency shall make an updated record of his identity certificate type and the change in his/her certificate number.