

Rules for Handling Arbitration Cases on Labor and Personnel Disputes (2017)

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The Rules for Handling Arbitration Cases on Labor and Personnel Disputes, as deliberated and adopted at the 123rd executive meeting of the Ministry of Human Resources and Social Security on April 24, 2017, are hereby issued, and shall come into force on July 1, 2017.

《劳动人事争议仲裁办案规则》已经2017年4月24日人力资源社会保障部第123次部务会审议通过，现予公布，自2017年7月1日起施行。

Minister: Yin Weimin

部长 尹蔚民

May 8, 2017

2017年5月8日

Rules for Handling Arbitration Cases on Labor and Personnel Disputes

劳动人事争议仲裁办案规则

Chapter I General Provisions

第一章 总则

Article 1 For the purposes of handling labor and personnel disputes (hereinafter referred to as “disputes”) in an impartial and timely manner and standardizing the procedures for handling arbitration cases, these Rules are developed in accordance with the [Law of the People's Republic of China on the Mediation and Arbitration of Labor Disputes](#) (hereinafter referred to as the “[Mediation and Arbitration Law](#)”), the [Civil Servant Law of the People's Republic of China](#) (hereinafter referred to as the “[Civil Servant Law](#)”), the [Regulation on the Personnel Management of Public Institutions](#), the [Regulation on Nonmilitary Personnel of the People's Liberation Army of China](#), other relevant laws and regulations, and the relevant provisions of the State Council.

Article 2 These Rules shall apply to the arbitration of the following disputes:

(1) Disputes arising from the confirmation of a labor relation, the conclusion, performance, modification, rescission or termination of a labor contract, or in connection with working hours, rest and leave, social insurance, benefits, training, labor protection, labor remuneration, medical expenses for work-related injuries, economic compensation, or indemnity, among others, between an organization such as an enterprise, individual economic organization, and privately-owned non-enterprise entity and laborer or between a government authority, public entity, or social group and a laborer who has established a labor relation with it.

第一条 为公正及时处理劳动人事争议（以下简称争议），规范仲裁办案程序，根据《[中华人民共和国劳动争议调解仲裁法](#)》（以下简称[调解仲裁法](#)）以及《[中华人民共和国公务员法](#)》（以下简称[公务员法](#)）、《[事业单位人事管理条例](#)》、《[中国人民解放军文职人员条例](#)》和有关法律、法规、国务院有关规定，制定本规则。

第二条 本规则适用下列争议的仲裁：

（一）企业、个体经济组织、民办非企业单位等组织与劳动者之间，以及机关、事业单位、社会团体与其建立劳动关系的劳动者之间，因确认劳动关系，订立、履行、变更、解除和终止劳动合同，工作时间、休息休假、社会保险、福利、培训以及劳动保护，劳动报酬、工伤医疗费、经济补偿或者赔偿金等发生的争议；

(2) Disputes arising from the performance of an employment contract between a government authority subject to the [Civil Servant Law](#) and a civil servant employed by it or between a government authority (entity) administered by reference to the [Civil Servant Law](#) and a staff member employed by it.

（二）实施[公务员法](#)的机关与聘任制公务员之间、参照[公务员法](#)管理的机关（单位）与聘任工作人员之间因履行聘任合同发生的争议；

(3) Disputes arising from the termination of personnel relation or the performance of an employment contract between a public entity and the employee who has established the personnel relation with the entity.

（三）事业单位与其建立人事关系的工作人员之间因终止人事关系以及履行聘用合同发生的争议；

(4) Disputes arising from the termination of the personnel relation or the performance of an employment contract between a social group and the employee who has established the personnel relation with the group.

（四）社会团体与其建立人事关系的工作人员之间因终止人事关系以及履行聘用合同发生的争议；

(5) Disputes arising from the performance of an employment contract between an entity employing civilian staff members of the military and the staff member employed by it under the contract.

（五）军队文职人员用人单位与聘用制文职人员之间因履行聘用合同发生的争议；

(6) Other disputes that shall be handled by the arbitration commission for labor and personnel disputes (hereinafter referred to as the “arbitration commission”) as prescribed by any law or regulation.

（六）法律、法规规定由劳动人事争议仲裁委员会（以下简称仲裁委员会）处理的其他争议。

Article 3 The arbitration commission shall handle dispute cases under the principles of legality and impartiality, mediation first and rendering an award in a timely manner.

第三条 仲裁委员会处理争议案件，应当遵循合法、公正的原则，先行调解，及时裁决。

Article 4 The arbitration commission shall set up a concrete division as its administrative office, which is named as the court of arbitration for labor and personnel disputes (hereinafter referred to as the “arbitration court”).

Article 5 For a dispute involving ten or more laborers who file a common request or labor disputes arising from the performance of a collective contract, the arbitration commission shall docket it and hear it in priority.

Chapter II General Provisions

Article 6 Where an employer involved in a dispute is unable to assume the relevant liability because it has not obtained the business license, its business license has been revoked, it continues its business operation after the expiration of its business license, it is ordered to close down or is administratively dissolved, or it is dissolved or closes its business, the employer and its investor, sponsor or its governing body shall be deemed as a co-party.

Article 7 Where a dispute arises between a laborer and an individual contractor and an arbitration application is filed with the arbitration commission in accordance with the law, the contract-issuing organization and the individual contractor shall be the co-parties.

Article 8 The place where a labor contract is performed shall be the actual workplace of the laborer, and the place where the

第四条 仲裁委员会下设实体化的办事机构，称为劳动人事争议仲裁院（以下简称仲裁院）。

第五条 劳动者一方在十人以上并有共同请求的争议，或者因履行集体合同发生的劳动争议，仲裁委员会应当优先立案，优先审理。

第二章 一般规定

第六条 发生争议的用人单位未办理营业执照、被吊销营业执照、营业执照到期继续经营、被责令关闭、被撤销以及用人单位解散、歇业，不能承担相关责任的，应当将用人单位和其出资人、开办单位或者主管部门作为共同当事人。

第七条 劳动者与个人承包经营者发生争议，依法向仲裁委员会申请仲裁的，应当将发包的组织和个人承包经营者作为共同当事人。

第八条 劳动合同履行地为劳动者实际工作场所地，用人单位所在地为用人单位注册、登记地或者主要办事机构

employer is located shall be the place where it is registered or its main administrative office is located. If the employer has not been registered, the place where its investor or sponsor or the governing body is located shall be the place where the employer is located.

Where both parties apply for arbitration respectively to the arbitration commission at the place where the labor contract is performed and to the arbitration commission at the place where the employer is located, the arbitration commission at the place where the labor contract is performed shall have jurisdiction over the case. If the labor contract is performed in several places, the arbitration commission that first accepts the application shall have jurisdiction over the case. If the place where the labor contract is performed is unclear, the arbitration commission at the place where the employer is located shall have jurisdiction over the case.

After a case is accepted, the change of the place where the labor contract is performed or the place where the employer is located shall not affect the jurisdiction of the arbitration commission having jurisdiction over the dispute.

Article 9 Where an arbitration commission finds that any case accepted by it is not within its jurisdiction, it shall transfer the case to the arbitration commission having jurisdiction over the case, and notify the parties in writing.

Any arbitration commission to which the aforesaid case is transferred shall accept the case in accordance with the law. If

所在地。用人单位未经注册、登记的，其出资人、开办单位或者主管部门所在地为用人单位所在地。

双方当事人分别向劳动合同履行地和用人单位所在地的仲裁委员会申请仲裁的，由劳动合同履行地的仲裁委员会管辖。有多个劳动合同履行地的，由最先受理的仲裁委员会管辖。劳动合同履行地不明确的，由用人单位所在地的仲裁委员会管辖。

案件受理后，劳动合同履行地或者用人单位所在地发生变化的，不改变争议仲裁的管辖。

第九条 仲裁委员会发现已受理案件不属于其管辖范围的，应当移送至有管辖权的仲裁委员会，并书面通知当事人。

对上述移送案件，受移送的仲裁委员会应当依法受理。受移送的仲裁委员会认为移送的案件按照规定不属于其管辖，或

the arbitration commission to which the case is transferred deems that the transferred case is not within its jurisdiction in accordance with the relevant provisions or no agreement is reached after consultation between arbitration commissions with respect to a jurisdiction dispute fails, the matters shall be reported to the competent department of the common arbitration commission at the next higher level to designate jurisdiction.

Article 10 Any party who plans to raise an objection to jurisdiction shall file an objection in writing before the expiration of the period of defense. The arbitration commission shall examine the objection to jurisdiction raised by the party. It shall transfer the case to the arbitration commission having jurisdiction if the objection is tenable and notify the parties in writing, otherwise, it shall make a written decision to deny the objection.

Where the party fails to raise an objection within the prescribed period, the arbitration proceedings shall continue without interruption.

Article 11 A party who plans to apply for withdrawal shall file the application before the hearing of the case commences and state the reasons. If the reason for withdrawal is known after the hearing of the case commences, the application may be filed before the conclusion of court debate.

者仲裁委员会之间因管辖争议协商不成的，应当报请共同的上一级仲裁委员会主管部门指定管辖。

第十条 当事人提出管辖异议的，应当在答辩期满前书面提出。仲裁委员会应当审查当事人提出的管辖异议，异议成立的，将案件移送至有管辖权的仲裁委员会并书面通知当事人；异议不成立的，应当书面决定驳回。

当事人逾期提出的，不影响仲裁程序的进行。

第十一条 当事人申请回避，应当在案件开庭审理前提出，并说明理由。回避事由在案件开庭审理后知晓的，也可以在庭审辩论终结前提出。

Where a party files a withdrawal application after the conclusion of court debate, the arbitration proceedings shall proceed without interruption.

The arbitration commission shall, within three days after a withdrawal application is filed, make a decision either orally or in writing. The decision made orally shall be included in the written records.

Article 12 The chairman of an arbitration commission or the person in charge of the arbitration court entrusted by the chairman of the arbitration commission shall decide whether an arbitrator or a clerk shall withdraw. The withdrawal of the chairman of the arbitration commission as an arbitrator in a case shall be decided by the arbitration commission.

Before the decision on the withdrawal is made, the person for whom a withdrawal application is filed shall suspend the participation in the handling of the case, unless it is necessary to take emergency measures for the handling of the case.

Article 13 A party shall be responsible for presenting evidence for the claim thereof. If any evidence relating to the dispute is obtained and controlled by the employer, the employer shall provide it; and if the employer fails to do so, it shall assume the adverse consequences.

Article 14 Where there is no specific provision in any law and it is impossible to determine the burden of proof according to Article 13 of these Rules, the arbitration tribunal may, under

当事人在庭审辩论终结后提出回避申请的，不影响仲裁程序的进行。

仲裁委员会应当在回避申请提出的三日内，以口头或者书面形式作出决定。以口头形式作出的，应当记入笔录。

第十二条 仲裁员、记录人员是否回避，由仲裁委员会主任或者其委托的仲裁院负责人决定。仲裁委员会主任担任案件仲裁员是否回避，由仲裁委员会决定。

在回避决定作出前，被申请回避的人员应当暂停参与该案处理，但因案件需要采取紧急措施的除外。

第十三条 当事人对自己提出的主张有责任提供证据。与争议事项有关的证据属于用人单位掌握管理的，用人单位应当提供；用人单位不提供的，应当承担不利后果。

第十四条 法律没有具体规定、按照本规则第十三条规定无法确定举证责任承担的，仲裁庭可以根据公平原则和

the principles of fairness and good faith, determine the burden of proof by taking into comprehensive consideration such factors as the party's ability to present evidence.

Article 15 Any party who bears the burden of proof shall present the relevant evidence within a period specified by the arbitration commission. If it is indeed difficult for the party to present evidence within the said period, it may apply to the arbitral tribunal for the extension of the period and the arbitral tribunal will extend the period in an appropriate manner based on the party's application. If the party fails to present evidence within the prescribed period, the arbitration commission shall order it to state the reason. If the party refuses to give any reason or the reason is not justified, the arbitration commission may reject the evidence according to different circumstances, or admit the evidence but admonish the party.

Article 16 Where a party is unable to collect evidence by itself due to any objective reason, the arbitration commission may, upon the application of such a party, collect the evidence by reference to the relevant provisions of the Civil Procedure Law. If the arbitration commission deems it necessary, it may also decide to collect evidence by reference to the relevant provisions of the Civil Procedure Law.

Article 17 Where an arbitration commission conducts investigation and collects evidence in accordance with the law, the relevant entities and individuals shall provide assistance and cooperation.

诚实信用原则，综合当事人举证能力等因素确定举证责任的承担。

第十五条 承担举证责任的当事人应当在仲裁委员会指定的期限内提供有关证据。当事人在该期限内提供证据确有困难的，可以向仲裁委员会申请延长期限，仲裁委员会根据当事人的申请适当延长。当事人逾期提供证据的，仲裁委员会应当责令其说明理由；拒不说明理由或者理由不成立的，仲裁委员会可以根据不同情形不予采纳该证据，或者采纳该证据但予以训诫。

第十六条 当事人因客观原因不能自行收集的证据，仲裁委员会可以根据当事人的申请，参照民事诉讼有关规定予以收集；仲裁委员会认为有必要的，也可以决定参照民事诉讼有关规定予以收集。

第十七条 仲裁委员会依法调查取证时，有关单位和个人应当协助配合。

When an arbitration commission conducts investigation and collects evidence, at least two staff members shall be present and show their work certificates and the letter of introduction issued by the arbitration commission to the target of investigation.

Article 18 The relevant provisions of rules of evidence in civil procedures may apply, mutatis mutandis, to the matters involved in the handling of disputes such as the form of evidence, the presentation of evidence, the exchange of evidence, the cross-examination of evidence, and the identification of evidence, if such matters are not provided in these Rules.

Article 19 Arbitration periods include statutory periods and periods designated by arbitration commissions.

The provisions of the Civil Procedure Law on the calculation of arbitration periods may apply, mutatis mutandis, to the calculation of arbitration periods by arbitration commissions, if they are not provided in these Rules.

Article 20 The arbitration document served by an arbitration commission must have a proof of service, and the person to be served shall record the date of receipt on and affix the signature or seal thereof to the proof of service. The date of receipt affixed to the proof of service by the person to be served shall be the date of service.

仲裁委员会调查取证时，不得少于两人，并应当向被调查对象出示工作证件和仲裁委员会出具的介绍信。

第十八条 争议处理中涉及证据形式、证据提交、证据交换、证据质证、证据认定等事项，本规则未规定的，可以参照民事诉讼证据规则的有关规定执行。

第十九条 仲裁期间包括法定期间和仲裁委员会指定期间。

仲裁期间的计算，本规则未规定的，仲裁委员会可以参照民事诉讼关于期间计算的有关规定执行。

第二十条 仲裁委员会送达仲裁文书必须有送达回证，由受送达人在送达回证上记明收到日期，并签名或者盖章。受送达人在送达回证上的签收日期为送达日期。

Where it is impossible to serve the arbitration document due to the enterprise's business suspension or any other reason and ten or more laborers are involved, or the person to be served refuses to sign for the receipt of the arbitration document and thus the arbitration document is placed or pasted at the domicile of the person to be served, which is recorded by means of pictures, videos or other methods, the arbitration document shall be deemed to have been served three days after the date when the arbitration document is placed or pasted. This circumstance is not subject to the restriction of paragraph 1 of this Article.

The provisions of the Civil Procedure Law on the modes of service shall apply, mutatis mutandis, to the methods of serving of arbitration documents, if they are not provided in these Rules.

Article 21 After a case is closed, an arbitration commission shall archive all materials formed in the handling process.

Article 22 Arbitration case files are categorized into principal files and supplementary files for bookbinding purposes.

The principal files include the arbitration application, notice of acceptance (non-acceptance), defense, identification materials of the parties and other parties who participate in the arbitration proceedings, power of attorney, evidence collected upon investigation, written records of inspections, evidentiary materials provided by the parties, materials on entrusted identification, notice of court session, written records of

因企业停业等原因导致无法送达且劳动者一方在十人以上的，或者受送达人拒绝签收仲裁文书的，通过在受送达人住所留置、张贴仲裁文书，并采用拍照、录像等方式记录的，自留置、张贴之日起经过三日即视为送达，不受本条第一款的限制。

仲裁文书的送达方式，本规则未规定的，仲裁委员会可以参照民事诉讼关于送达方式的有关规定执行。

第二十一条 案件处理终结后，仲裁委员会应当将处理过程中形成的全部材料立卷归档。

第二十二条 仲裁案卷分正卷和副卷装订。

正卷包括：仲裁申请书、受理（不予受理）通知书、答辩书、当事人及其他仲裁参加人的身份证明材料、授权委托书、调查证据、勘验笔录、当事人提供的证据材料、委托鉴定材料、开庭通知、庭审笔录、延期通知书、撤回仲裁申请书、调解书、裁决书、决定书、案件移送函、送达回证等。

hearing sessions, notice of adjournment, application for withdrawing the arbitration, mediation statement, arbitral award, written decision, case transfer letter, and proof of service, among others.

The supplementary files include the approval form for docketing the case, approval form for postponing the hearing, approval form for suspending the hearing, investigation outlines, written records of file review, meeting minutes, discussion records, and approval form for closing the case, among others.

Article 23 Arbitration commissions shall establish a system for consulting case files and shall allow the parties and their agents to consult or reproduce principal case files.

Article 24 Files for cases closed by way of arbitral award shall be preserved for no less than ten years and files for cases closed by way of mediation or any other means shall be preserved for no less than five years, unless otherwise provided by the state.

Case files, after the expiration of their preservation period, shall be handled in accordance with the provisions of the state on archives management.

Article 25 Where any state secret or military secret is involved in arbitration proceedings, the relevant confidentiality provisions of the state or the military shall apply.

副卷包括：立案审批表、延期审理审批表、中止审理审批表、调查提纲、阅卷笔录、会议笔录、评议记录、结案审批表等。

第二十三条 仲裁委员会应当建立案卷查阅制度。对案卷正卷材料，应当允许当事人及其代理人依法查阅、复制。

第二十四条 仲裁裁决结案的案卷，保存期不少于十年；仲裁调解和其他方式结案的案卷，保存期不少于五年；国家另有规定的，从其规定。

保存期满后的案卷，应当按照国家有关档案管理的规定处理。

第二十五条 在仲裁活动中涉及国家秘密或者军事秘密的，按照国家或者军队有关保密规定执行。

Where the parties agree that the case will be heard in a private session, or any trade secret or personal privacy is involved, the arbitration commission shall hear the case in a private session upon the written application of the relevant party.

Chapter III Arbitration Procedures

Section 1 Application and Acceptance

Article 26 For disputes prescribed in item (1), (3), (4) or (5) of Article 2 of these Rules, the limitation period for applying for arbitration is a year. The limitation period for arbitration shall be calculated from the date when the party knows or should have known that the rights thereof have been infringed upon.

For disputes prescribed in item (2) of Article 2 of these Rules, the limitation period for applying for arbitration shall be subject to the relevant provisions of the [Civil Servant Law](#).

Where any dispute arises as a result of the arrears of labor remuneration during the period of existence of a labor and personnel relation, the laborer's application for arbitration shall not be subject to the restriction of the limitation period for arbitration prescribed in paragraph 1 of this Article. However, if the labor and personnel relation has been terminated, the laborer shall file an application for arbitration within a year from the date when such labor and personnel relation is terminated.

当事人协议不公开或者涉及商业秘密和个人隐私的，经相关当事人书面申请，仲裁委员会应当不公开审理。

第三章 仲裁程序

第一节 申请和受理

第二十六条 本规则第二条第（一）、（三）、（四）、（五）项规定的争议，申请仲裁的时效期间为一年。仲裁时效期间从当事人知道或者应当知道其权利被侵害之日起计算。

本规则第二条第（二）项规定的争议，申请仲裁的时效期间适用[公务员法](#)有关规定。

劳动人事关系存续期间因拖欠劳动报酬发生争议的，劳动者申请仲裁不受本条第一款规定的仲裁时效期间的限制；但是，劳动人事关系终止的，应当自劳动人事关系终止之日起一年内提出。

Article 27 Under any of the following circumstances during the period in which an application for arbitration shall be filed, the limitation period for arbitration shall be suspended.

(1) One party files a claim with the other party by such means as negotiation and applying for mediation.

(2) One party requests right relief by such means as filing a complaint with the relevant department, applying to an arbitration commission for arbitration, filing a lawsuit with a people's court, and applying for a payment order.

(3) The other party agrees to perform the obligation.

The limitation period for arbitration shall be calculated anew from the time of suspension.

Article 28 Where a party fails to apply for arbitration within the limitation period for arbitration due to force majeure, the failure to determine the legal representative for a laborer without capacity for civil conduct or with limited capacity for civil conduct, or any other justifiable reason, the limitation period shall be suspended. From the date when the cause for the suspension of the limitation period is eliminated, the limitation period for arbitration shall continue to be calculated.

Article 29 The applicant who applies for arbitration shall submit a written arbitration application and submit copies of the application according to the number of respondents.

第二十七条 在申请仲裁的时效期间内，有下列情形之一的，仲裁时效中断：

（一）一方当事人通过协商、申请调解等方式向对方当事人主张权利的；

（二）一方当事人通过向有关部门投诉，向仲裁委员会申请仲裁，向人民法院起诉或者申请支付令等方式请求权利救济的；

（三）对方当事人同意履行义务的。

从中断时起，仲裁时效期间重新计算。

第二十八条 因不可抗力，或者有无民事行为能力或者限制民事行为能力劳动者的法定代理人未确定等其他正当理由，当事人不能在规定的仲裁时效期间申请仲裁的，仲裁时效中止。从中止时效的原因消除之日起，仲裁时效期间继续计算。

第二十九条 申请人申请仲裁应当提交书面仲裁申请，并按照被申请人人数提交副本。

The arbitration application shall set out the following matters:

(1) The name, gender, date of birth, ID number, domicile, contact address and telephone number of each laborer; the title, domicile, contact address and telephone number of the employer as well as the name and duties of its legal representative or principal person in charge.

(2) Arbitration claims and the facts and grounds on which such claims are based.

(3) Evidence, source of evidence, and the name and domicile of any witness.

Where it is indeed difficult for an applicant to file a written arbitration application, the applicant may file an oral application. The oral application shall be included in written records by the arbitration commission, to which the applicant shall affix the signature or seal or fingerprint for confirmation.

Where an arbitration application is irregular or the materials are incomplete, the arbitration commission shall, on the spot or within five days, inform the applicant at one time of all the materials required for supplements and corrections.

The arbitration commission that accepts the materials submitted by the party shall issue a return receipt.

仲裁申请书应当载明下列事项:

(一) 劳动者的姓名、性别、出生日期、身份证件号码、住所、通讯地址和联系电话, 用人单位的名称、住所、通讯地址、联系电话和法定代表人或者主要负责人的姓名、职务;

(二) 仲裁请求和所根据的事实、理由;

(三) 证据和证据来源, 证人姓名和住所。

书写仲裁申请确有困难的, 可以口头申请, 由仲裁委员会记入笔录, 经申请人签名、盖章或者捺印确认。

对于仲裁申请书不规范或者材料不齐备的, 仲裁委员会应当当场或者在五日内一次性告知申请人需要补正的全部材料。

仲裁委员会收取当事人提交的材料应当出具收件回执。

Article 30 The arbitration commission shall accept any arbitration application which meets the following conditions and, within five days from the date when the arbitration application is received, issue a notice of acceptance to the applicant:

(1) The dispute falls within the scope of disputes specified in Article 2 of these Rules.

(2) There are specific arbitration claims and facts and grounds for such claims.

(3) The applicant is a natural person, legal person or organization with direct interest in the case and the respondent is specific.

(4) The case falls under the jurisdiction of the arbitration commission.

Article 31 The arbitration commission shall not accept any arbitration application which fails to conform to any of the provision of item (1), (2) or (3) of Article 30 of these Rules and shall, within five days from the date when the arbitration application is received, issue a notice of non-acceptance to the applicant. For any arbitration application which does not conform to the provision of item (4) of Article 30 of these Rules, the arbitration commission shall, within five days from the date when the arbitration application is received, make a written statement to the applicant and inform the applicant to

第三十条 仲裁委员会对符合下列条件的仲裁申请应当予以受理，并在收到仲裁申请之日起五日内向申请人出具受理通知书：

（一）属于本规则第二条规定的争议范围；

（二）有明确的仲裁请求和事实理由；

（三）申请人是与本案有直接利害关系的自然人、法人或者其他组织，有明确的被申请人；

（四）属于本仲裁委员会管辖范围。

第三十一条 对不符合本规则第三十条第（一）、（二）、（三）项规定之一的仲裁申请，仲裁委员会不予受理，并在收到仲裁申请之日起五日内向申请人出具不予受理通知书；对不符合本规则第三十条第（四）项规定的仲裁申请，仲裁委员会应当在收到仲裁申请之日起五日内，向申请人作出书面说明并告知申请人向有管辖权的仲裁委员会申请仲裁。

apply for arbitration to any arbitration commission having jurisdiction.

Where the arbitration commission fails to make a decision within the prescribed period or makes a decision of non-acceptance, the applicant may file a lawsuit with the people's court for the dispute in question.

Article 32 Where, after accepting a case, the arbitration commission finds that it shall not accept the case, except the provision as prescribed in Article 9 of these Rules, the arbitration commission shall dismiss the case and shall, within five days after it decides to dismiss the case, notify the party in the form of a written decision.

Article 33 The arbitration commission shall, after accepting an arbitration application, serve a copy of the arbitration application upon the respondent within five days.

The respondent shall, after receiving the copy of the arbitration application, submit a statement of defense to the arbitration commission within ten days. The arbitration commission shall, after receiving the statement of defense, serve a copy of the statement of defense upon the respondent within five days. If the respondent fails to submit a statement of defense within the prescribed period, the arbitration proceedings shall continue without being affected.

Article 34 Under any of the following circumstances, the arbitration commission shall not accept the new application for

对仲裁委员会逾期未作出决定或者决定不予受理的，申请人可以就该争议事项向人民法院提起诉讼。

第三十二条 仲裁委员会受理案件后，发现不应当受理的，除本规则第九条规定外，应当撤销案件，并自决定撤销案件后五日内，以决定书的形式通知当事人。

第三十三条 仲裁委员会受理仲裁申请后，应当在五日内将仲裁申请书副本送达被申请人。

被申请人收到仲裁申请书副本后，应当在十日内向仲裁委员会提交答辩书。仲裁委员会收到答辩书后，应当在五日内将答辩书副本送达申请人。被申请人逾期未提交答辩书的，不影响仲裁程序的进行。

第三十四条 符合下列情形之一，申请人基于同一事实、理由和仲裁请求又申请仲裁的，仲裁委员会不予受理：

arbitration filed by the applicant based on the same facts, grounds and arbitration claims.

(1) The arbitration commission has issued a notice of non-acceptance in accordance with the law.

(2) The case is being arbitrated or in the course of an action, or the mediation statement, arbitral award, or written judgment has come into legal force.

Article 35 The applicant may voluntarily withdraw its application for arbitration before a decision is made for the arbitration case. If the applicant files a new application for arbitration, the arbitration commission shall accept the application.

Article 36 The respondent may file a counter application during the period of defense. The arbitration commission shall, within five days from the date when the respondent's counter application is received, decide whether to accept the counter application or not, and notify the respondent.

Where the arbitration commission decides to accept the counter application, it may merge the counter application and the application.

Where the counter application involves a dispute which requires another arbitration application, the arbitration commission shall, in a written form, inform the respondent to file another arbitration application. If the counter application

（一）仲裁委员会已经依法出具不予受理通知书的；

（二）案件已在仲裁、诉讼过程中或者调解书、裁决书、判决书已经发生法律效力。

第三十五条 仲裁处理结果作出前，申请人可以自行撤回仲裁申请。申请人再次申请仲裁的，仲裁委员会应当受理。

第三十六条 被申请人可以在答辩期间提出反申请，仲裁委员会应当自收到被申请人反申请之日起五日内决定是否受理并通知被申请人。

决定受理的，仲裁委员会可以将反申请和申请合并处理。

反申请应当另行申请仲裁的，仲裁委员会应当书面告知被申请人另行申请仲裁；反申请不属于本规则规定应当受理的，仲裁委员会应当向被申请人出具不予受理通知书。

shall not be accepted in accordance with the provisions of these Rules, the arbitration commission shall issue a non-acceptance notice to the respondent.

Where the respondent files a counter application against the applicant after the expiration of the period of defense, the respondent shall file a new application separately.

Section 2 Hearing and Award

Article 37 The arbitration commission shall, within five days from the date when an arbitration application is accepted, form an arbitral tribunal and notify in writing the parties of the composition of the arbitral tribunal.

Article 38 The arbitral tribunal shall, five days before the first hearing session, notify in writing both parties of the date when and the place where the first hearing session is to be held. Any party may, three days before the first hearing session, apply to postpone the first hearing session for any justifiable reason. The arbitration commission shall, according to the actual circumstances, decide whether to postpone the first hearing session or not.

Article 39 Where the applicant, after receiving a written notice of court session, refuses to appear before the arbitral tribunal without any justifiable reason or leaves in the course of a hearing session without the consent of the arbitral tribunal, it may be handled that the applicant withdraws the arbitration application. If the applicant files a new application for

被申请人答辩期满后对申请人提出反申请的，应当另行申请仲裁。

第二节 开庭和裁决

第三十七条 仲裁委员会应当在受理仲裁申请之日起五日内组成仲裁庭并将仲裁庭的组成情况书面通知当事人。

第三十八条 仲裁庭应当在开庭五日前，将开庭日期、地点书面通知双方当事人。当事人有正当理由的，可以在开庭三日前请求延期开庭。是否延期，由仲裁委员会根据实际情况决定。

第三十九条 申请人收到书面开庭通知，无正当理由拒不到庭或者未经仲裁庭同意中途退庭的，可以按撤回仲裁申请处理；申请人重新申请仲裁的，仲裁委员会不予受理。被申请人收到书面开庭通知，无正当理由拒不到庭或者未经

arbitration, the arbitration commission shall not accept the application. If the respondent, after receiving a written notice, refuses to appear before the arbitral tribunal without any justifiable reason or leaves in the course of a hearing session without the consent of the arbitral tribunal, the arbitral tribunal may continue hearing the case and render a default award .

Article 40 Where a party applies for identification, the identification fee shall be paid in advance by the party applying for identification, and will be borne by the party against whom the identification result is adverse after the case is concluded. If the identification result is unclear, the party applying for identification shall assume the responsibility.

Article 41 In a hearing session, the clerk shall find out whether the party and any other parties who participate in the arbitration proceedings will appear in court, and announce the discipline of the arbitral tribunal.

In a hearing session, the arbitrator shall announce the court session, state the cause of the case and names of the arbitrators and the clerk, check the parties, inform the parties of their rights and obligations, and inquire the parties whether they apply for the withdrawal.

In a hearing session, arbitrators shall listen to the statements of the applicant and the defense of the respondent, preside over the investigations, conduct cross-examination and debate, solicit the parties' final opinions, and conduct mediation.

仲裁庭同意中途退庭的，仲裁庭可以继续开庭审理，并缺席裁决。

第四十条 当事人申请鉴定的，鉴定费由申请鉴定方先行垫付，案件处理终结后，由鉴定结果对其不利方负担。鉴定结果不明确的，由申请鉴定方负担。

第四十一条 开庭审理前，记录人员应当查明当事人和其他仲裁参与人是否到庭，宣布仲裁庭纪律。

开庭审理时，由仲裁员宣布开庭、案由和仲裁员、记录人员名单，核对当事人，告知当事人有关的权利义务，询问当事人是否提出回避申请。

开庭审理中，仲裁员应当听取申请人的陈述和被申请人的答辩，主持庭审调查、质证和辩论、征询当事人最后意见，并进行调解。

Article 42 The arbitral tribunal shall include the details of hearing sessions in written records. If the party or any other party who participates in arbitration proceedings deems that there is any omission or error in the records of their own presentation, the party shall have the right to request the supplements or corrections in court. If the arbitral tribunal deems that the application is groundless or unnecessary, it may refuse to make the supplements or corrections, but it shall record the application.

Arbitrators, clerks, the parties and other participants in the arbitration proceedings shall affix their signatures or seals to the written records of hearing sessions. If the party or any other participant in the arbitration proceedings refuses to affix the signature or seal to the written records of hearing sessions, the arbitral tribunal shall make a detailed note and attach the note to the records.

Article 43 Arbitration participants and other persons shall observe the discipline of the arbitral tribunal and shall not commit any of the following conduct:

(1) Making audio or video records or taking pictures without approval.

(2) Spreading information on the hearing session through mobile communication devices or by other means without approval.

第四十二条 仲裁庭应当将开庭情况记入笔录。当事人或者其他仲裁参与人认为对自己陈述的记录有遗漏或者差错的，有权当庭申请补正。仲裁庭认为申请无理由或者无必要的，可以不予补正，但是应当记录该申请。

仲裁员、记录人员、当事人和其他仲裁参与人应当在庭审笔录上签名或者盖章。当事人或者其他仲裁参与人拒绝在庭审笔录上签名或者盖章的，仲裁庭应当记明情况附卷。

第四十三条 仲裁参与人和其他人应当遵守仲裁庭纪律，不得有下列行为：

（一）未经准许进行录音、录像、摄影；

（二）未经准许以移动通信等方式现场传播庭审活动；

(3) Any other conduct that disrupts the order of the arbitral tribunal or affects the hearing session.

Where any arbitration participant or any other person falls under any of the circumstances prescribed in the preceding paragraph, the arbitral tribunal may admonish the said party and order him or her to withdraw from the arbitral tribunal, and may also temporarily withhold the devices used for taking audio or video records or pictures or spreading information on the hearing session and order him or her to delete the relevant content. If the said party refuses to do so, necessary measures may be taken to delete such content in a forcible manner and the relevant facts shall be included in the written record for the hearing session.

Article 44 The applicant may, before the expiration of the period for producing evidence, apply to add or modify the arbitration claims. If the arbitral tribunal, after examining the application of the applicant to add or modify the arbitration claims, deems that the application shall be accepted, it shall notify the respondent and give the respondent a period of defense, unless the respondent explicitly announces the waiver of the period of defense.

Where the applicant, after the expiration of the period for producing evidence, applies to add or modify the arbitration claims, a new application shall be filed separately.

Article 45 For a case on which an arbitral tribunal renders an award, the arbitral tribunal shall close the case within 45 days

(三) 其他扰乱仲裁庭秩序、妨害审理活动进行的行为。

仲裁参与人或者其他人有前款规定的情形之一的，仲裁庭可以训诫、责令退出仲裁庭，也可以暂扣进行录音、录像、摄影、传播庭审活动的器材，并责令其删除有关内容。拒不删除的，可以采取必要手段强制删除，并将上述事实记入庭审笔录。

第四十四条 申请人在举证期限届满前可以提出增加或者变更仲裁请求；仲裁庭对申请人增加或者变更的仲裁请求审查后认为应当受理的，应当通知被申请人并给予答辩期，被申请人明确表示放弃答辩期的除外。

申请人在举证期限届满后提出增加或者变更仲裁请求的，应当另行申请仲裁。

第四十五条 仲裁庭裁决案件，应当自仲裁委员会受理仲裁申请之日起四十五日内结束。案情复杂需要延期的，

from the date when the arbitration commission accepts the arbitration application. If an extension is required since case circumstances are serious, the extension may be permitted with the approval of the chairman of the arbitration commission or the person in charge of the arbitration court entrusted by the chairman of the arbitration commission for not more than 15 days and the parties shall be informed in writing.

Article 46 Under any of the following circumstances, the time limit for arbitration shall be calculated in accordance with the following provisions:

(1) Where the arbitral tribunal adds any party or any third person, the time limit for arbitration shall be recalculated from the date when the decision to add any other party or third person is made.

(2) Where it is necessary for the applicant to make supplements or corrections, the time when the arbitration commission receives the arbitration application shall be recalculated from the date when the supplements or corrections of materials are made.

(3) Where the arbitration claim is added or modified, the time limit for arbitration shall be recalculated from the date when the application for adding or modifying the arbitration claim is accepted.

(4) Where the arbitration application and a counter application are handled after being merged, the time limit for arbitration

经仲裁委员会主任或者其委托的仲裁院负责人书面批准，可以延期并书面通知当事人，但延长期限不得超过十五日。

第四十六条 有下列情形之一的，仲裁期限按照下列规定计算：

（一）仲裁庭追加当事人或者第三人的，仲裁期限从决定追加之日起重新计算；

（二）申请人需要补正材料的，仲裁委员会收到仲裁申请的时间从材料补正之日起重新计算；

（三）增加、变更仲裁请求的，仲裁期限从受理增加、变更仲裁请求之日起重新计算；

（四）仲裁申请和反申请合并处理的，仲裁期限从受理反申请之日起重新计算；

shall be recalculated from the date when the counter application is accepted.

(5) Where the case is transferred for jurisdiction, the time limit for arbitration shall be recalculated from the date when the transfer of the case is accepted.

(6) The period during which hearing sessions are suspended and the period during which the announcement is served shall not be included in the time limit for arbitration.

(7) Any other circumstance where the time limit for arbitration shall be recalculated as prescribed by the laws and regulations.

Article 47 Under any of the following circumstances, the arbitration proceedings for the case may be suspended with the approval of the chairman of the arbitration commission or the person in charge of the arbitration court entrusted by the chairman of the arbitration commission, and the parties shall be notified in writing:

(1) The laborer dies, and it is necessary to await his or her heir's decision as to whether to participate in the arbitration proceedings or not.

(2) The laborer loses the capacity for civil conduct and has not decided who will participate in the arbitration proceedings as his or her legal representative.

（五）案件移送管辖的，仲裁期限从接受移送之日起重新计算；

（六）中止审理期间、公告送达期间不计入仲裁期限内；

（七）法律、法规规定应当另行计算的其他情形。

第四十七条 有下列情形之一的，经仲裁委员会主任或者其委托的仲裁院负责人批准，可以中止案件审理，并书面通知当事人：

（一）劳动者一方当事人死亡，需要等待继承人表明是否参加仲裁的；

（二）劳动者一方当事人丧失民事行为能力，尚未确定法定代理人参加仲裁的；

(3) The employer is terminated and the party inheriting its rights and obligations has not been determined.

（三）用人单位终止，尚未确定权利义务承继者的；

(4) One party is unable to participate in arbitration proceedings due to any irresistible cause.

（四）一方当事人因不可抗拒的事由，不能参加仲裁的；

(5) The trial of the case is based on the trial result of any other case which has not been concluded.

（五）案件审理需要以其他案件的审理结果为依据，且其他案件尚未审结的；

(6) The case could not be proceed until the work-related injury identification, disability degree identification or any other identification conclusion is available.

（六）案件处理需要等待工伤认定、伤残等级鉴定以及其他鉴定结论的；

(7) Any other circumstance where the arbitration proceedings shall be suspended.

（七）其他应当中止仲裁审理的情形。

After any circumstance which results in the suspension of arbitration proceedings is eliminated, the arbitral tribunal shall resume the arbitration proceedings.

中止审理的情形消除后，仲裁庭应当恢复审理。

Article 48 Where a party, due to an arbitral tribunal's failure to render an award within the prescribed period, files an action with a people's court and the court accepts the case, the arbitration commission shall decide to terminate the arbitration proceedings of the case. If the party fails to file an action on the dispute with the people's court, the arbitration commission shall continue the proceedings.

第四十八条 当事人因仲裁庭逾期未作出仲裁裁决而向人民法院提起诉讼并立案受理的，仲裁委员会应当决定该案件终止审理；当事人未就该争议事项向人民法院提起诉讼的，仲裁委员会应当继续处理。

Article 49 When an arbitral tribunal renders an award, if partial facts are clear, the arbitral tribunal may first render an award with respect to such part of the case. If any party is dissatisfied with the early award, the matters may be handled in accordance with the relevant provisions of the [Mediation and Arbitration Law](#).

Article 50 When the applicant, in accordance with the provision of item (1) of [Article 47](#) of the [Mediation and Arbitration Law](#), claims labor remunerations, medical expenses for a work-related injury, economic compensation or indemnity when the arbitral tribunal renders an award on a case, if the arbitral award involves several claims, the arbitral award shall be final, provided that the amount adjudicated for each claim is not more than the aggregate 12-month wages based on the local minimum monthly wage standard.

The economic compensation as mentioned in the preceding paragraph shall include the economic compensation made for the non-competition period and for rescinding or terminating the labor contract prescribed in the [Labor Contract Law of the People's Republic of China](#) (hereinafter referred to as the “[Labor Contract Law](#)”). Indemnity shall include the double pay as a result of failure to sign a written labor contract, the indemnity provided for the illegally stipulated probation period, the indemnity provided for the illegal rescission or termination of the labor contract, among others, prescribed in the [Labor Contract Law](#).

第四十九条 仲裁庭裁决案件时，其中一部分事实已经清楚的，可以就该部分先行裁决。当事人对先行裁决不服的，可以按照调解[仲裁法](#)有关规定处理。

第五十条 仲裁庭裁决案件时，申请人根据调解[仲裁法](#)[第四十七条](#)第（一）项规定，追索劳动报酬、工伤医疗费、经济补偿或者赔偿金，如果仲裁裁决涉及数项，对单项裁决数额不超过当地月最低工资标准十二个月金额的事项，应当适用终局裁决。

前款经济补偿包括《[中华人民共和国劳动合同法](#)》（以下简称[劳动合同法](#)）规定的竞业限制期限内给予的经济补偿、解除或者终止劳动合同的经济补偿等；赔偿金包括[劳动合同法](#)规定的未签订书面劳动合同第二倍工资、违法约定试用期的赔偿金、违法解除或者终止劳动合同的赔偿金等。

In accordance with item (2) of [Article 47](#) of the [Mediation and Arbitration Law](#), any dispute over the working hours, rest and leave, social insurance and other aspects arising from the implementation of national labor standards shall be subject to the final award.

Where an arbitral tribunal renders an award on a case, and the award involves content which requires a final award and content which requires a non-final award, the arbitral tribunal shall prepare separate awards and inform the parties of their corresponding rights of relief.

Article 51 With respect to cases involving claims for labor remuneration, medical expenses for a work-related injury, economic compensation or indemnity, the arbitral tribunal may, according to the application of the parties, make an award on advance enforcement and transfer the award to a people's court for enforcement.

Where the arbitral tribunal makes an award on advance enforcement, the following conditions shall be met:

- (1) The relations of rights and obligations between the parties are clear.
- (2) Without advance enforcement, the life of the applicant will be seriously affected.

Where a laborer applies for advance enforcement, he or she is not required to provide security.

根据调解[仲裁法第四十七条](#)第（二）项的规定，因执行国家的劳动标准在工作时间、休息休假、社会保险等方面发生的争议，应当适用终局裁决。

仲裁庭裁决案件时，裁决内容同时涉及终局裁决和非终局裁决的，应当分别制作裁决书，并告知当事人相应的救济权利。

第五十一条 仲裁庭对追索劳动报酬、工伤医疗费、经济补偿或者赔偿金的案件，根据当事人的申请，可以裁决先予执行，移送人民法院执行。

仲裁庭裁决先予执行的，应当符合下列条件：

- （一）当事人之间权利义务关系明确；
- （二）不先予执行将严重影响申请人的生活。

劳动者申请先予执行的，可以不提供担保。

Article 52 An award shall be made according to the opinions of the majority arbitrators and the dissenting opinions of the minority arbitrators shall be included in written records. If the arbitral tribunal cannot form a majority opinion, the award shall be made according to the opinion of the chief arbitrator.

Article 53 An award shall set forth the arbitration claims, the facts in dispute, the reasons for the award, the results of the award, the rights of the parties, and the date of the award. The signatures of arbitrators and the seal of the arbitration commission shall be affixed to the award. Arbitrators with dissenting opinions may choose to sign or not sign the award.

Article 54 For any error in words or calculations in an award or any matters for which an arbitral tribunal has rendered a ruling and which is omitted in the award, the arbitral tribunal shall prepare a written decision in a timely manner to make supplements or correction, and serve it upon the parties.

Article 55 Where a party refuses to accept the award and files a lawsuit with a people's court, the matters shall be handled in accordance with the relevant provisions of the [Mediation and Arbitration Law](#).

Section 3 Summary Handling

Article 56 A case involving a dispute that falls under any of the following circumstances may be handled in a summary manner:

第五十二条 裁决应当按照多数仲裁员的意见作出，少数仲裁员的不同意见应当记入笔录。仲裁庭不能形成多数意见时，裁决应当按照首席仲裁员的意见作出。

第五十三条 裁决书应当载明仲裁请求、争议事实、裁决理由、裁决结果、当事人权利和裁决日期。裁决书由仲裁员签名，加盖仲裁委员会印章。对裁决持不同意见的仲裁员，可以签名，也可以不签名。

第五十四条 对裁决书中的文字、计算错误或者仲裁庭已经裁决但在裁决书中遗漏的事项，仲裁庭应当及时制作决定书予以补正并送达当事人。

第五十五条 当事人对裁决不服向人民法院提起诉讼的，按照调解[仲裁法](#)有关规定处理。

第三节 简易处理

第五十六条 争议案件符合下列情形之一的，可以简易处理：

(1) The facts are clear, rights and obligations are definite and the dispute is not serious.

（一）事实清楚、权利义务关系明确、争议不大的；

(2) The amount of subject matter does not exceed the annual average wage of employees for the last year of the province, autonomous region or municipality directly under the Central Government.

（二）标的额不超过本省、自治区、直辖市上年度职工年平均工资的；

(3) Both parties agree to handling the case in a summary manner.

（三）双方当事人同意简易处理的。

Where an arbitration commission decides to handle an arbitration case in a summary manner, it may designate a single arbitrator to hear the case independently and inform the parties of its decision.

仲裁委员会决定简易处理的，可以指定一名仲裁员独任仲裁，并应当告知当事人。

Article 57 A case involving a dispute that falls under any of the following circumstances shall not be handled in a summary manner:

第五十七条 争议案件有下列情形之一的，不得简易处理：

(1) The case involves national interest or public interest.

（一）涉及国家利益、社会公共利益的；

(2) The case has a significant social impact.

（二）有重大社会影响的；

(3) The whereabouts of the respondent are unknown.

（三）被申请人下落不明的；

(4) The arbitration commission deems it inappropriate to handle the case in a summary manner.

（四）仲裁委员会认为不宜简易处理的。

Article 58 For a case to be handled in a summary manner, the arbitral tribunal may shorten or cancel the defense period with the consent of the respondent through consultation.

Article 59 For a case to be handled in a summary manner, the arbitral tribunal may serve arbitration documents by means of telephone, short message, fax, e-mail and other summary methods, except for the service of the mediation statement and the arbitration award.

Where the notice of court session is served in a summary manner, the arbitral tribunal shall neither deem that the applicant withdraws the arbitration application nor render a default award, if such service has not been confirmed by the party or there is no other evidence proving that the party has received such a notice.

Article 60 For an arbitration case to be handled in a summary manner, the arbitral tribunal may determine the period for producing evidence, the date when the hearing session is to be held, hearing procedures, preparation of the documents and other matters according to the case circumstances, but it shall guarantee the rights of the parties to state their opinions.

Article 61 Where an arbitral tribunal finds in the course of handling a case that it is inappropriate to handle the case in a summary manner, it shall decide to handle the case according to general procedures before the expiration of the time limit for the arbitration of a case, and inform the parties.

第五十八条 简易处理的案件，经与被申请人协商同意，仲裁庭可以缩短或者取消答辩期。

第五十九条 简易处理的案件，仲裁庭可以用电话、短信、传真、电子邮件等简便方式送达仲裁文书，但送达调解书、裁决书除外。

以简便方式送达的开庭通知，未经当事人确认或者没有其他证据证明当事人已经收到的，仲裁庭不得按撤回仲裁申请处理或者缺席裁决。

第六十条 简易处理的案件，仲裁庭可以根据案件情况确定举证期限、开庭日期、审理程序、文书制作等事项，但应当保障当事人陈述意见的权利。

第六十一条 仲裁庭在审理过程中，发现案件不宜简易处理的，应当在仲裁期限届满前决定转为按照一般程序处理，并告知当事人。

Where a case is to be handled under general procedures, the time limit for arbitration shall be calculated from the date when the arbitration commission accepts the arbitration application. The presentation of evidence or the cross-examination is not required for facts that have already been confirmed by both parties.

Section 4 Handling of Cases Involving Collective Labor Disputes

Article 62 The provision of this Section shall apply to the handling of any case involving labor dispute that involves ten or more laborers and a common request they have made or any case involving labor disputes arising from the performance of collective contracts.

A case involving collective labor and personnel disputes may be handled in a summary manner if it falls under any circumstance specified in paragraph 1 of Article 56 of these Rules, and is not subject to the provision of this Section.

Article 63 Where any dispute relates to ten or more laborers as one party of who make a common request, the laborers may elect three to five laborers as their representatives to participate in the arbitration activities. The representative's action shall become legally effective for the party represented by the representative; however, the representative must obtain the consent of the party represented by him or her if he or she intends to modify or waive the arbitration claim or admit the

案件转为按照一般程序处理的，仲裁期限自仲裁委员会受理仲裁申请之日起计算，双方当事人已经确认的事实，可以不再进行举证、质证。

第四节 集体劳动人事争议处理

第六十二条 处理劳动者一方在十人以上并有共同请求的争议案件，或者因履行集体合同发生的劳动争议案件，适用本节规定。

符合本规则第五十六条第一款规定情形之一的集体劳动人事争议案件，可以简易处理，不受本节规定的限制。

第六十三条 发生劳动者一方在十人以上并有共同请求的争议的，劳动者可以推举三至五名代表参加仲裁活动。代表人参加仲裁的行为对其所代表的当事人发生效力，但代表人变更、放弃仲裁请求或者承认对方当事人的仲裁请求，进行和解，必须经被代表的当事人同意。

arbitration claim of the other party and reach a settlement with it.

Where a labor dispute arising from the performance of a collective contract cannot be resolved through consultation, the labor union may apply for arbitration in accordance with the law. If there is no labor union, the labor union at a higher level shall direct laborers to elect representatives to apply for arbitration in accordance with the law.

Article 64 The arbitration commission shall, within five days as of the receipt of the application filed by the party for arbitration of a collective labor and personnel dispute, decide whether to accept the application or not. If it decides to accept the application, it shall, within five days after accepting the application, inform the party at one time of the members constituting the arbitral tribunal, the period for defense, the period for producing evidence, the date when and the place where the first hearing session is to be held, and other relevant matters.

Article 65 To handle a case involving collective labor and personnel disputes, an arbitration commission shall assign three arbitrators to form the arbitral tribunal and determine the chief arbitrator.

To handle labor disputes arising from the performance of a collective contract, an arbitration commission shall form an arbitral tribunal under the three-party principle.

因履行集体合同发生的劳动争议，经协商解决不成的，工会可以依法申请仲裁；尚未建立工会的，由上级工会指导劳动者推举产生的代表依法申请仲裁。

第六十四条 仲裁委员会应当自收到当事人集体劳动人事争议仲裁申请之日起五日内作出受理或者不予受理的决定。决定受理的，应当自受理之日起五日内将仲裁庭组成人员、答辩期限、举证期限、开庭日期和地点等事项一次性通知当事人。

第六十五条 仲裁委员会处理集体劳动人事争议案件，应当由三名仲裁员组成仲裁庭，设首席仲裁员。

仲裁委员会处理因履行集体合同发生的劳动争议，应当按照三方原则组成仲裁庭处理。

Article 66 To handle collective labor and personnel disputes, an arbitration commission shall, before the first hearing session is held, direct the parties to negotiate by themselves or mediate in advance.

To handle a case involving collective labor and personnel disputes, an arbitration commission may invite legal workers, lawyers, experts or scholars and other third parties to jointly participate in the mediation.

Where consultation fails or no agreement is reached through mediation, the arbitral tribunal shall render an arbitration award in a timely manner.

Article 67 The hearing session may be held by the arbitral tribunal at the place of the employer where disputes arise or at any other place where it is convenient to handle disputes in a timely manner.

Chapter IV Mediation Procedures

Section 1 Mediation and Arbitration

Article 68 To handle cases involving disputes, an arbitration commission shall give priority to mediation, direct the parties to resolve their disputes through consultation and mediation, and provide necessary explanations on laws and warn of risks.

第六十六条 仲裁庭处理集体劳动人事争议，开庭前应当引导当事人自行协商，或者先行调解。

仲裁庭处理集体劳动人事争议案件，可以邀请法律工作者、律师、专家学者等第三方共同参与调解。

协商或者调解未能达成协议的，仲裁庭应当及时裁决。

第六十七条 仲裁庭开庭场所可以设在发生争议的用人单位或者其他便于及时处理争议的地点。

第四章 调解程序

第一节 仲裁调解

第六十八条 仲裁委员会处理争议案件，应当坚持调解优先，引导当事人通过协商、调解方式解决争议，给予必要的法律释明以及风险提示。

Article 69 As for disputes on which the party directly applies for arbitration without mediation, the arbitration commission may issue a mediation proposal to the parties, and direct them to mediate the disputes to a mediation organization. If the parties agree on the advance mediation, the arbitration commission shall suspend the acceptance of the application. If the parties do not agree on the advance mediation, the arbitration commission shall accept the application in accordance with the law.

Article 70 Before the first hearing session is held, an arbitral tribunal may entrust a mediation organization or any other organization or individual that is capable of mediating between both parties for mediation upon the consent of both parties.

Where no mediation agreement is reached within ten days from the date of the consent of both parties, the first hearing session shall be held.

Article 71 An arbitral tribunal shall mediate when hearing a case involving a dispute, and may invite relevant entities, organizations or individuals to participate in mediation when necessary.

Article 72 Where an agreement is reached through mediation, the arbitral tribunal shall prepare a mediation statement.

第六十九条 对未经调解、当事人直接申请仲裁的争议，仲裁委员会可以向当事人发出调解建议书，引导其到调解组织进行调解。当事人同意先行调解的，应当暂缓受理；当事人不同意先行调解的，应当依法受理。

第七十条 开庭之前，经双方当事人同意，仲裁庭可以委托调解组织或者其他具有调解能力的组织、个人进行调解。

自当事人同意之日起十日内未达成调解协议的，应当开庭审理。

第七十一条 仲裁庭审理争议案件时，应当进行调解。必要时可以邀请有关单位、组织或者个人参与调解。

第七十二条 仲裁调解达成协议的，仲裁庭应当制作调解书。

The mediation statement shall set out the arbitration claims and the results of agreement of the parties. The mediation agreement shall be signed by the arbitrators, to which the seal of the arbitration commission shall be affixed, and be served upon both parties. The mediation statement shall come into legal force once it is signed by both parties.

Where one party is repentant before mediation fails or the mediation statement is served, the arbitral tribunal shall render an award in a timely manner.

Article 73 Where the parties reach a mediation agreement with respect to part of the arbitration claim, the arbitral tribunal may first issue a mediation statement for such part of the claim.

Section 2 Arbitration Examination of a Mediation Agreement

Article 74 Where a mediation agreement is reached through the mediation of a mediation organization, both parties may, within 15 days after the mediation agreement comes into force, jointly apply to the arbitration commission having jurisdiction for the arbitration examination .

Where a party applies for the examination of the mediation agreement, it shall submit to the arbitration commission the application for the arbitration examination , the mediation agreement, identification, qualification certificate, and other certification materials relating to the mediation agreement, as

调解书应当写明仲裁请求和当事人协议的结果。调解书由仲裁员签名，加盖仲裁委员会印章，送达双方当事人。调解书经双方当事人签收后，发生法律效力。

调解不成或者调解书送达前，一方当事人反悔的，仲裁庭应当及时作出裁决。

第七十三条 当事人就部分仲裁请求达成调解协议的，仲裁庭可以就该部分先行出具调解书。

第二节 调解协议的仲裁审查

第七十四条 经调解组织调解达成调解协议的，双方当事人可以自调解协议生效之日起十五日内，共同向有管辖权的仲裁委员会提出仲裁审查申请。

当事人申请审查调解协议，应当向仲裁委员会提交仲裁审查申请书、调解协议和身份证明、资格证明以及其他与调解协议相关的证明材料，并提供双方当事人的送达地址、电话号码等联系方式。

well as both parties' service address, phone numbers and other contact information.

Article 75 An arbitration commission shall, upon the receipt of the party's application for the arbitration examination , decide whether to accept the application or not in a timely manner. If it decides to accept the application, it shall issue a notice of acceptance.

The arbitration commission shall not accept the application under any of the following circumstances:

(1) It does not fall under the scope of disputes handled by the arbitration commission.

(2) It does not fall under the jurisdiction of the arbitration commission.

(3) The application is filed beyond the prescribed period for applying for the arbitration examination .

(4) The labor relation has been confirmed.

(5) The mediation agreement has been judicially confirmed by a people's court.

Article 76 The arbitration commission shall complete the examination of the mediation agreement within five days when the application for the arbitration examination is accepted. If an extension is required due to any particular circumstance, five

第七十五条 仲裁委员会收到当事人仲裁审查申请,应当及时决定是否受理。决定受理的,应当出具受理通知书。

有下列情形之一的,仲裁委员会不予受理:

(一) 不属于仲裁委员会受理争议范围的;

(二) 不属于本仲裁委员会管辖的;

(三) 超出规定的仲裁审查申请期间的;

(四) 确认劳动关系的;

(五) 调解协议已经人民法院司法确认的。

第七十六条 仲裁委员会审查调解协议,应当自受理仲裁审查申请之日起五日内结束。因特殊情况需要延期的,经仲裁委员会主任或者其委托的仲裁院负责人批准,可以延长五日。

days may be extended with the approval of the chairman of the arbitration commission or the person in charge of the arbitration court entrusted by the chairman of the arbitration commission.

Where either party or both parties withdraw(s) the application for the arbitration examination before the mediation agreement is served, the arbitration commission shall approve the withdrawal.

Article 77 The arbitration commission shall, after accepting an application for the arbitration examination , designate arbitrators to examine the mediation agreement.

Where the arbitration commission holds upon examination that the form and content of the mediation agreement are legal and effective, it shall prepare a mediation statement. The content of the mediation statement shall be consistent with the content of the mediation agreement. The mediation statement shall come into legal force once it is signed by both parties for receipt.

Article 78 Where a mediation agreement falls under any of the following circumstances, the arbitration commission shall not prepare a mediation statement.

(1) The mediation agreement violates any compulsory provisions of laws and administrative regulations.

调解书送达前，一方或者双方当事人撤回仲裁审查申请的，仲裁委员会应当准许。

第七十七条 仲裁委员会受理仲裁审查申请后，应当指定仲裁员对调解协议进行审查。

仲裁委员会经审查认为调解协议的形式和内容合法有效的，应当制作调解书。调解书的内容应当与调解协议的内容相一致。调解书经双方当事人签收后，发生法律效力。

第七十八条 调解协议具有下列情形之一的，仲裁委员会不予制作调解书：

（一）违反法律、行政法规强制性规定的；

(2) The mediation agreement damages national interest, public interest or the lawful rights and interests of any citizen, legal person or any other organization.

（二）损害国家利益、社会公共利益或者公民、法人、其他组织合法权益的；

(3) The party is suspected of providing false evidentiary materials.

（三）当事人提供证据材料有弄虚作假嫌疑的；

(4) The principle of voluntariness is violated.

（四）违反自愿原则的；

(5) The content is not specific.

（五）内容不明确的；

(6) Any other circumstance where no mediation statement shall be prepared.

（六）其他不能制作调解书的情形。

Where the arbitration commission decides not to prepare the mediation statement, it shall notify the parties in writing.

仲裁委员会决定不予制作调解书的，应当书面通知当事人。

Article 79 Where the party withdraws the application for the arbitration examination or the arbitration commission decides not to prepare a mediation statement, the arbitration examination shall be terminated.

第七十九条 当事人撤回仲裁审查申请或者仲裁委员会决定不予制作调解书的，应当终止仲裁审查。

Chapter V Supplementary Provisions

第五章 附则

Article 80 For the purpose of these Rules, “three days”, “five days” and “ten days” means working days, and “15 days” and “45 days” means natural days.

第八十条 本规则规定的“三日”、“五日”、“十日”指工作日，“十五日”、“四十五日”指自然日。

Article 81 These Rules shall come into force on July 1, 2017.

The [Rules for Handling Arbitration Cases on Labor and Personnel Disputes](#) (Order No. 2, Ministry of Human Resources and Social Security) issued by the Ministry of Human Resources and Social Security on January 1, 2009 shall be repealed concurrently.

第八十一条 本规则自2017年7月1日起施行。2009年1月1日人力资源社会保障部公布的《[劳动人事争议仲裁办案规则](#)》（人力资源和社会保障部令第2号）同时废止。