

***Unemployment Insurance and Assistance Systems
in Mainland China***

June 2000

Prepared by

Ms Vicky LEE

**Research and Library Services Division
Legislative Council Secretariat**

5th Floor, Citibank Tower, 3 Garden Road, Central, Hong Kong

Telephone : (852) 2869 7735

Facsimile : (852) 2525 0990

Website : <http://legco.gov.hk>

E-mail : library@legco.gov.hk

CONTENTS

	<i>Page</i>
Acknowledgements	
Executive Summary	
Part 1 - Introduction	1
Background	1
Objectives and Scope	1
Methodology	2
Part 2 - The Establishment and Development of Unemployment Insurance System in Mainland China	3
Unemployment Insurance System	3
<i>Establishment of the Unemployment Insurance System</i>	3
<i>Purposes of Establishing the Unemployment Insurance System</i>	3
<i>Characteristics of the Unemployment Insurance System</i>	4
<i>Development of the Unemployment Insurance System</i>	4
Implications of Implementing the Unemployment Insurance Regulations	7
Unemployment Insurance in Mainland China	8
Part 3 - Unemployment Insurance Benefits	13
Definition of the Unemployed	13
Coverage of the Unemployment Insurance	13
Unemployment Insurance Benefits	14
<i>Details of the Unemployment Insurance Benefits</i>	14
<i>Eligibility for Unemployment Insurance Benefits</i>	14
<i>Procedures of Application for Unemployment Insurance Benefits</i>	15
<i>Entitlement Period of Unemployment Insurance Benefits</i>	15
<i>Standards for Setting the Unemployment Insurance Payments</i>	16
<i>Penal Provisions for Illegal Receipt of Unemployment Insurance Benefits</i>	18
Part 4 - Operation and Management of the Unemployment Insurance Fund	19
Unemployment Insurance Fund	19
<i>Definition of Unemployment Insurance Fund</i>	19
<i>Unemployment Insurance Premium</i>	19
<i>Sources of Unemployment Insurance Fund</i>	20
<i>A breakdown of Unemployment Insurance Fund by Expenditure</i>	21
<i>Unemployment Insurance Adjustment</i>	23
<i>Local Financial Subsidies</i>	23

The Legislative Council Secretariat welcomes the re-publication, in part or in whole, of this research report, and also its translation in other languages. Material may be reproduced freely for non-commercial purposes, provided acknowledgement is made to the Research and Library Services Division of the Legislative Council Secretariat as the source and one copy of the reproduction is sent to the Legislative Council Library.

Authority Responsible for the Administration of Unemployment Insurance	24
Management of Unemployment Insurance Fund	25
Penalty for Causing Loss to Unemployment Insurance Fund	26
<i>Penalty on Unemployment Insurance Agencies</i>	26
<i>Penalty on Enterprises</i>	26
Monitoring the Work of Unemployment Insurance	27
Appeal Mechanism	27
Fraudulent Cases of Unemployment Insurance Benefits and Cases Involving the Abusive Use of Unemployment Insurance Fund	28
Part 5 - Other Unemployment Security Systems	29
Social Relief	29
<i>Definition of Social Relief</i>	29
<i>Social Relief and Unemployment Insurance</i>	29
Unemployment and Integrated Mutual-aid Complementary Insurance for Staff and Workers	30
Part 6 - Analysis of the Unemployment Insurance System of Mainland China	31
Mandatory Unemployment Insurance	31
Coverage	31
<i>Covering Staff and Workers of all Enterprises in Cities and Towns</i>	31
<i>Rural Workers and Peasants Excluded</i>	32
<i>Civil Servants of National Institutions Excluded</i>	32
<i>Unemployment Rate Augmented by Labour Force Flowing from Rural Areas to Cities</i>	32
Requirements for Application of Unemployment Insurance Benefits	33
Contents of Unemployment Insurance Benefits	34
Entitlement Period of Unemployment Insurance Benefits	34
Level of Unemployment Insurance Payments	34
Premium Rate	35
Management and Supervision of Unemployment Insurance Fund	35
Promotion of Re-employment	36
Appendices	37
References	62

ACKNOWLEDGEMENTS

We gratefully acknowledge the assistance given to us by many people in this research project. More specifically, we would like to thank Ms Jean K.M. Hung, Assistant Director, Universities Service Centre, the Chinese University of Hong Kong, and Dr Paul W T Poon, Librarian, City University of Hong Kong, for their kind assistance in providing us with their collection of Chinese books and database.

EXECUTIVE SUMMARY

1. The unemployment insurance system in Mainland China was first established in 1986 when the Interim Provisions on Unemployment Insurance for Staff of State Enterprises were promulgated by the State Council. In 1993, the Regulations on Unemployment Insurance for Staff and Workers of State-Owned Enterprises were enacted. In 1999, the State Council promulgated the Unemployment Insurance Regulations.
2. The objectives of establishing the unemployment insurance system are to alleviate the economic distress brought about by unemployment and to facilitate employment. Its characteristics are as follows: (a) unemployment insurance is a mandatory system; (b) only those who are unemployed in accordance with the law are covered; (c) the benefits provided are in line with the basic needs of the unemployed; (d) the State establishes the Unemployment Insurance Fund through legislation; (e) unemployment insurance is more than a kind of financial relief; more importantly, it helps to enhance the competitiveness and employability of the unemployed through training and job referrals, so that they can rejoin the workforce; and (f) unemployment insurance payments are made on a short-term basis.
3. All unemployed staff and workers of urban enterprises (i.e. state-owned enterprises, urban collective enterprises, foreign-funded enterprises, urban private enterprises and other urban enterprises) are covered by unemployment insurance. However, rural workers, peasants and civil servants working for national institutions are excluded.
4. Unemployment insurance benefits include: (a) unemployment insurance payments; (b) medical subsidies, allowances for funeral expenses and bereavement payments; and (c) other necessary daily expenses. Moreover, the unemployed staff and workers can rejoin the workforce through participation in retraining and job-referral programmes.
5. Unemployed individuals may receive unemployment insurance benefits provided that they and their enterprises have fulfilled their respective responsibilities to pay premium for at least one year, the termination of employment was not at their volition, they have carried out unemployment registration and they want to get employed.
6. Where premium has been paid for an aggregate period of at least one year but less than five years, the entitlement period of unemployment insurance payments is 12 months. Where premium has been paid for at least five years but less than 10 years, the entitlement period is 18 months. Where premium has been paid for 10 years or more, the entitlement period is 24 months. If the unemployed individuals still fail to secure employment after the expiry of the entitlement period, they can apply for the social relief from the Ministry of Civil Affairs.
7. The unemployment insurance payments is set at a level lower than the local minimum wage standard but above the level of the minimum living standard of urban residents.
8. The unemployment insurance premium to be paid by an enterprise and an individual is 2% of total payroll and 1% of individual's wage respectively.
9. The State Council's Labour Protection Department is responsible for the unemployment insurance throughout the country. The Labour Protection Department of the local government at or above the county level is responsible for the unemployment insurance matters in their administrative region. Social insurance agencies are established to carry out the work of unemployment insurance.

UNEMPLOYMENT INSURANCE AND ASSISTANCE SYSTEMS IN MAINLAND CHINA

PART 1 - INTRODUCTION

1. Background

1.1 In October 1999, the Panels on Manpower and Welfare Services requested the Research and Library Services (RLS) Division of the Legislative Council (LegCo) Secretariat to conduct a study on unemployment-related benefits systems.

2. Objectives and Scope

2.1 The objectives of the study are:

- to examine the experience of Mainland China, Taiwan, Malaysia, Singapore, South Korea, the United Kingdom (UK), and the United States (US) in implementing their unemployment-related benefits systems;
- to outline the research findings of the Organization for Economic Co-operation and Development (OECD) and the Conventions and Recommendations of the International Labour Organization (ILO) in unemployment benefits systems; and
- to make an overall comparative analysis of the experience in the above places in implementing their unemployment-related benefits systems, and study current provisions in helping the unemployed in Hong Kong.

2.2 The scope of the research, as agreed by the Panels, covers

- historical development;
- main features and components;
- eligibility requirements;
- types of benefits and amounts;
- duration of payment of benefits;
- tax treatment of the benefits;
- source of funds for the benefits; and
- administration of the unemployment-related benefits systems.

2.3 In this report, we outline the experience of Mainland China in the establishment and operation of the unemployment insurance and assistance systems. Although China is a member country of the ILO, it has not ratified any of the three conventions concerning unemployment benefits. These conventions include the *Ensuring Benefit or Allowances to the Involuntarily Unemployed Convention, 1934, (No. 44)*, the *Social Security (Minimum Standards) Convention, 1952, (No. 102)* and the *Employment Promotion and Protection (Unemployment) Convention, 1988, (No. 168)*.

2.4 This report forms part of the series of studies discussing unemployment-related benefits systems. There are 11 separate research reports (RP13/99-00 to RP23/99-00) on this subject.

2.5 In this research, "unemployment-related benefits" refer to unemployment benefits and related welfare benefits. Unemployment benefits comprise unemployment insurance and unemployment assistance. Unemployment benefits are available to the unemployed only. In other words, these benefits are not available to people who are not unemployed. The recipient must be currently unemployed, able to work, willing to work and looking for work. Where there are no unemployment benefits or where these benefits are exhausted, welfare benefits may be made available to provide subsistence for those in need. These related welfare benefits, as defined in the 1996 OECD study of "benefit systems and work incentives", include family benefits, housing benefits, child-care benefits and social assistance. They are made available to all citizens subject to a means-test, and are not specifically targeted at the unemployed.

3. Methodology

3.1 The research involves a combination of information collection and analysis. In addition to materials available in the Legislative Council Library, reference materials were acquired through internet and other outside sources. Letters were sent to the Ministry of Labour and Social Security of Mainland China and reference was made to the collection of books, newspapers and magazines on China which are available in the Universities Service Centre in the Chinese University of Hong Kong and in the Pearl River Delta Collection in the library of the City University of Hong Kong. As most of the materials collected are in Chinese, this research report is originally drafted in Chinese and is based on the information obtained from these sources.

3.2 Up to the moment when this report is drafted, we have not yet received any information from China's Ministry of Labour and Social Security.

PART 2 - THE ESTABLISHMENT AND DEVELOPMENT OF UNEMPLOYMENT INSURANCE SYSTEM IN MAINLAND CHINA

4. Unemployment Insurance System

Establishment of the Unemployment Insurance System

4.1 The unemployment insurance system in Mainland China was first established in 1986 when the Interim Provisions on Unemployment Insurance for Staff of State Enterprises (Interim Provisions) were promulgated by the State Council. In fact, in as early as 1951, legislation in relation to social security was enacted, and the items covered included illnesses, injury at work, maternity, health care, retirement and death benefits. Unemployment benefits, however, were not included because unemployment was not expected in a communist system at that time. It was only after China opened up to reforms and enterprises moved gradually towards market economy that the employment system had to be changed so as to increase productivity and competitiveness. Enterprises also began to consider securing the basic needs of their staff.

Purposes of Establishing the Unemployment Insurance System

4.2 The purposes of establishing the unemployment insurance system are to alleviate the economic distress brought about by unemployment and to facilitate employment. In a market economy, enterprises are very competitive. Mergers, bankruptcy and dissolution are common among mismanaged enterprises, resulting in massive unemployment. In addition, the autonomy given to enterprises on recruitment, the adoption of labour contracts for all staff, downsizing by discharging redundant staff and layoffs of staff who are unable to meet production requirements have also led to an increasing number of the unemployed. With the establishment of the unemployment insurance system, the basic needs and health care services of the unemployed are secured. Retraining courses for redeployment and job referrals arranged by employment agencies are also available for them.

Characteristics of the Unemployment Insurance System

4.3 According to the analysis as found in "A General Profile of Social Security System in China"¹, the unemployment insurance system in Mainland China bears the following characteristics:

- (a) unemployment insurance is a mandatory social system implemented through legislation by the State;
- (b) only those who are unemployed as stipulated in the legislation are entitled to unemployment insurance;
- (c) the purpose is to secure the basic needs, instead of every aspect of all the needs of the unemployed;
- (d) while the State establishes the unemployment insurance funds, society coordinates the use of the funds;
- (e) unemployment insurance is more than a kind of financial relief; more importantly, it helps to enhance the competitiveness and employability of the unemployed through career training and job referrals, so that they can join the workforce again; and
- (f) unemployment insurance payments are made on a short-term basis; those who fail to get a job beyond a defined period of time shall receive social relief instead.

Development of the Unemployment Insurance System

1986

4.4 The unemployment insurance system² of Mainland China was first established in 1986, the year when the State Council promulgated the Interim Provisions on Unemployment Insurance for Staff of State Enterprises. The contents of the Interim Provisions are at Appendix I.

4.5 By establishing the unemployment insurance funds, the Interim Provisions were implemented to secure the basic needs of the temporarily unemployed staff in State enterprises. It also provided them with the necessary assistance in the course of job seeking. Job training and referrals were also provided to equip them with the necessary qualities for re-employment.

4.6 However, the coverage of the initially established unemployment insurance system was limited. Only four kinds of staff of state enterprises were covered: (a) the staff of an enterprise which is adjudicated bankrupt; (b) the staff discharged in the statutory reorganization of an enterprise on the verge of bankruptcy; (c) the staff discharged on the rescission of a labour contract or on the dissolution of an enterprise; and (d) the staff dismissed by an enterprise.

¹ A General Profile of Social Security System in China 《中國社會保障制度總覽》，Editorial Committee of "A General Profile of Social Security System in China", Chinese Democracy Publishing Company, 1995

² From 1994 onwards, the relevant authorities officially changed “待業保險” to “失業保險”.

4.7 The premium paid by enterprises was equal to 1% of the total payroll of all staff. Unemployment insurance payment was calculated according to the average monthly wage of individual staff and was paid out according to the length of service and stipulated criteria. For persons with a working record of less than five years, the entitlement period was 12 months, the rate being 60% to 75% of individual's average monthly wage. For those with a working record of five years or more, the rate was 60% to 75% of the average monthly wages for the first 12 months, and then reduced to 50% for the remaining 12 months.

4.8 The labour service company attached to the local labour administrative authority was in charge of the management of unemployment insurance funds and also responsible for the registration, file set-up and distribution of unemployment insurance funds, recommending jobs, vocational training and supporting and guiding unemployed staff to seek employment. An appropriate proportion of unemployment insurance funds was set aside for providing retraining and financing the self-production³ projects run by the unemployed staff.

1993

4.9 As reforms pushed ahead, enterprises competed among each other became more prominent. The problem of unemployment was also getting worse, the Interim Provisions could no longer cope with the reforms and developments. In 1993, the State Council amended the Interim Provisions and promulgated the Regulations on Unemployment Insurance for Staff and Workers of State-Owned Enterprises (The UISOE Regulations). Details of the UISOE Regulations are given in Appendix II.

4.10 The UISOE Regulations had, above all, enlarged the scope of unemployment insurance coverage from four types of staff and workers to seven types. The coverage was extended to staff and workers of enterprises closed or dissolved in accordance with relevant regulations of the State, staff and workers laid off in periods during which the enterprises ceased production in order to be streamlined in accordance with relevant regulations of the State and those who had their employment contracts terminated or cancelled.

4.11 Premium paid by the enterprises was between 0.6% and 1% of the payroll of all staff and workers. Unemployment insurance payments were no longer linked to individual wages, they were equal to 120% to 150% of the amount of social relief payments stipulated by the local institutions of civil affairs. Under the UISOE Regulations, those who refuse employment referred by the labour employment services agencies twice without viable reasons are not entitled to any unemployment insurance benefits.

³ Self-helping production (生產自救) was the deployment of the unemployed who had not yet located themselves on any suitable jobs but to bases where self-help production projects took place. They might also be grouped together to carry out paid labour tasks. This did not only resolve problems related to the livelihood of the unemployed, the existing qualities of labours could also be maintained. It was very effective in upholding unity and maintaining stability of an area.

4.12 As regards the organization and administration of unemployment insurance, the Labour Protection Department under the State Council was responsible for the management of unemployment insurance throughout the country. The Labour Protection Department of the local governments above the county level were responsible for the management of unemployment insurance within their administrative jurisdictions. They were also responsible for the overall planning and organization in implementing unemployment insurance, job referrals and vocational training, and to guide the unemployment insurance agencies in managing and disbursing unemployment insurance funds.

1999

4.13 From 1992 onwards, the establishment of a socialist market economy has been identified as the objective of reforms in Mainland China. Mergers, liquidation in a standardized manner and streamlining of establishments have been encouraged among enterprises. Since there were large numbers of displaced staff, further improvements on the unemployment insurance system were necessary. In January 1999, the State Council promulgated the Unemployment Insurance Regulations which was a revision, supplement and amendment of the UISOE Regulations. Details of the Unemployment Insurance Regulations are given in Appendix III.

4.14 The Unemployment Insurance Regulations differ greatly from the former regulations:

- (a) As far as the Chinese title is concerned, the 'temporarily unemployment' referred to in the former title has been replaced by 'unemployment' in the Unemployment Insurance Regulations, giving it a more explicit meaning.
- (b) The unemployment insurance which had been enjoyed only by the staff of State-owned enterprises has been extended to include staff and workers of all enterprises at the city and town levels. This facilitates the changes made in the management of enterprises, restructuring of work organizations and speeding up reforms on the recruitment system.
- (c) The introduction of staff contributions enhances the staff's awareness about unemployment insurance.

-
-
- (d) The management of unemployment insurance funds manifests the importance of securing the basic needs of the unemployed. The unemployment insurance payments were no longer paid in accordance with one's wages and length of service, but paid according to the duration of one's contributions. The unemployment insurance funds no longer undertake responsibilities such as supporting the unemployed to carry out self-help production projects.
 - (e) There is a stricter control on the management and supervision of the unemployment insurance system. Unemployment insurance funds must be deposited in a dedicated public finance account for social security funds opened by the public finance authorities with state-owned commercial banks. Payments into and out of the account is subject to separate administration. Unemployment insurance funds should be utilized only for their intended purpose and agencies are not permitted to withdraw management fee from the funds.

5. Implications of Implementing the Unemployment Insurance Regulations

5.1 According to the publicity outlines for the Unemployment Insurance Regulations⁴ issued by the Ministry of Labour and Social Security, the implementation of the Unemployment Insurance Regulations has three significant implications:

- (a) It provides an important legal backing for improving the unemployment protection system, securing the legitimate interests of the unemployed and upholding social stability. It is also a crucial step towards the formation of a legislated system for social security;
- (b) In addition to securing the basic needs of the unemployed and redundant workers, the establishment of a comprehensive unemployment insurance system also facilitates reasonable mobility of the workforce and provides more channels for obtaining employment. It is also significant in promoting in-depth reforms for state-owned enterprises, streamlining for efficiency, redeployment of redundant workers and breaking away from financial difficulties within three years; and

⁴ *Legislation and Policy of Labour and Social Security (Monthly)* 《勞動和社會保障法規政策專刊》, May 1999

- (c) It facilitates the establishment of a social security system and an employment system which can accommodate to a socialist market economy. The Party Central Committee and the State Council clearly stated that they would strive to establish a social security system and employment mechanism suitable for a socialist market economy in around five years' time. In their opinion, no social security system is perfect without a comprehensive unemployment insurance system. The unemployed would find it difficult to re-enter the workforce and it would also be difficult to establish a system that provides reasonable labour mobility and market mechanism for employment. The implementation of the Unemployment Insurance Regulations is to ensure that all staff and workers of city and town enterprises are entitled to statutory unemployment security. It also has significant impact on the establishment of a comprehensive social security system and the market mechanism for employment.

6. Unemployment Insurance in Mainland China

6.1 In 1998, the total number of employed persons in the whole country was 700 million⁵. Around 200 million, representing 30% of all employed persons, were working in the urban areas while the other 500 million (70%) were working in the rural areas.

6.2 Table 1 shows the number of enterprises and staff and workers who had unemployment insurance between 1994 and 1999. As at the end of June 1999, the number of staff and workers in urban areas who had unemployment insurance coverage rose significantly to 137 million, representing an increase of 70% comparing to that in 1998. This was attributed to the introduction of the Unemployment Insurance Regulations, the coverage of which has been extended to staff and workers of non-State-owned enterprises in urban areas.

⁵ Employed persons refer to the persons who are engaged in social labour and receive remuneration payment or earn business income, including: total staff and workers, re-employed retirees, employers of private enterprises, self-employed workers, employees in private enterprises and individual economy, employees in township enterprises, employed persons in rural areas, other employed persons (including teachers in the schools run by the local people, people engaged in religious profession and the servicemen, etc.). This indicator reflects the actual utilization of total labour force during a certain period of time.

Table 1 - Number of Enterprises and Staff and Workers who had Unemployment Insurance between 1994 and 1999

Year	Number of Enterprises	Number of Staff and Workers
1994	554 097	95 000 000
1995	605 186	95 000 000
1996	635 467	83 330 573
1997	603 160	79 613 722
1998	N/A	79 279 000
End June 1999*	N/A	137 000 000

Remarks: * The information of 1999 comes from The Notice on implementing the two sets of Regulations to enlarge their social security coverage and on strengthening work on payment to the Funds which was promulgated by the State Council, No. 10 (1999) issued by the Ministry of Labour and Social Security
N/A implies information not available

Source: *Labour Statistical Yearbook of China* 《中國勞動統計年鑒》1995-1999, China Statistics Publishing Company

6.3 Table 2 lists the 10 regions with the greatest number of staff and workers who had unemployment insurance in 1998. Although Liaoning had the greatest number of insured and registered unemployed, the place with the greatest number of people applying for unemployment insurance payments was Jiangsu. There was no information elaborating on the relationship among the number of the insured, registered unemployed and unemployment insurance payments applicants.

Table 2 - The 10 Municipalities with the Greatest Number of Insured in 1998

Municipalities	Number of insured		Registered unemployed		Unemployment insurance payments applicants	
	('000)	%	('000)	%	('000)	%
Liaoning	7 141	9.0	400	7.0	115	7.3
Jiangsu	5 768	7.3	243	4.3	147	9.3
Shandong	5 252	6.6	365	6.4	98	6.2
Hebei	4 737	6.0	159	2.8	26	1.6
Shanghai	4 253	5.4	160	2.8	130	8.2
Guangdong	4 209	5.3	262	4.6	110	7.0
Henan	4 156	5.2	217	3.8	64	4.0
Heilongjiang	3 966	5.0	250	4.4	102	6.5
Hubei	3 782	4.8	313	5.5	50	3.2
Sichuan	3 704	4.7	302	5.3	44	2.8
Nation-wide	79 279	100.0	5 710	100.0	1 581	100.0

Source: *Labour Statistical Yearbook of China 1999* 《中國勞動統計年鑒 1999》, China Statistics Publishing Company, Table2-1, 8-34

6.4 Table 3 shows the statistics on the unemployment rates and people registered as unemployed in urban areas between 1986 and 1998. In 1986, the number of people registered as unemployed totalled 2.6 million and the unemployment rate was 2.0%. In 1998, the number of the unemployed was more than doubled, reaching 5.7 million and the unemployment rate was 3.1%. There is no statistics on the persons registered as unemployed and the unemployment rate in rural areas. If unemployment persists, coupled with the enlarged coverage upon the introduction of Unemployment Insurance Regulations in 1999, more people will be eligible for unemployment insurance payments, resulting in placing a heavier burden on the unemployment insurance funds.

Table 3 - Statistics on the Registered Unemployed in Urban Areas* and the Unemployment Rates between 1986 and 1998

Year	Registered unemployed ('000)	Unemployment rate (%)
1986	2 644	2.0
1987	2 766	2.0
1988	2 962	2.0
1989	3 779	2.6
1990	3 832	2.5
1991	3 522	2.3
1992	3 639	2.3
1993	4 201	2.6
1994	4 764	2.8
1995	5 196	2.9
1996	5 528	3.0
1997	5 768	3.1
1998	5 710	3.1

Remark: * The registered unemployed in urban areas refers to people who are registered as permanent residents in the urban areas engaged in non-agricultural activities, aged within the range of working age, capable to labour, unemployed but desirous to be employed and have been registered at the local employment services agencies for a job.

Sources: *Statistical Survey of China 1998* 《中國統計摘要 1998》, China Statistics Publishing Company
Labour Statistical Yearbook of China 1999 《中國勞動統計年鑒 1999》, China Statistics Publishing Company, Table 2-1

6.5 Table 4 shows the jobless period of the registered unemployed in urban areas between 1996 and 1998. Among the unemployed, about 40% of them took up employment again within six months, while 60% suffered from unemployment for more than six months. The longer the period of unemployment is, the heavier the burden on the unemployment insurance system becomes.

Table 4 - Statistics on the Jobless Period of the Registered Unemployed in Urban Areas between 1996 and 1998

Year	Under 6 months		Over 6 months	
	('000)	(%)	('000)	(%)
1996	2 218	40.1	3 310	59.9
1997	2 417	41.9	3 351	58.1
1998	2 305	40.3	3 408	59.7

Source: *Labour Statistical Yearbook of China* 《中國勞動統計年鑒》1997-1999, China Statistics Publishing Company

PART 3 - UNEMPLOYMENT INSURANCE BENEFITS

7. Definition of the Unemployed

7.1 In the Mainland, the unemployed are persons within the prescribed age range and capable of work but being jobless and in the course of job-seeking by certain means during the period when the survey is conducted⁶. This definition concurred with the definition of ILO. Specifically, they include:

- (a) students aged 16 or above who have graduated from or are studying at various types of schools and are seeking for jobs for the first time but fail to find one;
- (b) persons who fail to find a job after the enterprises go bankrupt;
- (c) persons who fail to find a job after their labour contracts have been terminated or cancelled or after they have been dismissed by the enterprises;
- (d) persons who fail to find a job after they have resigned from their original units; and
- (e) other persons who meet the definition of the unemployed.

8. Coverage of the Unemployment Insurance

8.1 According to the Unemployment Insurance Regulations, all unemployed staff and workers of the urban enterprises (i.e. state-owned enterprises, urban collective enterprises, foreign-funded enterprises, urban private enterprises and other urban enterprises) are entitled to unemployment insurance benefits and have the obligation to pay the premium. For details of unemployment insurance premium, please refer to Part 4 of this report.

⁶ 322 Questions in Unemployment Insurance 《失業保險 322 問》, written and compiled by Li Jing-yun and other writers, People's Court Publishing Company, p.6

9. Unemployment Insurance Benefits

Details of the Unemployment Insurance Benefits

9.1 According to the Unemployment Insurance Regulations, the unemployment insurance benefits to which the unemployed staff and workers are entitled include:

- (a) unemployment insurance payments;
- (b) medical subsidies, allowances for funeral expenses and bereavement payments to their dependent spouses and family members while the insured receive unemployment insurance payments; and
- (c) other expenses necessary for securing their basic needs as approved by the governments of the provinces, autonomous regions or municipalities⁷.

9.2 Apart from the above protection which is given in a pecuniary form, the unemployed staff and workers can also get other assistance. They can participate in retraining and job-referral programmes so as to upgrade themselves and rejoin the workforce as soon as possible.

Eligibility for Unemployment Insurance Benefits

9.3 Unemployed individuals are eligible for unemployment insurance benefits provided that they and their enterprises have fulfilled their respective responsibilities to pay premium in accordance with the law for at least one year, the termination of employment was not at their volition, they have registered as unemployed and they want to get employed.

9.4 For those whose entitlement period of unemployment insurance benefits has expired, engaged in a new job, enrolled in schools, living abroad, in the army, entitled to old age insurance benefits, resigned voluntarily, refused to accept a job recommended by an agency designated by the local government without proper reasons, committed offences during unemployment are not eligible for any unemployment insurance benefits.

⁷ No further information is found on the definition of “other expenses”.

Procedures of Application for Unemployment Insurance Benefits

9.5 Enterprises should issue to their unemployed staff a certificate showing that their labour relationship has ended or been terminated, inform them of their rights to enjoy unemployment insurance benefits in accordance with the law, and, within seven days of the date on which the labour relationship ended or is terminated, submit a list of their unemployed staff to the social insurance agency for recording purposes.

9.6 Unemployment insurance payments are disbursed on a monthly basis by the social insurance agencies. When a staff or worker is being unemployed, he should register as unemployed with the designated social insurance agency, on the strength of the certificate issued to them by their enterprise showing that their labour relationship has ended or been terminated. The social insurance agency should issue to the unemployed individual a voucher for the collection of unemployment insurance payments, which the unemployed individual should present to the designated bank for their unemployment insurance payments. Unemployment insurance payments is calculated from the date unemployment registration is carried out.

9.7 When enterprises or unemployed individuals move out of a municipality, their respective unemployment arrangements should move with them to the fund of the new municipality.

Entitlement Period of Unemployment Insurance Benefits

9.8 Table 5 shows the entitlement period of unemployment insurance benefits. Where the unemployed individuals and their enterprises have, in accordance with the law, paid premium for at least one year but less than five years, the entitlement period is 12 months. Where premium has been paid for at least five years but less than 10 years, the entitlement period is 18 months. Where premium has been paid for 10 years or more, the entitlement period is 24 months. The standard of entitlement period of unemployment insurance benefits is higher than that stipulated in the ILO.

Table 5 - Duration of Entitlement to the Unemployment Insurance Benefits

Aggregate period of contribution	Duration of entitlement (months)
At least 1 year but less than 5 years	12
At least 5 years but less than 10 years	18
10 years or more	24

Source: *Unemployment Insurance Regulations* 《失業保險條例》 (Paper No. 258) promulgated by the State Council on 22 January 1999

9.9 If the unemployed individuals still fail to secure employment after the expiry of the entitlement period, they can apply for the social relief⁸ from the Ministry of Civil Affairs. When they reach the age for retirement, they can turn to the formalities for retirement and receive the pension.

Standards for Setting the Unemployment Insurance Payments

9.10 Under the Unemployment Insurance Regulations, the unemployment insurance payments are set by the governments of the provinces, autonomous regions and municipalities at a level lower than the local minimum wage standard but above the level of the minimum living standard of urban residents. In the course of receiving unemployment insurance payments, if the household per capita income of unemployed individuals is below the minimum living standard of urban residents in their respective areas, they can apply for the minimum living standard benefits for urban residents.

9.11 Table 6 lists the minimum wage level, the minimum living standard benefits of urban residents and the average unemployment insurance payments in various regions in 1998. In the eastern region, the amount of unemployment insurance payments in Beijing (248 yuan per month) was the highest, which was 80% of the minimum wage and 124% of the minimum living standard benefits. In the central region, the amount of unemployment insurance payments in Henan (200 yuan per month on average) was the highest, which was 83% to 125% of the minimum wage and 154% of the minimum living standard benefits. In the western region, the amount of unemployment insurance payments in Chongqing (160 yuan per month on average) was the highest, which was 76% to 107% of the minimum wage and 123% of the minimum living standard benefits. The standards of the unemployment insurance payments in the Mainland in 1998 were higher than those stipulated by the ILO.

⁸ Please refer to Paragraph 17 for the details of social relief.

Table 6 - Standards of the Minimum Wage, the Minimum Living Standard Benefits of Urban Residents and the Average Amount of Unemployment Insurance Payments in Various Regions in 1998 (yuan/month)

Region	Average amount of unemployment insurance payments (a)	Minimum wage (b)	Minimum living standard benefits of urban residents* (c)		(a)/(b) (%)	(a)/(c) (%)
Eastern region	200	Information not available	180		Not applicable	Not applicable
Beijing	248	310	200		80	124
Shanghai	244	325	215		75	113
Guangdong	232	250-380	240	(Guangzhou)	61-93	97
Tianjin	228	280-290	185		79-81	123
Zhejiang	222	250-300	165	(Hangzhou)	74-89	135
Fujian	206	190-380	170	(Fuzhou)	54-108	121
Shandong	200	160-240	160	(Jinan)	83-125	125
Hainan	200	200-300	170	(Haikou)	67-100	118
Jiangsu	182	175-280	140	(Nanjing)	62-104	130
Liaoning	168	180-240	150	(Shenyang)	70-93	112
Hebei	160	190-240	140	(Shijiazhuang)	67-84	114
Guangxi	148	170-200	150	(Nanning)	74-87	99
Central region	160	Information not available	130		Not applicable	Not applicable
Henan	200	160-240	130	(Zhengzhou)	83-125	154
Jilin	169	195-245	130	(Changchun)	69-87	130
Heilongjiang	166	180-250	140	(Harbin)	66-92	119
Hunan	158	175-220	130	(Changsha)	72-90	122
Anhui	156	165-240	150	(Hefei)	65-95	104
Inner Mongolia	152	170-210	110	(Huhehaote)	72-89	138
Shanxi	139	140-230	120	(Taiyuan)	60-99	116
Hubei	137	140-230	150	(Wuhan)	60-98	91
Jiangxi	133	160-220	100	(Nanchang)	60-83	133
Western region	140	Information not available	125		Not applicable	Not applicable
Chongqing	160	150-210	130		76-107	123
Sichuan	150	145-210	120	(Chengdu)	71-103	125
Shaanxi	146	145-220	120	(Xian)	66-101	122
Qinghai	139	170-200	120	(Xining)	70-82	116
Yunnan	130	170-230	140	(Kunming)	57-76	93
Gansu	120	140-180	120	(Lanzhou)	67-86	100
Xinjiang	120	160-245	120	(Urumqi)	49-75	100
Guizhou	119	140-200	120	(Guiyang)	60-85	99
Ningxia	104	140-180	100	(Yinchuan)	58-74	104

Remark: * indicates that as the standards vary within a province, no consistent figure is available for that province.

Source: *Newsletter on Labour and Social Security* 《勞動保障通訊》, No. 9, 1999, Ministry of Labour and Social Security of the People's Republic of China

Penal Provisions for Illegal Receipt of Unemployment Insurance Benefits

9.12 According to the Unemployment Insurance Regulations, where persons who are ineligible to enjoy unemployment insurance benefits fraudulently obtain unemployment insurance payments or other unemployment insurance benefits, they should be ordered by the social insurance agencies to repay the same. In serious cases, a fine of not less than one time and not more than three times the fraudulently obtained sum should be imposed by the Labour Protection Department.

PART 4 - OPERATION AND MANAGEMENT OF THE UNEMPLOYMENT INSURANCE FUND

10. Unemployment Insurance Fund

Definition of Unemployment Insurance Fund

10.1 The Unemployment Insurance Fund is a special fund set up by the State to secure the provision of basic needs and retraining for individuals during their period of temporary unemployment or redeployment. It forms part of the Social Security Fund. Without the unemployment insurance fund, the unemployed cannot be provided with the unemployment insurance payments and other unemployment benefits.

Unemployment Insurance Premium

Standards for Unemployment Insurance Premium

10.2 Unemployment insurance premium is levied and paid in accordance with the relevant State regulations. Social insurance agencies or the tax authority in provinces, autonomous regions and municipalities are responsible for the levy of consolidated social insurance premium for old age, unemployment and medical care benefits.

10.3 The unemployment insurance premium to be paid by an enterprise is 2% of the total payroll; the unemployment insurance premium to be paid by an individual is 1% of his wage. Peasants employed as contract workers by urban enterprises do not themselves pay unemployment insurance premium.

10.4 The local government of a province, autonomous region or municipality directly under the Central Government may, subject to the approval of the State Council, make appropriate adjustments to the unemployment insurance premium rate for its administrative area on the basis of the number of unemployed individuals and the amount of the Unemployment Insurance Fund in that area.

Procedures for Payment of Unemployment Insurance Premium

10.5 Enterprises and individuals are required to pay social insurance premium in full in a pecuniary form. The unemployment insurance premium pay by a staff or worker is deducted from his wage by his employer. The unemployment insurance premium pay by an enterprise is deducted on a monthly basis from its bank account before calculation and levy of profit tax.

Taxation of Unemployment Insurance Premium

10.6 The unemployment insurance premium of an enterprise should be listed as an outgoing item before profit tax. The unemployment insurance premium paid by an individual is not counted as income of the period concerned and is exempted from income tax.

10.7 Peasants employed as contract workers are not required to pay unemployment insurance premium. However, their income of one-off cash compensation arising from cancellation of labour contract is taxable under the item of “Wage and Salary Income”.

Sources of Unemployment Insurance Fund

10.8 The Unemployment Insurance Fund comes from the following sources: the unemployment insurance premium paid by enterprises and their staff and workers, the interest income of the Unemployment Insurance Fund, subsidies from local public finances and other funds paid into the Unemployment Insurance Fund in accordance with the law.

Premium Paid by Enterprises and their Staff and Workers

10.9 The unemployment insurance premium paid by enterprises and their staff and workers are the main source of the Unemployment Insurance Fund.

Interest Income of Unemployment Insurance Fund

10.10 The interest on the Unemployment Insurance Fund deposited in a bank or used to purchase State bonds in accordance with State regulations is calculated at the interest rate for deposits or at the State bond interest rate, as the case may be. This is the value-added portion of the original value of the Unemployment Insurance Fund.

Subsidies from Local Public Finances

10.11 This refers to the portion subsidized by local public finances when the Unemployment Insurance Fund is insufficient. This is the supplementary portion of the Unemployment Insurance Fund.

10.12 In 1998, financial subsidies totalled 43.6 million. The five places which received the highest amount of financial subsidies were Inner Mongolia (9.52 million), Shandong (9.52 million), Jiangsu (6.02 million), Zhejiang (5.49 million) and Xinjiang (3.05 million).

Other Incomes

10.13 This includes value-added incomes to the savings of the Unemployment Insurance Fund by various means allowed by the State, the net income from self-help production projects launched with the Unemployment Insurance Fund, and overdue fines imposed on enterprises which fail to pay the unemployment insurance premium as scheduled.

A Breakdown of Unemployment Insurance Fund by Expenditure

- 10.14 Unemployment Insurance Funds are used for the following expenses:
- (a) unemployment insurance payments;
 - (b) medical subsidies while the insured receive unemployment insurance payments;
 - (c) subsidies for the funeral of unemployed individuals who die while receiving unemployment insurance payments, and bereavement payments to their dependent spouses and directly-related family members;
 - (d) subsidies for vocational training and job referral services while the insured receive unemployment insurance payments; and
 - (e) other unemployment insurance-related expenses determined or approved by the State Council.

10.15 The funding for the operation of the social insurance agencies is included in the budget and allocated by the public finance authorities. No charges should be made on the social insurance fund.

10.16 Table 7 lists the 10 municipalities with the highest revenue and expenditure of Unemployment Insurance Fund and the disbursement of unemployment insurance payments in 1998. The main sources of the Unemployment Insurance Fund are premium paid by enterprises and their staff and workers. Shanghai had the highest revenue and expenditure, at about 660 million yuan and 500 million yuan respectively. Its disbursement of insurance payments also came top on the list at 200 million yuan. It should be noted that in Liaoning, fund revenue stood at 350 million yuan but its expenditure was 410 million yuan. Liaoning's total disbursement on insurance payments was 180 million yuan.

Table 7 - The Top 10 Municipalities with the Highest Revenue and Expenditure of Unemployment Insurance Fund and Disbursement of Unemployment Insurance Payments in 1998 (in thousand yuan)

Region	Total revenue of the Fund ¹	Premium paid by enterprises and staff and workers	Total expenditure of the Fund ²	Unemployment insurance payments
Shanghai	663,420	643,600	499,240	208,550
Jiangsu	577,620	527,630	378,970	155,720
Zhejiang	476,510	427,430	283,390	166,800
Shandong	435,980	400,730	365,400	149,570
Guangdong	380,176	341,988	256,419	201,560
Liaoning	354,998	325,119	410,430	183,590
Beijing	334,850	310,560	233,840	45,400
Hebei	315,369	290,856	219,812	87,000
Henan	295,991	270,447	149,791	76,432
Hunan	276,346	198,149	141,596	58,440

- Remarks: 1. Total revenue of an unemployment insurance fund includes: unemployment insurance premium paid by enterprises and individuals, interest, financial subsidies, overdue fines, the value-added part of funds for self-production projects and transferred insurance premium.
2. Total expenditure of an unemployment insurance fund includes: unemployment insurance payments, social relief payments, medical subsidies, funeral subsidies, bereavement payments, vocational training, bank service charges, re-employment adjustment funds, revolving funds for self-production projects and job referrals fees.

Source: *Labour Statistical Yearbook of China 1999* 《中國勞動統計年鑒 1999》, China Statistics Publishing Company, Table 8-34

Unemployment Insurance Adjustment

10.17 The numbers of the unemployed in different regions vary significantly due to the complexity of circumstances and causes of unemployment. The pay-out capability of the Unemployment Insurance Fund in some municipalities is more vulnerable than that of the others. If the Fund can be pooled and adjusted in a larger region, the less capable ones can still secure the basic needs of the unemployed to demonstrate the sociality and mutual-aid nature of the Unemployment Insurance Fund.

10.18 Provinces and autonomous regions may raise a certain proportion of the Fund from cities or counties as adjustment funds. When the Unemployment Insurance Fund collected from cities or counties is insufficient, it can be adjusted through subsidies from the province and further subsidies can be paid by local public finances in case the Fund is still insufficient.

Local Financial Subsidies

10.19 The Unemployment Insurance Regulations provide that local public finances shall subsidize the Unemployment Insurance Fund when it is insufficient. The Fund may be insufficient under two circumstances. First, there may be imbalance between the unemployment insurance payments disbursed and the premium collected. Secondly, the number of the unemployed at a certain period is relatively concentrated due to various reasons, leading to temporary inadequacy of the Unemployment Insurance Fund. It is stipulated that, among the expenditure items of the Unemployment Insurance Fund, when the expenditure on items other than self-help production projects and re-training for the unemployed exceeds the gross revenue of the Unemployment Insurance Fund for the year, the balance carried over from last year shall be used first. If the Fund remains inadequate, it should be reported to the Finance Department of the corresponding level and the shortfall shall be covered with local finance in accordance with existing financial management system. This ensures that there are sufficient funds for implementing the unemployment insurance system.

11. Authority Responsible for the Administration of Unemployment Insurance

11.1 The State Council's Labour Protection Department is responsible for the unemployment insurance work throughout the country. Its duties are as follows:

- (a) implementation of the unemployment insurance laws and regulations;
- (b) provision of guidance to the work carried out by social insurance agencies; and
- (c) monitoring the levy and collection of the unemployment insurance premium and the disbursement of unemployment insurance benefits.

11.2 The work of unemployment insurance in an administrative region is carried out by the Labour Protection Department of local governments from the level of county and above. Social insurance agencies are also set up to undertake the work of unemployment insurance. The duties of these social insurance agencies are as follows:

- (a) registration, investigation and compilation of statistics on the unemployed;
- (b) management of the Unemployment Insurance Fund in accordance with the regulations;
- (c) assessment of unemployment insurance benefits, issue of vouchers for the unemployed to receive unemployment insurance payments and other insurance benefits at a designated bank;
- (d) appropriation of subsidies for employment training and job referrals services for the unemployed;
- (e) provision of free consultation services for the unemployed; and
- (f) other duties as prescribed by the State.

12. Management of Unemployment Insurance Fund

12.1 According to the provisions in the *Provisional Regulations Concerning the Levy and Payment of Social Insurance Premium* and the *Provisional Methods Concerning the Registration and Management of Social Insurance*, unemployment insurance agencies are required to enforce the declaration and payment of social insurance premium.

12.2 Enterprises should declare its contributions to the social insurance agency concerned by the fifth day of each month. The agency should verify the declared information immediately and after verification, the enterprise should make the contributions at the bank or the agency within three days. The contributions can also be made on a monthly basis by the bank which an enterprise has opened its account, and transferred to the Unemployment Insurance Fund special account in the bank which the city and county's unemployment insurance agency has opened its account. If an enterprise fails to declare its contributions for the month, a provisional amount based on that of the previous month will be assumed. In cases of failure to make contributions within the prescribed time limit, an overdue fine is charged at 0.2% from the first day of default.

12.3 The interest rate of the Unemployment Insurance Fund deposited to a bank is calculated in accordance with the latest deposit rate of the bank. In order to alleviate the financial burden of the State, the value of the savings of the Unemployment Insurance Fund may be maintained by using various means, but it cannot be used in buying stocks, risky investments, long term capital investments and infrastructure investments. Where the savings are used on short term reliable investments, an enterprise which accepts the investment is required to have warranty from an enterprise of solvency and must undergo legal procedures. The expenditure of the Unemployment Insurance Fund can only be made in accordance with the item expenses as prescribed by the State. The special fund is earmarked for specified purposes only and no department should misappropriate the funds on any false pretences. The year-end balance should deposited in its Unemployment Insurance Fund special account in the bank which the unemployment insurance agency has opened its account and carried over for use in the next year.

12.4 Moreover, the capitalization, management and disbursement of the Unemployment Insurance Fund must strictly tie in with the promotion of employment arrangements for the unemployed and interface with employment services such as employment retraining and job referrals.

13. Penalty for Causing Loss to Unemployment Insurance Fund

Penalty on Unemployment Insurance Agencies

13.1 If the staff of a social insurance agency violate the provisions by signing off vouchers and certificates to the unemployed for receiving unemployment insurance payments or other unemployment insurance benefits causing loss to the Unemployment Insurance Fund, the Labour Protection Department should compel the recovery of the loss. Administrative penalty will be imposed in accordance with the law in the event of serious cases.

13.2 If the loss to the Unemployment Insurance Fund are caused by the staff of the Labour Protection Department and social insurance agencies due to the abuse of power and position, favouritism, malpractice or dereliction of duties, the Labour Protection Department should compel the recovery of such loss to the Unemployment Insurance Fund. If offences are involved, the staff concerned will be prosecuted for criminal liability in accordance with the law. If no offences are involved, administrative penalty will be imposed in accordance with the law.

Penalty on Enterprises

13.3 According to the *Provisional Methods Concerning the Declaration, Payment and Management of Social Insurance Premium in China*, an enterprise is required to file a contribution declaration to the social insurance agency before the fifth day of each month. If an enterprise fails to pay the unemployment insurance premium on time and in full amount after filing the declaration, the social insurance agency will issue a Social Insurance Premium Reminder to the enterprise. If an enterprise declines to effect payment, the Labour Protection Department will serve it with a Directive for Labour Protection Corrective Actions. In the case of failure to pay within the prescribed time limit, a 0.2% overdue fine will be charged for each day in arrears starting from the first day of default on top of repaying the amount in arrears. The immediate controlling person and other immediate staff-in-charge will be imposed a fine between 5,000 yuan and 20,000 yuan. If an enterprise declines to pay the unemployment insurance premium and overdue fine within the prescribed time limit, the Labour Protection Department or the tax authority will apply to the People's Courts to compel the levy and payment in accordance with the law.

13.4 If an enterprise fails to undertake registration, alteration or revocation of registration of social insurance in accordance with the provisions, or fails to declare the its contributions in accordance with the regulations, the Labour Protection Department will compel corrective actions within the prescribed time limit. For serious cases, the immediate controlling person and other immediate staff-in-charge will be imposed a fine between 1,000 yuan and 5,000 yuan. In extremely serious cases, the immediate controlling person and other immediate staff-in-charge will be imposed a fine between 5,000 yuan and 10,000 yuan.

13.5 If an enterprise violates the laws relating to finance, accounting and statistics, the administrative rules and regulations and the relevant provisions of the State, or forges, alters or deliberately destroys account books and materials or fails to keep account books, making it impossible to ascertain the contribution base of the unemployment insurance premium, administrative penalty, disciplinary actions and criminal penalty will be imposed in accordance with the relevant laws and administrative rules and regulations.

14. Monitoring the Work of Unemployment Insurance

14.1 An enterprise is required to notify its staff and workers annually of the contributions of social insurance premium for the whole year. Also, the social insurance agencies are required to make public regularly the levy of social insurance premium. The Labour Protection Department must submit reports regularly⁹ to the government and make public to society the financing and usage of the Unemployment Insurance Fund, provision of benefits to the unemployed and promotion of re-employment in order to enhance the transparency of the work.

14.2 Any organization or individual has the right to report any act which violates the levy and payment of social insurance premium. The Labour Protection Department or tax authority is required to conduct immediate investigation upon receiving reports of such acts and handle the case in accordance with the laws, as well as keeping the particulars of informers confidential.

14.3 The revenue and expenditure of social insurance fund should be managed by a separate-administration approach and monitored by the Finance Department and Audit Department. The two departments should also supervise the revision and implementation of the budget. It is mandatory to carry out key-point audit against no less than 10% of enterprises out of the total participating enterprises¹⁰.

15. Appeal Mechanism

15.1 If enterprises or unemployed staff and workers are not satisfied with the penalty imposed by the Labour Protection Department, they may apply for review in accordance with the laws. If they are not satisfied with the decisions made after the review, litigation may be instituted in accordance with the laws.

⁹ No defined time frame for "regular".

¹⁰ Information is from the Ministry of Labour and Social Security of State Council, Notice (No. 10) 1999, on *Implementation of the two regulations: Extend the coverage of social security and Strengthen the leverage of social insurance funds* 《關於貫徹兩個條例擴大社會保險覆蓋範圍加強基金徵繳工作的通知》.

16. Fraudulent Cases of Unemployment Insurance Benefits and Cases Involving the Abusive Use of Unemployment Insurance Fund

16.1 The statistics on fraudulent cases of unemployment insurance benefits and cases involving the abusive use of the Unemployment Insurance Fund are not yet available from the relevant authorities. According to an article entitled “The annual increase of social security funds expenditure in China”, the Ministry of Finance and the Auditing Administration checked 54 social security agencies in 10 provinces in 1996 and found that more than 6 billion yuan of retirement and unemployment funds had been embezzled for other purposes. Such purposes included refurbishing and constructing buildings, purchasing luxurious cars, engaging in stock speculation, real estates, or even wasted in holding extravagant banquets. Hence the Central Government decided that the social security funds should be deposited in a dedicated financial account, and payments into and out of the accounts should be subject to separate administration.

PART 5 - OTHER UNEMPLOYMENT SECURITY SYSTEMS

17. Social Relief

17.1 Unemployed staff and workers who have not been engaged in new employment upon expiry of the entitlement period of unemployment insurance benefits may apply for social relief in accordance with the relevant provisions.

Definition of Social Relief

17.2 Social relief is a protection provided by the nation in the form of social subsidy and relief to those facing difficulties due to accidents or natural disasters, etc. Usually, the beneficiaries are people who are not entitled to social insurance¹¹. They are individuals and families who have never participated in social insurance programmes because of various reasons or who are still living below the poverty line after receiving social insurance benefits. Social relief includes disaster relief, special relief, poverty relief, "Helping the Poor" programmes and unemployment relief. Details of various types of relief are given in Appendix IV.

Social Relief and Unemployment Insurance

17.3 The primary difference between social relief and unemployment insurance is their recipients. The recipients of social relief are mainly the elderly, the infirm, the sick and the disabled in cities and villages who do not have regular income and are not able to sustain a bare living. Most of these people have lost or do not have working ability. The recipients of unemployment insurance benefits are working people who have lost their jobs temporarily for various reasons, i.e. unemployed staff and workers. They have the ability to work. The second difference is the entitlement period. In the case of social relief, there is no fixed entitlement period. In the case of unemployment insurance, unemployment insurance benefits will be granted within a fixed period. If the unemployed gets a job or fails to get a job when the entitlement period expires, he cannot access to the unemployment insurance benefits any more. The amount of unemployment insurance payments is 120-150% of the amount of social relief payments.

¹¹ Social insurance includes sickness insurance, occupational injury insurance, maternity insurance, medical care insurance, retirement insurance, and death insurance.

18. Unemployment and Integrated Mutual-aid Complementary Insurance for Staff and Workers

18.1 Unemployment insurance of earlier times did not cover all the staffs and workers in cities and towns. Even within the coverage, the amount of unemployment insurance payments from the unemployment insurance was very limited. Therefore, complementary insurance run by enterprises or bodies developed in succession. For instance, the Shanghai City Trade Union set up the Emergency Relief Fund for the Unemployed specifically for staffs and workers who have become unemployed under four circumstances. These include the enterprise going bankrupt or on the verge of bankruptcy, the labour contract of the worker or staff terminated by the enterprise, or the worker or staff being dismissed or disqualified by the enterprise. The Fund comprises contributions from the operational costs of trade unions at different levels, the income of the Staffs and Workers' Skills Association, etc. Normally, the Fund will not draw on its capital. It will pay the relief from interests only. This kind of insurance serves as a complement to the unemployment insurance .

PART 6 - ANALYSIS OF THE UNEMPLOYMENT INSURANCE SYSTEM OF MAINLAND CHINA

19.1 The unemployment insurance system of Mainland China has been established and implemented for 14 years. We are going to analyze and examine its nature, coverage, application requirements, contents of insurance benefits, entitlement period, insurance payments level, premium rate, management and supervision of insurance fund, promotion of employment in the following paragraphs.

20. Mandatory Unemployment Insurance

20.1 The Unemployment Insurance Regulations provide that all types of enterprises in cities and towns as well as their staff and workers have to participate in unemployment insurance irrespective of the business status of the enterprises or the risk of the staff and workers becoming unemployed. This is the prerequisite of applications for unemployment insurance benefits for unemployed staff and workers. If enterprises or staff and workers evade participation in unemployment insurance, they will be duly penalized. This ensures as far as possible that unemployed staff and workers will be given due protection.

21. Coverage

Covering Staff and Workers of all Enterprises in Cities and Towns

21.1 In the past, unemployment insurance primarily covered unemployed staff and workers of state-owned enterprises. Staffs and workers of non-state-owned enterprises were not covered. This was disadvantageous to fair competition among enterprises and reasonable flow of the labour force. Neither was this desirable for extensive exploration of employment sources to realize employment through multi-channels. The Unemployment Insurance Regulations extend the unemployment insurance coverage to various categories of enterprises in cities and towns. Moreover, the local governments of provinces, autonomous regions, and municipalities directly under the Central Government may, in the light of the actual local conditions, further extend the coverage to the staff and workers of social bodies within the administrative regions, non-enterprises run by the local people and individual industrial and commercial business. This provision not only provides solutions to the above problems, it also increases the payment capacity of the Unemployment Insurance Fund and enhances the security function of unemployment insurance.

Rural Workers and Peasants Excluded

21.2 Nonetheless, it is worth noting that the Unemployment Insurance Regulations only cover the workforce in cities and towns. The rural workers and peasants, who represent 70% of the total working population, fall outside the ambit of the Regulations.

21.3 Furthermore, peasants are not covered by unemployment insurance, either. They have always been regarded as “naturally employed”. In fact, natural resources in the rural areas are limited, and the ability of peasants to exploit them is low. There is no way to accommodate the immense labour force of the rural areas. As a result, there may be large numbers of unemployed workers in rural areas who fall outside the scope of unemployment protection.

Civil Servants of National Institutions Excluded

21.4 It is stipulated in the Unemployment Insurance Regulations that the Regulations cover only unemployed staff and workers of enterprises in cities and towns (i.e. state-owned enterprises, collective enterprises, foreign investment enterprises, private sector enterprises, and other enterprises in cities and towns). The Unemployment Insurance Regulations do not mention the civil servants working for national institutions. As civil servants belong to another labour system, it is not the focus of this research report.

Unemployment Rate Augmented by Labour Force Flowing from Rural Areas to Cities

21.5 The relatively high growth in earnings of urban workers than that of peasants and the gap between them have induced a drastic flow of the labour force from rural areas to cities. This has resulted in unemployment arising from supply exceeding demand, which indirectly exerts a greater pressure on unemployment insurance. Please refer to Appendix V for specific figures of the flow of labour force from rural areas to cities. It is worth noting that the working population in cities and towns in 1998 amounted to 200 million (130 million in 1986), with an increase of 74 million. The percentage of workers in cities and towns against the national working population also increased from 26% to 29%. As there were only 84 million of workers had unemployment insurance in 1998, 120 million were not covered. Since the implementation of the Unemployment Insurance Regulations in 1999, the number of workers participating in unemployment insurance increased rapidly to 140 million in 6 months, exerting more pressure on unemployment insurance.

21.6 Taking Beijing as an example, the minimum wage of the capital city is 310 yuan per month. The monthly unemployment insurance premium paid by a worker and his employer is 9.3 yuan in total (310 yuan x 1% + 310 yuan x 2%), and the gross annual contribution is 111.6 yuan (9.3 yuan x 12 months). Assuming that the worker loses his job due to certain reasons after working for one year, he will be qualified to apply for unemployment insurance benefits. As the average level of unemployment insurance payments is 248 yuan per month and the entitlement period is 12 months, the worker may thus receive a maximum amount of 2,976 yuan (248 yuan x 12 months), that is, 27 times of the premium paid. If a larger number of staff and workers become unemployed within the same period, the payment capacity of the insurance fund will definitely be affected.

21.7 Furthermore, unlike the relatively stable number of old-age benefits recipients, the number of unemployed population fluctuates along with the changes of the economy. Enterprises operating under the market economy system, once running into difficulties, will have to face bankruptcy, merger, closure, etc. These situations are random and unpredictable. If a lot of enterprises close down suddenly, producing large number of unemployed staff and workers, even though there is unemployment insurance protection, the fund may not be able to cope with all claims. Subsequently, the government will have to provide subsidization, and the burden on the nation will increase.

22. Requirements for Application of Unemployment Insurance Benefits

22.1 The Unemployment Insurance Regulations have stipulated the basic requirements for unemployed staff and workers to apply for unemployment insurance benefits. Staff and workers qualified for the application of unemployment insurance have to participate in unemployment insurance. They and their enterprises must satisfy the minimum contribution period of one full year before they can submit their applications. Moreover, the termination of employment has to be involuntary on the part of the unemployed staff and workers. After leaving their jobs, the staff and workers concerned have to complete unemployment registration and put forth a request for new employment. These requirements may, on the one hand, encourage the unemployed to participate actively in unemployment insurance. On the other hand, they are also encouraged to make use of various employment opportunities and employment services to achieve re-employment. Besides, the requirements also prevent individuals from abandoning their jobs at will and completely relying on unemployment benefits.

23. Contents of Unemployment Insurance Benefits

23.1 The contents of unemployment insurance benefits cover mainly the basic needs for unemployed staff and workers. They include the unemployment insurance payments, medical supplement, burial grant and pension for the spouses and immediate family members dependent upon the unemployed staff and workers who die while unemployed. At the same time, other help will be provided to the unemployed in the form of vocational training and job referral. On the whole, the benefits can satisfy the basic needs of the unemployed and alleviate their burden.

24. Entitlement Period of Unemployment Insurance Benefits

24.1 The calculation of the entitlement period of unemployment insurance benefits for unemployed staff and workers is based on the length of the contribution period of the unemployed and their enterprises. The longest period shall not exceed 24 months. On the one hand, this can keep the drive that pushes employed staff and workers to pay premium regularly and shoulder part of their social responsibilities. On the other hand, it can prevent the unemployed from becoming inactive in job-seeking due to prolonged entitlement of unemployment insurance benefits.

24.2 The longer the entitlement period of unemployment insurance benefits, the heavier is the burden on society. Apart from creating employment conditions for unemployed staff and workers, the government and society also demand the unemployed to accept actively employment services in order to realize re-employment as soon as possible. If the unemployed refuse without proper reasons to accept the jobs referred by departments or organizations appointed by the local government, their unemployment insurance benefits will be terminated.

25. Level of Unemployment Insurance Payments

25.1 The amount of unemployment insurance payments is set at a level lower than the minimum wages yet higher than the lowest living standards of city dwellers. For the unemployed staff and workers, if their household per capita income is still lower than the local minimum living standards while they are receiving unemployment insurance payments, they can apply for the minimum living benefits for urban residents. On the one hand, this arrangement attracts staff and workers to continue to participate in unemployment insurance, in case they lose their job, their livelihood can be secured. On the other hand, it tones down the welfare nature of unemployment insurance, giving impetus for the unemployed to get employment as soon as possible. Consequently, the differences between working and not working can be discerned.

26. Premium Rate

26.1 With the extension of the coverage of unemployment insurance and the gradual penetration of state-owned enterprises reform, the number of unemployed staff and workers who are qualified to apply for unemployment insurance will increase, and the demand for the Unemployment Insurance Fund will see a larger extent of increase. If the capacity of the Unemployment Insurance Fund is limited, it will fail to meet the actual needs. To enhance the capacity of the Unemployment Insurance Fund, the Unemployment Insurance Regulations provide that the payment ratio of unemployment insurance premium for enterprises should be increased, and contribution by staff and workers should be implemented.

26.2 According to the Regulations, enterprises should pay 2% of the total payroll as unemployment insurance premium while staff and workers should pay 1% of their individual wages for this purpose. This can supplement the deficits of the Fund as well as enhancing the awareness of the workers to participate in the system. The part borne by individuals is very little and is bearable both psychologically and economically. The channel of the sources for the Fund is also expanded.

27. Management and Supervision of Unemployment Insurance Fund

27.1 The Unemployment Insurance Regulations specify that the Labour Protection Department should be in charge of the work of unemployment insurance, and should supervise and check the collection of unemployment insurance premium and the delivery of unemployment insurance benefits. A social insurance agency, established by the Labour Protection Department under the stipulations of the State Council to handle the business of unemployment insurance, should be responsible for undertaking substantially the work of unemployment insurance. The Finance Department and the Audit Department should supervise, under conditions prescribed by laws, the income and expenditure and the management of the Unemployment Insurance Fund in order to reduce loss in the course of collecting and paying, saving, managing, using, and disbursing of the Fund.

27.2 The Unemployment Insurance Regulations also specify that the Unemployment Insurance Fund is earmarked for its specified purposes only. It cannot be appropriated, embezzled for other uses, nor used for balancing between financial income and expenditure. The Unemployment Insurance Regulations have specified, in addition, the corresponding duties of respective departments such as the Labour Protection Department and the Finance Department, the Audit Department. The penalty for embezzlement of the Unemployment Insurance Fund committed by management departments, transaction organizations, other enterprises and individuals are prescribed as well. Strict implementation of various provisions of the Unemployment Insurance Regulations and enhanced management of and supervision over unemployment insurance fund would not only ensure the security and integrity of Unemployment Insurance Fund, but also perform a very important function in upholding the security of unemployed staff and workers. Furthermore, proper management of the Unemployment Insurance Fund may increase the cost effectiveness of the Fund, enabling it to provide stronger protection.

27.3 The Unemployment Insurance Regulations state clearly that any organization or individual has the right to report illegal acts committed in the levying of social insurance premium. Identity of the informers will be treated as confidential. This is also a major progress in the regulatory regime.

28. Promotion of Re-employment

28.1 Promotion of re-employment mainly takes the form of providing unemployed staff and workers with subsidies for vocational training and job referral from the Unemployment Insurance Fund in order to give economic assistance to the unemployed for realizing re-employment. This is an important link in promoting re-employment of the unemployed.

28.2 Besides, the society needs to accelerate economic development to create more jobs. Meanwhile, employment services have to be developed to provide unemployed staff and workers with services for realizing re-employment. Furthermore, the unemployed staff are required to take the initiative to make full use of various employment opportunities and employment services to upgrade their own skills and strengthen their ability to compete for employment.

Appendix I

Interim Provisions on Unemployment Insurance For Staff of State Enterprises

(Promulgated by the State Council on 12 July 1986)

(Translation of these Provisions is extracted from
Statutes and Regulations of the People's Republic of China,
Vol. III. (updated to 1988), Hong Kong: University of East Asia Press,
c1987-1991, Co-published: Institute of Chinese Law)

Chapter I General Principles

Article 1 The present Provisions are formulated with a view to facilitating the reform of the labour system, promoting a rational mobility of labour force, and ensuring subsistence of the staff in state enterprises (hereinafter abbreviated to enterprises).

Article 2 The present Provisions shall apply to:

- (1) The staff of an enterprise which is adjudicated bankrupt;
- (2) The staff discharged in the statutory reorganization of an enterprise on the edge of bankruptcy;
- (3) The staff discharged on the rescission of a labour contract or on the dissolution of an enterprise;
- (4) The staff dismissed by an enterprise.

Chapter II The Raising and Administration of the Unemployment Insurance Funds

Article 3 The sources of the unemployment insurance funds include:

- (1) The unemployment insurance funds payable by an enterprise at a rate equivalent to 1% of the total standard wages of all staff (before payment of income tax);
- (2) The interests payable, in accordance with state stipulations, by a bank where the unemployment insurance funds are deposited;
- (3) Subsidies from the local finance.

Article 4 The use of unemployment insurance funds is under the central management of the provinces, autonomous regions and municipalities. The local finance shall subsidize any shortage therein.

The Ministry of Labour and Personnel and the Ministry of Finance shall jointly formulate procedures on the budget, final account and financial management of the unemployment insurance funds.

Article 5 The bank where an enterprise has opened an account shall debit the sum of unemployment insurance funds monthly and transfer the same to the "unemployment insurance funds" special account opened by the unemployment relief institute in the local municipality or county.

Chapter III The Use of Unemployment Insurance Funds

Article 6 The unemployment insurance funds shall be used in the following ways:

- (1) Relief for unemployed staff who are discharged by an enterprise adjudicated bankrupt or discharge during the statutory re-organization of an enterprise on the edge of bankrupt;
- (2) The medical expenses, funeral subsidies, and pensions and relief funds for maintaining the lineal relatives of the staff who are discharged by an enterprise adjudicated bankrupt or in the statutory re-organization of an enterprise on the edge of bankruptcy;
- (3) Pensions for the resigned / retired staff of an enterprises, or for staff who are discharged during the statutory re-organization of an enterprise on the edge of bankruptcy and who are qualified for the pensions;
- (4) The relief funds and medical subsidies for unemployed staff dismissed by an enterprise or on the termination or rescission of a labour contract;
- (5) The vocational training expenses for unemployed staff preparing for another occupation;
- (6) The expenses for supporting the self-production of unemployed staff;
- (7) The fees for the management of unemployed staff and unemployment insurance funds.

Article 7 Relief funds for unemployed staff shall, taking the monthly average standard wage of the person concerned in the two years prior to leaving the enterprise as the base, be paid out according to the following ways:

- (1) The staff of an enterprise adjudicated bankrupt or staff who are discharged during the statutory re-organization of an enterprise which is going bankrupt shall be entitled to a maximum of 24 month's relief funds, provided that they have a working record of five years or more during the adjudication of bankruptcy or the statutorily required re-organization of an enterprise which is going bankrupt. The rate of relief funds, calculated on a monthly basis, shall be 60% to 75% of the basic wages of the person for the first 12 months, and shall be 50% of the basic wages of that person for the remaining 12 months. For persons with a working record of less than five years, a maximum of 12 months' relief funds shall be paid, the rate being 60% to 75% of the monthly basic wage.
- (2) Persons who are out of job on the termination or rescission of a labour contract shall be granted relief funds in accordance with section (1) of this Article, except for the months during which they receive living subsidies.
- (3) The staff who are dismissed by an enterprise shall receive relief funds in accordance with section (1) of this Article.

Article 8 The pensions for resigned / retired staff of an enterprise adjudicated bankrupt or for staff who are discharged during the statutory re-organization of an enterprise which is going bankrupt and who are qualified for the pensions shall be distributed in the following ways:

- (1) The regions which have adopted the unified social pension system prior to the establishment of a social security system shall carry out the unified system accordingly. The regions in which the unified social pension system has not been implemented shall, for the time being, pay the pensions from the unemployment insurance funds pursuant to the original stipulations.
- (2) If a member of staff resigns within five years of the statutory age for resignation / retirement, he shall be entitled to the resignation / retirement pensions in accordance with section (1) of this Article, provided that he is qualified for the pension during the unemployment period. Staff who have been paid resignation / retirement pensions shall not receive unemployment relief funds.

Article 9 The payment of unemployment relief funds shall be suspended under the following conditions:

- (1) The receiving of unemployment relief funds in excess of the time limit specified in section (1) of Article 7 (they may, if qualified, obtain social relief funds in accordance with the relevant stipulations);
- (2) Re-employed (including engaging in individual labour work);
- (3) The refusal to take up the job recommended by the relevant department without justifiable reason;
- (4) Unemployed staff who are undergoing reform-through-labour or are under sentence.

Article 10 The unemployment relief obtained by any person through illegal means shall be recovered in full.

Article 11 The unemployment insurance funds may be used to train staff for another occupation, install training facilities, support the self-production of unemployed staff, and to explore job opportunities, provided that the funds are used for purposes specified in sections (1), (2), (3), and (4) of Article 6 as a priority.

Chapter IV The Managing Institution

Article 12 The labour service company attached to the local labour administrative authority shall be in charge of the management of unemployed staff and unemployment insurance funds. It is responsible for:

- (1) registration, setting up files and cards, and organization work related to unemployed staff;
- (2) management and distribution of unemployment insurance funds;
- (3) providing guidance and recommending jobs to unemployed staff;
and
- (4) preparing unemployed staff for another occupation through vocational training, and supporting and guiding them to initiate self-production as well as to seek employment on their own.

Article 13 The labour service company in all regions shall set up specialized agencies or be staffed with special managerial personnel to oversee the management of unemployed staff and unemployment insurance funds. The people's government of the provinces, autonomous regions and municipalities shall include such personnel establishment as institutional establishment on the principle of simplicity. The management expenses may be drawn from the unemployment insurance funds designated for that purpose.

Chapter V Supplementary Rules

Article 14 The people's government of the provinces, autonomous regions and municipalities may, based on the present Provisions, formulate detailed rules for implementation and file the same to the Ministry of Labour and Personnel for record.

Article 15 The interpretation of the present Provisions resides with the Ministry of Labour and Personnel.

Article 16 The present Provisions shall go into effect on 1 October 1986.

Appendix II

Regulations on Unemployment Insurance for Staff and Workers of State-owned Enterprises

(Promulgated by the State Council by Decree No. 110 on December 4, 1993)

(Translation of these Regulations is extracted from Herald Translation Service,
Chinalaw Web, <http://www.qis.net/chinalaw/prclaw66.htm>)

Chapter I General Provisions

Article 1 These Regulations are formulated in order to improve the labour system of State-owned enterprises, guarantee a minimum standard of living for the staff and workers waiting for employment, and maintain social stability.

Article 2 The "staff and workers waiting for employment" referred to in these Regulations shall be the staff and workers of the State-owned enterprises (hereinafter referred to as the "Enterprises"), who fit the following criteria:

- (1) Staff and workers of the Enterprises which have legally declared bankruptcy;
- (2) Staff and workers of the Enterprises facing bankruptcy laid off during the statutory streamlining period;
- (3) Staff and workers of the Enterprises closed or dissolved in accordance with relevant regulations of the State;
- (4) Staff and workers laid off in periods during which the Enterprises ceased production in order to be streamlined in accordance with relevant regulations of the State;
- (5) Staff and workers who have terminated or cancelled their labour contracts;
- (6) Staff and workers who have been dismissed or fired by the Enterprises; or
- (7) Other staff and workers entitled to unemployment insurance in accordance with the laws and regulations or the regulations of the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government.

Article 3 Unemployment insurance shall be closely incorporated with such employment services as vocational introductions, employment training and self-reliance, and shall be organized in an overall plan.

Chapter II Raising and Management of the Unemployment Insurance Fund

Article 4 The resources of the unemployment insurance funds shall come from the following sources:

- (1) Unemployment insurance premiums paid by the Enterprises;
- (2) The proceeds of the interest accrued by the unemployment insurance premiums; and
- (3) Financial subsidies.

Article 5 The Enterprises shall pay unemployment insurance premiums on the basis of 0.6% of the payroll of all staff and workers. Where unemployment insurance funds are insufficient, or where there is a cash surplus in such unemployment insurance funds, upon the approval by the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government, such premiums paid by the Enterprises shall be reasonably increased or reduced. However, the maximum amount of such premiums shall not exceed 1% of the payroll of all staff and workers of the respective Enterprises.

Unemployment insurance premiums shall be paid before the Enterprises pay their income taxes, and shall be withheld on a monthly basis by the banks in which the Enterprises open their accounts.

Article 6 Unemployment insurance premiums paid by the Enterprises shall be transferred into "unemployment insurance fund special accounts" opened in banks by insurance institutions in the locales of the Enterprises, deposited into banks as special deposits, and spent for authorized purposes only. No institutions, units or individuals shall be allowed to embezzle these funds.

After unemployment insurance funds are deposited into banks, their interest shall be calculated in accordance with the interest rate of urban and rural residents' deposits. The proceeds of the interest shall be transferred into unemployment insurance funds.

Article 7 Unemployment insurance funds shall be organized in an overall manner at the city and county level. The provinces or autonomous regions may focus part of the unemployment insurance fund to be regulated for use while the municipalities directly under the Central Government may, in light of need, use all or part of the unemployment insurance funds in an overall plan.

Article 8 The competent labour administrative institutions shall, in accordance with the scope of the overall plan, be responsible for preparing the budget and final settlement of the proceeds of unemployment insurance funds and their management fees, which shall, upon the examination, verification and compilation by the competent financial administrative institutions at the same level, be incorporated into the budget and final settlement at the corresponding level and then submitted to the people's government at the corresponding level for examination and approval, and shall not be used for balancing financial revenues and expenditures.

The competent financial administrative institutions and the auditing institutions shall increase supervision of the proceeds of unemployment insurance funds and their management fees.

Article 9 No taxes or expenses shall be levied on unemployment insurance funds or their management fees.

Chapter III Use of the Unemployment Insurance Fund

Article 10 The expenditure items of the unemployment insurance fund are as follows:

- (1) Unemployment relief funds for staff and workers waiting for employment;
- (2) Medical care expenses, allowances for funeral expenses, pensions and relief funds for the immediate relatives of the staff and workers waiting for employment in period during which they receive unemployment relief funds;
- (3) Vocational training expenses necessary to job changes;
- (4) The expenses provided for the self-help through production of the workers waiting for employment;

- (5) Unemployment insurance management fees; and
- (6) Other expenses necessarily paid for the purpose of maintaining a minimum standard of living for the staff and workers waiting for employment and of helping them to be re-employed upon the approval of the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government.

Article 11 The staff and workers waiting for employment who meet the stipulation of Article 2 of these Regulations shall receive unemployment relief fund, but only after they handle the unemployment registration at their local unemployment insurance institution.

Article 12 The term during which staff and workers waiting for employment may receive unemployment relief funds shall be determined in accordance with the duration of their consecutive work in the Enterprises before their unemployment.

- (1) For staff and workers waiting for employment who had consecutively worked in an Enterprise for more than one year but less than five years before their unemployment, the maximum term during which they may receive unemployment relief funds shall be 12 months.
- (2) For staff and workers waiting for employment who had consecutively worked in the Enterprises for more than five years before their unemployment, the maximum term during which they may receive unemployment relief funds shall be 24 months.

Article 13 Unemployment relief funds shall be paid to the staff and workers waiting for employment each month by the unemployment insurance institutions.

The distribution standard of unemployment relief funds shall be equal to 120% to 150% of the amount of social relief funds stipulated by the local institutions of civil affairs. The people's government of the province, autonomous region or municipality directly under the Central Government shall determine the specific amount.

Article 14 The distribution standards of medical care expenses for the staff and workers waiting for employment shall be determined by the people's government of the province, autonomous region or municipality directly under the Central Government.

Allowances for the funeral expenses for the staff and workers waiting for employment and the pensions and relief fund for their immediate relatives shall be paid in light of relevant regulations regarding the local social insurance for the staff and workers.

Article 15 Vocational training expenses for job change and the expenses for self-help through production of the staff and workers waiting for employment shall be drawn at a due proportion with respect to the raising of the unemployment insurance fund of the last fiscal year. The people's government of the province, autonomous region or municipality directly under the Central Government shall determine the specific proportion drawn and the method of use.

Article 16 The unemployment insurance institutions shall cease payment of unemployment relief funds and other expenses for staff and workers waiting for employment in any of the following circumstances:

- (1) The end of the term for them to receive unemployment relief funds has been reached;
- (2) They join the Army or go abroad for settlement;
- (3) They are re-employed;
- (4) They refuse employment introduced by the labour employment service agencies twice without viable reason; or
- (5) They are sentenced to reform through labour or to imprisonment during the term of receiving unemployment relief funds.

Chapter IV Functions and Duties of the Organizational Management Institutions

Article 17 The competent labour administrative institutions under the State Council shall be responsible for the management of unemployment insurance for the staff and workers waiting for employment from Enterprises throughout the entire nation.

The competent labour administrative institutions of the people's governments above the county level shall be responsible for the management of unemployment insurance for the staff and workers waiting for employment from Enterprises within their administrative jurisdictions. They shall also be responsible for the overall plan and organization of implementation unemployment insurance, job introductions, vocational training, and self-help production of the staff and workers waiting for employment. They shall guide the unemployment insurance institutions to work hard at raising, managing and distributing unemployment insurance funds, as well as at the organization and management of the staff and workers waiting for employment.

The unemployment insurance fund committees established by the people's governments above the county level shall carry out guidance and supervision of the management of unemployment insurance funds. The chair of such committee shall be held by the leading official of the people's government at the corresponding level. Representative officials from such institutions as the labour, finance, (economic) planning, auditing and banks, as well as the representative official of the trade union at the corresponding level, shall participate in such committee. The office of the committee shall be set up in the competent labour administrative institution.

Article 18 The local unemployment insurance institutions shall be the non-profit institutions which shall specifically conduct the business relevant to unemployment insurance.

The composition of personnel at the unemployment insurance institutions shall be determined by the people's government of the province, autonomous region or municipality directly under the Central Government with regard to actual need.

The expenditures of the unemployment insurance institutions shall be paid out of the unemployment insurance management fees. The competent labour administrative institutions of the people's government of the province, autonomous region and municipality directly under the Central Government shall propose the expenditure standards for the unemployment insurance management fees upon the examination and verification of the competent financial administrative institutions at the same level, per the approval of people's government at the corresponding level.

Chapter V Punishment

Article 19 In cases where unemployment relief funds and other unemployment insurance fees were obtained by illegal means, all illegal proceeds shall be recovered by unemployment insurance institutions. If a crime has been committed, criminal liability shall be investigated according to law.

Article 20 In cases where any unit or individual embezzles unemployment insurance funds, administrative punishment shall be imposed upon the personnel in charge and the personnel directly held responsible in accordance with the seriousness of the cases. If a crime has been committed, criminal liability shall be investigated according to law.

Article 21 In cases where unemployment insurance institutions are in violation of the regulations relevant to the deferment of payment of unemployment relief funds and other unemployment insurance fees, the competent labour administrative institutions shall be ordered to make the necessary corrections. If the circumstances are serious, administrative punishment shall be imposed upon the personnel in charge and the personnel directly responsible.

Chapter VI Supplementary Provisions

Article 22 Unemployment insurance of the staff and workers waiting for employment from the institutions practicing enterprise management shall be implemented in accordance with the provisions of these Regulations. The unemployment insurance premium of the institutions shall be paid out of locally controlled funds.

Article 23 These Regulations shall not apply to the contracted workers who are recruited from rural areas by the Enterprises.

Article 24 The people's government of the province, autonomous region and municipality directly under the Central Government shall, in light of the provisions of these Regulations, formulate the measures for implementation.

Article 25 These Regulations shall be interpreted by the competent labour administrative institution under the State Council.

Article 26 These Regulations shall be implemented as of May 1, 1993. The "Interim Regulations on Unemployment Insurance for Staff and Workers of the State-owned Enterprises" issued by the State Council on July 12, 1986 shall, at the same time, become void.

Appendix III

Unemployment Insurance Regulations

(Promulgated by the State Council on and effective as of 22 January 1999)

(Translation of these Regulations is provided by Asia Law and Practice,
A Division of Asia Law and Practice Publishing Ltd., Jersey)

Part I General Provisions

Article 1 These Regulations are formulated to guarantee the basic needs of the unemployed during their period of unemployment and to promote their reemployment.

Article 2 Urban enterprises and institutions, and the staff and workers of urban enterprises and institutions shall pay unemployment insurance premiums in accordance with the provisions of these Regulations.

The unemployed staff and workers of urban enterprises and institutions shall enjoy unemployment insurance benefits in accordance with the provisions of these Regulations.

For the purposes of this Article, the term "urban enterprises" refers to State-owned enterprises, urban collective enterprises, foreign investment enterprises, urban private enterprises as well as other urban enterprises.

Article 3 The administrative authority for labour security of the State Council shall be in charge of unemployment insurance work throughout the country. The administrative authorities for labour security of all levels of local people's governments at the country level and above shall be in charge of unemployment insurance work within their administrative areas. The practical work unemployment insurance shall be undertaken in accordance with the provisions of these Regulations by social insurance agencies which are established by administrative authorities for labour security in accordance with State Council regulations and which handle unemployment insurance business.

Article 4 Unemployment insurance premiums shall be levied and paid in accordance with relevant State regulations.

Part II Unemployment Insurance Funds

Article 5 An unemployment insurance fund shall be composed of the following items:

- (1) the unemployment insurance premiums paid by the urban enterprises and institutions and by the staff and workers of urban enterprises and institutions;
- (2) the interest on the unemployment insurance fund;
- (3) subsidies from public finances;
- (4) other funds paid into the unemployment insurance fund in accordance with the law.

Article 6 The unemployment insurance premium to be paid by urban enterprises and institutions shall be 2% of the work unit's total payroll. The unemployment insurance premium to be paid by the staff and workers of urban enterprises and institutions shall be 1% of the individual's wages. Farmers employed as contract workers by urban enterprises and institutions shall not themselves pay unemployment insurance premiums.

Article 7 The unemployment insurance funds in municipalities directly under the central government and municipalities having districts shall be pooled on a municipality-wide basis. The levels at which unemployment funds of other regions are pooled shall be determined by the provincial and autonomous region people's governments.

Article 8 Provinces and autonomous regions may establish unemployment insurance adjustment funds.

Unemployment insurance adjustment funds shall be raised in proportion to the amount of the unemployment insurance fund premiums that should be collected according to law within the pooling region. The specific proportion shall be determined by the provincial and autonomous region people's governments.

When the unemployment insurance fund of the pooling region is insufficient, it shall be adjusted through the unemployment insurance adjustment fund and / or be subsidized from local public finances.

Specific methods for the raising, adjustment and use of unemployment insurance adjustment funds and the subsidizing thereof from local public finances shall be determined by the provincial and autonomous region people's governments.

Article 9 The people's government of a province, autonomous region or municipality directly under the central government may, subject to the approval of the State Council, make appropriate adjustments to the unemployment insurance premium rate in its administrative area on the basis of the number of unemployed and the amount of the unemployment insurance funds in its administrative area.

Article 10 Unemployment insurance funds shall be used for the following disbursements:

- (1) unemployment insurance payments;
- (2) medical subsidies while the insured receive unemployment insurance payments;
- (3) subsidies for the funeral of unemployed individuals who die while receiving unemployment insurance payments, and bereavement payments to their dependent spouses and directly-related family members;
- (4) subsidies for vocational training and employment introduction services while the insured receive unemployment insurance payments; the methods and standards of subsidization shall be determined by the people's government of the provinces, autonomous regions and municipalities directly under the central government;
- (5) other unemployment insurance-related expenses determined or approved by the State Council.

Article 11 Unemployment insurance funds must be deposited into a dedicated public finance account for social security funds opened by the public finance authorities with a State-owned commercial bank. Payments into and out of the account shall be subject to separate administration and shall be supervised by the public finance authorities in accordance with the law.

Interest on employment insurance funds deposited in a bank or used to purchase State bonds in accordance with State regulations shall be calculated at the interest rate for deposits of urban and rural residents for the same period or at the State bond interest rate, as the case may be. Interest on employment insurance funds shall be consolidated into the unemployment insurance funds.

Unemployment insurance funds shall be utilized only for their intended purpose and may not be diverted to other uses or utilized to balance public revenue and expenditure.

Article 12 The budget and final accounts for the revenue and expenditure of an unemployment insurance fund shall be compiled by the social insurance agency for the pooling region concerned, reviewed by the administrative authority for labour security at the same level, verified by the public finance authority at the same level and then submitted to the people's government at the same level for examination and approval.

Article 13 The financial and accounting systems for unemployment insurance funds shall comply with relevant State regulations.

Part III Unemployment Insurance Benefits

Article 14 Unemployed individuals meeting the following conditions may receive unemployment insurance payments:

- (1) they have enrolled in unemployment insurance in accordance with the law and their work unit and the individuals themselves have fulfilled their duty to pay premiums, in accordance with regulations, for at least one year;
- (2) termination of employment was not at the volition of the individuals; and
- (3) they have carried out unemployment registration and desire to seek employment.

An unemployed individual, while receiving unemployment insurance payments, shall also be entitled to other types of unemployment insurance benefits in accordance with the law.

Article 15 Unemployed individuals shall cease to receive unemployment insurance payments and to enjoy other unemployment insurance benefits if, while receiving unemployment insurance benefits:

- (1) they find new employment;
- (2) they are drafted for military service;
- (3) they have moved abroad;
- (4) they enjoy basic old age insurance benefits;
- (5) they are convicted and incarcerated or are undergoing reeducation through labour;
- (6) they have, without proper reason, refused to accept a job introduced by an authority or organization designated by the local people's government; or
- (7) other circumstances as stipulated in law or administrative regulations arise.

Article 16 Urban enterprises and institutions shall promptly issue their unemployed personnel a certificate to the effect that their labour relationship has ended or been terminated, inform them of their right to enjoy unemployment insurance benefits in accordance with the law, and, within seven days of the date on which the labour relationship ends or is terminated, submit a list of their unemployed personnel to the social insurance agency, for the record.

Staff and workers of urban enterprises and institutions shall, upon becoming unemployed, timely carry out unemployment registration with the designated social insurance agency, on the strength of the certificate issued for them by their work unit to the effect that their labour relationship has ended or been terminated. Unemployment insurance payments shall be calculated from the day unemployment registration is carried out.

Unemployment insurance payments shall be disbursed on a monthly basis by the social insurance agency. The social insurance agency shall issue unemployed individuals a voucher for the collection of unemployment insurance payments, on the strength of which unemployed individuals shall present themselves to the designated bank to receive their unemployment insurance payments.

- Article 17** Where unemployed individuals' former work units and the individuals themselves have, in accordance with the law, paid premiums for an aggregate period of at least one year but less than five years, the maximum period for which unemployment insurance payments may be received shall be 12 months; where premiums have been paid for an aggregate period of at least five years but less than 10 years, the maximum period for which unemployment insurance payments may be received shall be 18 months; and where premiums have been paid for an aggregate period of 10 years or more, the maximum period for which unemployment insurance payments may be received shall be 24 months. In circumstances where unemployment recurs after reemployment, the period of premium payment shall be calculated anew, and the period for receipt of unemployment insurance payments may be combined with that portion of the previous period of unemployment during which the individual was eligible to receive unemployment insurance payments but did not do so; however, such combined period may not exceed 24 months.
- Article 18** The standard for unemployment insurance payments shall be set by the people's governments of the provinces, autonomous regions and municipalities directly under the central government at a level lower than the local minimum wage standard but above the level of the minimum living standard of urban residents.
- Article 19** An unemployed individual who falls ill and receives medical treatment while receiving unemployment insurance payments may, according to regulations, apply to the social insurance agency to receive a medical subsidy. The standards for medical subsidies shall be determined by the people's governments of the provinces, autonomous regions and municipalities directly under the central government.
- Article 20** Where unemployed individuals die while receiving unemployment insurance payments, a lump sum funeral subsidy and bereavement payment shall be disbursed to their families. In determining the amounts thereof, reference shall be made to the local regulations governing such payments in the event of the death of employed staff and workers.

Article 21 Where farmers employed as contract workers by work units have worked for a continuous period of at least one year, their work units have paid unemployment insurance premiums, and their labour contracts expire without being renewed or are prematurely terminated, the social insurance agency shall, in accordance with the length of their period of service, pay them a lump sum living subsidy. The subsidization method and standards shall be determined by the people's governments of the provinces, autonomous regions and municipalities directly under the central government.

Article 22 Where urban enterprises or institutions completely move out of a pooling region or unemployed individuals move out of a pooling region, their unemployment insurance arrangements shall move with them to the fund of the new region.

Article 23 Unemployed individuals meeting the conditions for assurance of the minimum living standard of urban residents shall, in accordance with the law, enjoy minimum living standard benefits for urban residents.

Part IV Administration and Supervision

Article 24 In administering unemployment insurance, the administrative authorities for labour security shall perform the following duties:

- (1) thoroughly implement unemployment insurance laws and regulations;
- (2) guide the work of the social insurance agencies; and
- (3) supervise and inspect the levy and collection of unemployment insurance premiums and the disbursement of unemployment insurance benefits.

Article 25 In the practical handling of unemployment insurance work, social insurance agencies shall perform the following duties:

- (1) bear the responsibility for registering, investigating, and compiling statistics on, unemployed individuals;
- (2) bear the responsibility for administering the unemployment insurance funds in accordance with regulations;

- (3) assess unemployment insurance benefits and issue the vouchers permitting unemployed individuals to receive unemployment insurance benefits and other subsidies from the designated banks;
- (4) disburse funds to cover the cost of subsidizing the vocational training and employment introduction services for unemployed individuals;
- (5) provide free information services to unemployed individuals; and
- (6) other duties that the State requires be performed by them.

Article 26 The public finance authorities and the auditing authorities shall, in accordance with the law, supervise the revenue, expenditure and management of unemployment insurance funds.

Article 27 The expenditures required by the social insurance agencies shall be incorporated into the budget and allocated from public finances.

Part V Penal Provisions

Article 28 Where persons who are ineligible to enjoy unemployment insurance benefits fraudulently obtain unemployment insurance payments or other unemployment insurance benefits, they shall be ordered by the social insurance agencies to repay the same; in serious cases, a fine of not less than one time and not more than three times the fraudulently obtained sum shall be imposed by the administrative authorities for labour security.

Article 29 Where employees of social insurance agencies violate regulations when issuing vouchers to unemployed individuals for collecting unemployment insurance payments or for enjoying other unemployment insurance benefits, resulting in losses to the unemployment insurance fund, they shall be ordered by the administrative authorities for labour security to repay the same; in serious cases, they shall be subjected to administrative punishment in accordance with the law.

Article 30 Where personnel of administrative authorities for labour security or of social insurance agencies abuse their authority, practice favouritism or graft or neglect their duties, resulting in losses to the unemployment insurance fund, the administrative authorities for labour security shall pursue recovery of the lost unemployment insurance funds; if a criminal offence is constituted, criminal liability shall be pursued in accordance with the law; if no criminal offence is constituted, administrative punishment shall be imposed in accordance with the law.

Article 31 If any work unit or individual misappropriates funds of an unemployment insurance fund, recovery of the misappropriated funds shall be pursued and any illegal income shall be confiscated and consolidated into the unemployment insurance fund; if a criminal offence is constituted, criminal liability shall be pursued in accordance with the law; if no criminal offence is constituted, the persons in charge who are directly responsible and the other directly responsible persons shall be subjected to administrative punishment in accordance with the law.

Part VI Supplementary Provisions

Article 32 People's governments of provinces, autonomous regions and municipalities directly under the central government may, in accordance with actual local conditions, determine that these Regulations shall apply to social organizations and their full-time personnel, non-governmental non-enterprise work units and their staff and workers, and urban individual commercial and industrial entrepreneurs that hire workers and the said workers, within their administrative areas.

Article 33 These Regulations shall go into effect on the date of promulgation, at which time they shall supersede the Unemployment Insurance for Staff and Workers of State-owned Enterprises Regulations promulgated by the State Council on 12 April 1993.

Appendix IV**Components of Social Relief****A. Disaster Relief**

The recipients of disaster relief are victims suffering from various disasters. The levels of disasters are divided into moderate, severe and calamitous. According to the existing policies and laws on disaster relief in Mainland China, urban residents, victims of moderate and severe disasters and victims in better-off areas suffering from calamitous disasters are not included as targets of social relief. The focus of disaster relief is to practically solve the problems in respect of food, clothing and housing for the victims. The problem in respect of food should be solved first, with emphasis on helping those with low income, great difficulties and low ability in self-relief.

B. Special Relief

The recipients of special relief are the citizens who, due to their own physical conditions, have lost working ability and thus their financial sources. They are generally referred to as the singleton elderly, widows, orphans and the severely disabled, without statutory successors, sources of living and working ability. According to the existing policies and laws on relief in Mainland China, the basic living requirements of some of the targets of relief are satisfied by means of the “five guarantees” (i.e. guaranteed food, clothing, housing, medical care and burial expenses). These recipients are referred to as “five-guaranteed households”.

C. Poverty Relief

This relief targets at citizens who fall into poverty due to their incapability to adapt to the intense market competition. They are general referred to as “help-needed households” and “households needing relief in the current year”.

D. “Help the Poor” Programmes

In Mainland China, there exists vast areas of poverty. These include the old revolutionary base areas, areas inhabited by minority nationalities, frontier areas, poor areas and areas with poor natural and ecological conditions. The Party Central and the State Council pay much attention to this situation and have drawn up “Help the Poor” Programmes to raise funds through various means for developing these poor areas.

E. Unemployment Relief

This involves mainly those unemployed persons who have taken out insurance on unemployment but fail to find a new job within 24 months. According to the laws on unemployment insurance, they are no longer entitled to any unemployment insurance payments. Their cases will be transferred from the national labour departments to civil administration departments for unemployment relief. Moreover, there are some unemployed persons who do not have unemployment insurance and submit applications to civil administration departments for relief. After verification, the civil administration departments will determine a standard level of relief for eligible applicants and pay a certain amount of relief payment.

Source: YUE Song-dong, *Call on New Social Security* 《呼喚新的社會保障》, Chinese Social Science, 1997, p218-219

Appendix V

Statistics on Employees* Nationwide between 1986 and 1998

Year	Employees nationwide		Employees in cities and towns		Employees in rural areas	
	Total ('000) (a)	% in population	Number ('000) (b)	(b)/(a) (%)	Number ('000) (c)	(c)/(a) (%)
1986	512 820	47.7	132 920	25.9	379 900	74.1
1987	527 830	48.3	137 830	26.1	390 000	73.9
1988	543 340	48.9	142 670	26.3	400 670	73.7
1989	553 290	49.1	143 900	26.0	409 390	74.0
1990	639 090	55.9	166 160	26.0	472 930	74.0
1991	647 990	55.9	169 770	26.2	478 220	73.8
1992	655 540	55.9	172 410	26.3	483 130	73.7
1993	663 730	56.0	175 890	26.5	487 840	73.5
1994	671 990	56.1	184 130	27.4	487 860	72.6
1995	679 470	56.1	190 930	28.1	488 540	71.9
1996	688 500	56.3	198 150	28.8	490 350	71.2
1997	696 000	56.3	202 070	29.0	493 930	71.0
1998	699 570	56.1	206 780	29.0	492 790	71.0

Remark: * Employees refer to those persons who engage in certain social labour and receive payment for labour or income for business, including all staff and workers, re-employed retirees, private business owners, individual business owners, employees of private and individual business, employees of township enterprises, employees in rural areas and other employees (including teachers working at a school run by the local people, religious staff and servicemen etc). This index reflects the actual usage of all the labour force resources within a certain period.

Source: *Labour Statistical Yearbook of China 1999* 《中國勞動統計年鑒 1999》, China Statistics Publishing Company, Tables 1-6

References

1. 《勞動保障通訊》3/1999, 7/1999, 9/1999, 中華人民共和國勞動和社會保障部
2. 《勞動和社會保障法規政策專刊》5/1999, 6/1999
3. 李靜雲等編著,《失業保險 322 問》, 人民法院出版社
4. 王思斌, 唐鈞, 梁寶霖, 莫泰基主編,《中國社會福利》, 香港: 中華書局出版 1998
5. 多吉才讓主編,《社會福利, 中國民政工作從書》, 中國社會出版社 1996
6. 岳頌東著,《呼喚新的社會保障》, 邁向 21 世紀從書, 北京: 中國社會科學 1997
7. 朱勇, 潘屹著,《社會福利的變奏 — 中國社會保障問題》, 中共中央黨校出版社 1995
8. 衛興華主編,《中國社會保障制度研究》, 中國人民大學叢書, 北京: 中國人民大學 1994
9. 美國社會保障總署編著,《世界社會保障制度》, 中國物資出版社
10. 《中國社會保障制度總覽》,《中國社會保障制度總覽》編輯委員會, 中國民主法制出版社 1995
11. 《中國統計摘要 1998》, 中國統計出版社
12. 《中國統計年鑒》1995-1998, 中國統計出版社
13. 《中國勞動統計年鑒》1995-1998, 中國統計出版社
14. 國務院辦公廳轉發勞動保障部等部門關於做好提高三條社會保障線水平等有關工作意見的通知, 國辦發(1999)69 號, 1999 年 9 月 6 日
15. 關於貫徹兩個條例擴大社會保險覆蓋範圍加強金征繳工作的通知, 勞社部發, 1999 年 5 月 17 日
16. 中國社會保險費申報繳納管理暫行辦法, 中華人民共和國勞動和社會保障部令, 1999 年 3 月 25 日

17. 社會保險費徵繳暫行條例，中華人民共和國國務院令第 259 號，1999 年 2 月 2 日
18. 失業保險條例，中華人民共和國國務院令第 258 號，1999 年 1 月 29 日
19. 中國失業保險基金新調整，中國財經報，1999 年 9 月 10 日
20. 中國社會保障經費支出逐年增長，中國財經報，1999 年 9 月 2 日
21. 中國社會勞動保障部部長張左己表示致力構建新型勞保制度框架，經濟日報，1999 年 9 月 9 日