

Labor Contract Law of the People's Republic of China

- National People's Congress -

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The Labor Contract Law of the People's Republic of China, adopted at the 28th Session of the Standing Committee of the 10th National People's Congress of the People's Republic of China on June 29, 2007, is hereby promulgated and shall come into effect on January 1, 2008.

Hu Jintao
President of the People's Republic of China
June 29, 2007

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Labor Contract Law of the People's Republic of China

Chapter 1 General Provisions

Article 1 This Law is formulated to improve the labor contract system, to specify the rights and obligations of the parties to labor contracts, to protect the legitimate rights and interests of workers, and to build and develop harmonious and stable employment relationships.

Article 2 This Law applies to the establishment of labor relationships between, the conclusion of, performance of, amendment of, revocation of and termination of, labor contracts by workers and organizations such as enterprises, individual economic organizations and private non-enterprise units in the People's Republic of China ("Employers").

The conclusion, performance, amendment, revocation and termination of labor contracts between state authorities, institutions or social organizations and workers with whom they establish employment relationships, shall be subject to this law.

Article 3 The conclusion of a labor contract shall be based on the principles of lawfulness, fairness, equality, voluntariness, negotiated consensus and good faith. A lawfully concluded labor contract shall have binding force, both the Employer and the employee shall perform their respective obligations stipulated therein.

Article 4 Employers shall formulate and improve labor rules and regulations in accordance with the law, so as to ensure that employees enjoy their labor rights and perform their labor obligations.

The formulations, amendments and decisions made by Employers with respect to rules on labor compensation, working hours, leave and rest, occupational safety and hygiene, insurance and welfare, training, work discipline or work quota management, etc., which have a direct impact on employees' immediate rights and interests, or other material matters, shall be presented to and discussed with the employee representative congress or all the employees, and the proposal and advice thereof shall be determined after consultation with the labor union or employee representative on the basis of equality.

If, during the implementation of a rule or regulation or decision on a material matter, the labor union or any of the employees deems it inappropriate, they shall be entitled to raise the issue with the Employer and have it amended after consultation.

The Employer shall make rules, regulations and decisions on material matters that have a direct impact on employees' immediate interests and rights, public or communicate the same to the employees.

Article 5 The labor administration authorities of the People's Governments at the county level and above shall, together with labor unions and enterprise representatives, establish a comprehensive tri-partite mechanism for the co-ordination of employment relationships, in order to jointly study and resolve material issues relating to employment relationships.

Article 6 The labor union shall assist and guide workers in the conclusion and performance of labor contracts with their Employer, and establish a collective consultation mechanism with the Employer in order to protect the lawful rights and interests of workers.

Chapter II Conclusion of Labor Contracts

Article 7 The employment relationship between an Employer and an employee shall commence on the date the employee commences work. The Employer shall keep a register of employees, for future reference.

Article 8 The Employer shall truthfully advise the employee of the scope of work, the working conditions, the place of work, occupational hazards, production safety conditions, labor compensation and other matters requested by the employee; the Employer shall be entitled to the worker basic information of the employee that directly relates to the labor contract, and the employee shall truthfully provide the same.

Article 9 When hiring an employee, the Employer shall not retain the employee's resident ID card or other documentation, nor demand the employee to provide security or collect property from him/her under some other guise.

Article 10 A written labor contract shall be concluded when establishing an employment relationship.

Where an employment relationship has been established without the conclusion of a written labor contract, the written labor contract shall be concluded within one (1) month from the date the employee commences work.

Where an Employer and an employee conclude a labor contract before the employee commences work, the employment relationship shall be established on the date the employee commences work.

Article 11 Where an Employer fails to conclude a written labor contract with an employee before the employee commences work, and it is unclear what labor compensation was agreed upon with the employee, the labor compensation for the newly recruited employee shall be paid in accordance with the standards stipulated in the collective contract; where there is no collective contract or the collective contract is silent on the matter, the principle of equal pay for equal work shall apply.

Article 12 Labor contracts are divided into fixed-term labor contracts, open-ended labor contracts and labor contracts that terminate upon the completion of a certain task.

Article 13 A 'fixed-term labor contract' refers to a labor contract where the termination date has been agreed upon by the Employer and the employee.

A fixed-term labor contract may be concluded between an Employer and an employee upon consultation.

Article 14 An ‘open-ended labor contract’ refers to a labor contract where the Employer and the employee have agreed not to stipulate a definite termination date.

An open-ended labor contract may be concluded between an Employer and an employee upon consultation. If an employee proposes or agrees to renew and conclude a labor contract in any of the following circumstances, an open-ended labor contract shall be concluded, unless the employee requests the conclusion of a fixed-term labor contract instead:

- (1) The employee has been working for the Employer for ten (10) consecutive years;
- (2) When the Employer first introduces the labor contract system or the state-owned enterprise that employs him re-concludes its labor contracts as of restructuring, the employee has been working for the Employer for ten (10) consecutive years and is less than 10 years away from his legal retirement age; or
- (3) Where a labor contract was concluded as a fixed-term labor contract on two consecutive occasions and the employee, in the absence of any of the circumstances stipulated in Article 39 and items (1) and (2) of Article 40 of this law, renews such contract.

If an Employer fails to conclude a written labor contract with an employee within one (1) year from the date the employee commences work, they shall be deemed to have entered into an open-ended labor contract.

Article 15 A ‘labor contract that terminates upon the completion of a certain task’ refers to a labor contract where the Employer and the employee have agreed that the contractual term is based on the completion of a specific task.

An Employer and an employee may, upon consultation, conclude a labor contract with a term that is based on the completion of a certain task.

Article 16 A labor contract shall become effective after the Employer and the employee have both signed or sealed such contract upon reaching a negotiated consensus.

The Employer and the employee shall each keep one copy of the employment agreement.

Article 17 A labor contract shall include the following items:

- (1) name, domicile and legal representative or main person in-charge of the Employer;
- (2) name, residential address and number of the resident ID card or other valid identity document number of the worker;
- (3) term of the labor contract;
- (4) scope of work and place of work;
- (5) working hours, rest and leave;
- (6) labor compensation;

- (7) social insurance;
- (8) labor protection, working conditions and protection against occupational hazards; and
- (9) other issues required by laws and regulations to be included in the labor contract.

Apart from the mandatory terms mentioned above, an Employer and an employee may agree to include other matters in the labor contract such as probation period, training, confidentiality, supplementary insurance and welfare, etc.

Article 18 Should a dispute arise due to the ambiguous nature of the standards for labor compensation or working conditions or other matters, the Employer and employee may renegotiate; if such negotiation fails, the provisions of the collective contract shall apply. If there is no collective contract or if the collective contract is silent on the issue of labor compensation, the principle of equal pay for equal work shall apply; if there is no collective contract or the collective contract is silent on the standards for working conditions or other matters, the relevant regulations of the State shall apply.

Article 19 If a labor contract has a term of more than three months but less than one year, the probation period may not exceed one month; if a labor contract has a term of more than one year but less than three years, the probation period may not exceed two months; for a fixed-term labor contract with a term of more than three years and an open-ended labor contract, the probation period may not exceed six months.

The same Employer may only stipulate one probation period with any given employee.

The probation period shall not apply to labor contracts with a term of less than three months or to labor contracts that terminate upon the completion of a certain task.

The probation period shall form part of the term of the labor contract. If a labor contract merely contains a probation period, such probation period shall be rendered void and be deemed as the term of the labor contract.

Article 20 The wages paid to employees during their probation period shall not be less than the minimum wage level for the same position with the Employer or less than 80% of the wage agreed upon in the labor contract, and shall not be less than the minimum wage of the place where the Employer is located.

Article 21 An Employer shall not terminate the labor contract during the probation period unless the employee falls into any of the circumstances stipulated in Article 39 and items (1) and (2) of Article 40 of this law. If an Employer terminates a labor contract during the probation period, it shall explain the reasons to the employee.

Article 22 If an Employer is paying for a worker's special training expenses and providing him with professional technical training, it may enter into an agreement specifying a term of service with such employee.

If the employee breaches the agreed term of service, he shall pay liquidated damages to the Employer in accordance with the terms of the agreement. The amount of the liquidated damages shall not exceed the amount of the training allowance provided by the Employer. The amount of

the liquidated damages required by the Employer shall not exceed the portion of the training allowance allocated to the unperformed portion of the term of service.

The agreement between an Employer and an employee on a term of service shall not affect the increment of the worker's labor compensation during the term of service in accordance with the normal wage adjustment mechanism.

Article 23 An Employer and an employee may include in their labor contract confidentiality provisions in respect of the Employer's trade secrets and other confidential matters with regard to intellectual property.

If an employee has a confidentiality obligation, the Employer may contract with the worker to include non-competition provisions in the labor contract or confidentiality agreement, and agree to pay financial compensation to the employee on a monthly basis during the non-competition period after the termination or revocation of the labor contract. If the employee breaches the non-competition provisions, he shall pay liquidated damages to the Employer in accordance with the stipulated terms.

Article 24 The personnel subject to non-competition obligations shall be limited to the Employer's senior management, senior technicians and other individuals with confidentiality obligations. The scope, geographical limitations and term of the non-competition obligations shall be agreed upon by the Employer and the employee, and they shall not violate any laws and regulations.

After the revocation or termination of a labor contract, the non-competition period for any of the persons mentioned in the preceding paragraph in terms of his working for a competing Employer that produces or deals with the same type of products or engages in the same type of business, or in terms of his setting up his own business to produce or deal with the same type of products or to engage in the same type of business, shall not exceed two years.

Article 25 Save for circumstances stipulated in Article 22 and Article 23 of this law, an Employer shall not enter into an agreement with an employee regarding liquidated damages to be borne by the employee.

Article 26 A labor contract shall be wholly or partially invalid if:

- (1) through fraud, coercion or exploitation of the other party's disadvantageous position, a party causes the other party to conclude or amend the labor contract against the latter's true intent;
- (2) the labor contract absolves the Employer from legal liability and denies the employee his rights; or
- (3) the labor contract is in violation of the mandatory provisions of laws or administrative regulations.

If there is any dispute over the invalidity or partial invalidity of the labor contract, it shall be subject to determination by a labor dispute arbitration institution or a People's court.

Article 27 The partial invalidity of the labor contract shall not affect the validity of the remaining part of the contract, the remaining provisions shall continue to be valid.

Article 28 Where a labor contract is held to be invalid and the worker has performed his obligations, the Employer shall pay the employee labor compensation for such obligations. The amount of labor compensation shall be determined with reference to the labor compensation for employees in the same or a similar position with the Employer.

Chapter III Performance and Amendment of Labor Contracts

Article 29 The Employer and the employee shall fully perform their respective obligations in accordance with the terms of the labor contract.

Article 30 Employers shall pay their employees labor compensation on time and in full in accordance with the labor contract and state regulations.

An employee may, in accordance with the law, apply for an order to pay at the local People's Court in the event that the Employer fails to pay his labor compensation on time or in full, and the People's Court shall issue such order in accordance with the law.

Article 31 An Employer shall strictly implement the work quota standards, and shall not force or in a disguised manner force any worker to work overtime. In the event that the Employer arranges for a worker to work overtime, it shall pay overtime wages to the employee in accordance with the relevant state regulations.

Article 32 The refusal of an employee to perform dangerous tasks shall not be deemed as a breach of contract if he is forced to do so by the management staff of the Employer or if the instruction to do so is made in violation of regulations.

Employees shall have the right to criticize, report to the authorities or bring charges against their Employers in respect of working conditions that would endanger their lives and health.

Article 33 A change in the Employer's name, legal representative, main person-in-charge or investor, or in relation to other matters shall not affect the performance of the labor contract.

Article 34 In the event of a consolidation or division, etc., the original labor contracts shall continue to be valid and performed by the Employer(s) which succeeded to the rights and obligations of the original Employer.

Article 35 An Employer and an employee may amend the provisions of the labor contract if they so agree upon consultation. Amendments to a labor contract shall be made in writing.

The Employer and the employee shall each hold one copy of the amended labor contract.

Chapter IV Revocation and Termination of Labor Contracts

Article 36 An Employer and an employee may terminate their labor contract if they so agree after consultation.

Article 37 An employee may terminate the labor contract upon giving his Employer 30 days' prior written notice. An employee may terminate his labor contract during the probation period by giving the Employer 3 days' prior notice.

Article 38 An employee may terminate his labor contract if his Employer:

- (1) fails to provide work protection or working conditions as stipulated in the labor contract;
- (2) fails to pay labor compensation in full or on time;
- (3) fails to pay the social insurance premium for the employee in accordance with the law;
- (4) adopts rules or regulations that are in violation of laws or regulations, thereby impairing the employee's rights and interests;
- (5) causes the labor contract to be invalid due to any of the circumstances stipulated in the first paragraph of Article 26 of this Law; or
- (6) causes the occurrence of a circumstance in which laws or administrative regulations allow the worker to terminate the labor contract.

If an Employer uses violence, threats or unlawful restriction of personal freedom to force an employee to work, or if an Employer forces or instructs an employee to perform dangerous tasks which would endanger his personal safety in violation of rules or regulations, the employee may terminate his labor contract immediately without giving any prior notice to the Employer.

Article 39 An Employer may terminate the labor contract if the employee:

- (1) fails to meet the requirements for employment during the probation period;
- (2) materially breaches the Employer's rules and regulations;
- (3) causes substantial loss to the Employer due to his serious dereliction of duty or engagement in graft for personal gain;
- (4) establishes an employment relationship with another Employer simultaneously which materially affects the completion of his task with the original Employer, or he refuses to rectify the situation after being cautioned by the Employer;
- (5) causes the labor contract to be invalid due to any of the circumstances stipulated in item (1) of the first paragraph of Article 26 of this Law; or
- (6) is subject to criminal liability in accordance with the law.

Article 40 An Employer may terminate the labor contract under any of the following circumstances by giving the employee 30 days' prior written notice or one month's wages in lieu of notice:

- (1) where the employee is unable to resume his original work nor engage in other work arranged for him by the Employer after the expiration of the prescribed medical treatment period for an illness or non-work-related injury;
- (2) where the employee is incompetent and remains incompetent after training or adjustment of his position; or
- (3) a material change in the objective circumstances relied upon at the time of conclusion of the labor contract renders it impossible for the parties to perform and, after consultation, the Employer and the employee are unable to reach an agreement on amending the labor contract.

Article 41 If any of the following circumstances make it necessary to reduce the workforce by 20 persons or more, or less than 20 persons but accounting for 10% or more of the total number of employees of the Employer, the Employer may only do so after it has explained the situation to the labor union or to all of its employees 30 days in advance, has considered the opinions of the labor union or the employees, and has submitted its workforce layoff plan to the labor administrative department:

- (1) restructuring pursuant to the Enterprise Bankruptcy Law;
- (2) serious difficulties in production and/ or business operation;
- (3) the enterprise switches production, introduces significant technological innovation or adjusts its business model, and still needs to reduce its workforce after amending the labor contracts; or
- (4) a material change in the objective economic conditions relied upon at the time of conclusion of the labor contracts renders it impossible for the parties to perform.

When reducing its workforce, the Employer shall retain in priority personnel:

- (1) who have concluded a fixed-term labor contract with the Employer with a relatively long term;
- (2) who have concluded an open-ended labor contract with the Employer; or
- (3) who are the sole bread winner in the family and dependent family members who are elderly or minors.

If an Employer that has reduced its workforce pursuant to the first paragraph hereof intends to hire new employees again within 6 months, it shall notify the employees dismissed at the time of the layoff and such employees shall have priority to be re-hired under the same conditions.

Article 42 An Employer shall not terminate a labor contract under Articles 40 and 41 of this Law if the employee:

- (1) is engaged in operations that would expose him to occupational disease hazards and has not undergone a occupational health check-up before leaving work, or is suspected of having contracted an occupational disease and is being diagnosed or under medical observation;

- (2) has been confirmed as having lost or partially lost his capacity to work due to an occupational disease contracted or a work-related injury sustained during his employment with the Employer;
- (3) has contracted an illness or sustained a non-work-related injury and the prescribed period of medical treatment has not expired;
- (4) is a female worker in her pregnancy, confinement or nursing period;
- (5) has been working for the Employer continuously for not less than 15 years and is less than 5 years away from the legal retirement age; or
- (6) falls into any other circumstances stipulated by laws or administrative regulations.

Article 43 If an Employer is to terminate a labor contract unilaterally, it shall first inform the labor union of the reasons. The labor union shall have the right to demand that the Employer make the necessary adjustment if the Employer violates laws, administrative regulations or the labor contract. The Employer shall consider the opinions of the labor union and notify the labor union in writing of the outcome of its handling of the matter.

Article 44 A labor contract is terminated if:

- (1) the contract term expires;
- (2) the employee has started to enjoy his entitlement to basic old-age insurance pension in accordance with the law;
- (3) the worker is deceased, or is declared dead or missing by a people's court;
- (4) the Employer is declared bankrupt in accordance with law;
- (5) the Employer has its business license revoked, is ordered to close or is closed down, or the Employer decides on early dissolution; or
- (6) other circumstances stipulated by laws or administrative regulations arise.

Article 45 Despite the expiration of a labor contract, if any of the circumstances prescribed in Article 42 of this Law applies, the labor contract shall be extended until the relevant circumstance ceases to exist, at which point the contract shall come to an end. However, the termination of a labor contract resulting from the loss of capacity, wholly or partially, to work as prescribed in item (2) of Article 42 hereof shall be handled in accordance with relevant state regulations on work-related injury insurance.

Article 46 The Employer shall pay the employee financial compensation in any of the following circumstances:

- (1) the labor contract is terminated by the employee in accordance with Article 38 hereof;

- (2) the Employer proposes to terminate the labor contract pursuant to Article 36 hereof and the labor contract is terminated as a result after the Employer and the employee reach an agreement thereon after consultation;
- (3) the labor contract is terminated by the Employer in accordance with Article 40 hereof;
- (4) the labor contract is terminated by the Employer in accordance with the first paragraph of Article 41 hereof;
- (5) the labor contract is a fixed term contract that terminates in accordance with item (1) of Article 44 hereof, save where the employee refuses to renew the labor contract even though the conditions offered by the Employer are the same as or better than those stipulated in the current contract;
- (6) the labor contract is terminated in accordance with items (4) and (5) of Article 44 hereof; or
- (7) other circumstances stipulated by laws or administrative regulations.

Article 47 An employee shall be paid financial compensation based on the number of years he has worked for the Employer at the rate of one month's wages for each full year worked. Any period of not less than 6 months but less than one year shall be counted as one year. The financial compensation payable to a worker for any period of less than 6 months shall be one-half of his monthly wage.

If the monthly wage of a worker is three times greater than the average monthly wage in the previous year for employees as announced by the people's government at the municipal level directly under the central government or at the city-with-district level where the Employer is located, the rate for the financial compensations paid to him shall be three times the average monthly wage of employees and shall be for not more than 12 years of work.

The term "monthly wage" as mentioned in this Article refers to the worker's average wage for the 12 months prior to revocation or termination of his labor contract.

Article 48 If an Employer terminates or ends a labor contract in violation of this Law and the employee demands continued performance of such contract, the Employer shall continue performing the same. If the employee does not demand continued performance of the labor contract or if continued performance of the employment contract has become impossible, the Employer shall pay the employee compensation in accordance with Article 87 hereof.

Article 49 The State will adopt measures to establish a comprehensive system that enables worker's social insurance accounts to be transferred from one region to another and to be continued in such other region.

Article 50 At the time of revocation or termination of a labor contract, the Employer shall issue a certificate of revocation or termination of the labor contract and conduct, within 15 days, the procedures for the transfer of the employee's file and social insurance account.

The employee shall carry out the procedures for the handover of his work as agreed by the parties. If relevant provisions of this law require the Employer to pay the worker financial compensation, it shall do so upon completion of the procedures for the handover of the work.

The Employer shall have the revoked or terminated labor contracts on file for at least two years, for reference purposes.

Chapter V Special Provisions

Part I Collective Contracts

Article 51 After consultation on an equal basis, enterprise employees, as one party, and their Employer may conclude a collective contract on such matters as labor compensation, working hours, rest, leave, work safety and hygiene, insurance, benefits, etc. The draft of the collective contract shall be presented to the employee representative congress or all the employees for discussion and approval.

A collective contract shall be concluded by the labor union, representing the enterprise employee, and the Employer. If the Employer has yet to establish a labor union, it shall conclude the contract with a representative nominated by the employees under the guidance of the labor union at the next higher level.

Article 52 Enterprise employees, as one party, may enter into a special collective contract with the Employer with regard to issues concerning work safety and hygiene, protection of female workers' rights and interests, wage adjustment mechanism, etc.

Article 53 In areas below the county level, industry-based or area-based collective contracts may be concluded between the labor union and a representative of the enterprise in industries such as construction, mining, catering services, etc.

Article 54 After a collective contract is concluded, it shall be submitted to the labor administrative department. The collective contract shall become effective if within 15 days after receipt of the same, the labor administrative department does not raise any objection to the contract.

A collective contract that has been concluded in accordance with the law shall be binding upon the Employer and the employees. An industry-based or region-based collective contract shall be binding upon the Employers and the employees in the industry or in the area in the locality concerned.

Article 55 The criteria for labor compensation, working conditions, etc. as stipulated in a collective contract shall not be lower than the minimum criteria prescribed by the local people's government; the criteria for labor compensation, working conditions, etc. as stipulated in the labor contract between an Employer and an employee shall not be lower than those stipulated in the collective contract.

Article 56 If an Employer breaches the collective contract and infringes upon the employees' labor rights and interests, the labor union may, in accordance with the law, demand that the Employer assume liability; if a dispute arising from the performance of the collective contract is

not resolved after friendly negotiations, the labor union may apply for arbitration and institute legal proceedings in accordance with the law.

Part II Work placement

Article 57 Staffing firms shall be established in accordance with the relevant provisions of the Company Law and have registered capital of not less than RMB 500,000.

Article 58 Staffing firms are Employers as referred to in this Law and shall perform an Employer's obligations toward its employees. The labor contract between a staffing firm and an employee to be placed shall, in addition to the matters stipulated in Article 17 of this law, specify matters such as the entity to which the employee will be dispatched, the term of his placement, his position, etc.

Staffing firms shall conclude a fixed term labor contract with a term of not less than two years with employees to be placed, and pay labor remuneration on a monthly basis. During periods when there is no work for the employees to be placed, staffing firms shall pay such workers remuneration on a monthly basis at the minimum wage rate as prescribed by the people's government of the place where the staffing firms are located.

Article 59 When placing employees, staffing firms shall enter into staffing agreements with the entities that accept the employees under the placement arrangements ("Accepting Entities"). The staffing agreements shall stipulate the job positions in which the employees are to be placed, the number of persons placed, the term of placement, the amount and method of payment of labor remuneration and social insurance premiums, and the liability for breach of agreement.

An Accepting Entity shall decide with the staffing firm on the term of placement based on the actual requirements of the job position, and it may not conclude several short-term placement agreements to cover a continuous term of labor use.

Article 60 Staffing firms shall advise the employees placed of the content of the placement agreements.

Staffing firms shall not retain part of the labor remuneration paid by the Accepting Entities to the workers in accordance with the placement agreements.

Staffing firms and Accepting Entities shall not demand any fees from the workers.

Article 61 If a staffing firm places an employee with an Accepting Entity in another region, the employee's labor remuneration and working conditions shall be in line with the standards of the place where the Accepting Entity is located.

Article 62 An Accepting Entity shall perform the following obligations:

- (1) implement state labor standards and provide the corresponding working conditions and labor protection;
- (2) notify the job requirements and labor remuneration to the employees placed;

- (3) pay overtime wages and performance bonuses, and provide welfare benefits appropriate for the job positions;
- (4) provide the employees with the training necessary for their job positions; and
- (5) implement a normal wage adjustment mechanism for continuous placement.

An Accepting Entity shall not in turn place an employee with another Employer.

Article 63 Placed workers shall be entitled to receive the same pay as that received by the employees of the Accepting Entity for the same work. If the Accepting Entity does not have any employee for the same position, the labor remuneration shall be determined based on the labor remuneration paid to employees in the same or similar position at the place where the Accepting Entity is located..

Article 64 Placed workers shall have the right to join labor unions through staffing firms or Accepting Entities or organize such unions in accordance with the law, so as to protect their lawful rights and interests.

Article 65 Placed workers may terminate their labor contracts with their staffing firms in accordance with Article 36 or 38 of this Law.

If a placed worker falls into any of the circumstances stipulated in Article 39 and items (1) and (2) of Article 40 of this Law, the Accepting Entity may return the worker to the staffing firm, which may terminate its labor contract with him in accordance with the relevant provisions of this Law.

Article 66 Work placement shall generally be implemented in respect of job positions of a temporary, auxiliary or substitute nature.

Article 67 Employers shall not establish staffing firms to place workers with themselves or their subsidiaries.

Section III Part-time Labor

Article 68 The term “part-time labor” refers to a form of labor for which the remuneration is mainly calculated on an hourly basis, and the employee’s average daily working hours shall not exceed 4 hours and the aggregate working hours per week shall not exceed 24 hours for the same Employer.

Article 69 Both parties to part-time labor may conclude an oral agreement.

An employee who engages in part-time labor may conclude a labor contract with one or more Employers, but a subsequently concluded labor contract shall not affect the performance of a previously concluded labor contract.

Article 70 Both parties to part-time labor shall not stipulate a probation period.

Article 71 Either party to part-time labor may notify the other party at any time to terminate employment. Upon termination of employment, the Employer will not have to pay severance pay to the employee.

Article 72 The hourly remuneration rate for part-time labor shall not be lower than the minimum hourly wage rate prescribed by the local people's government of the place where the Employer is located.

The maximum remuneration settlement and payment term for part-time labor shall not exceed 15 days.

Chapter VI Supervision and Inspection

Article 73 The labor administrative department of the State Council shall be responsible for supervising and managing the implementation of the employment contract system throughout the country.

The labor administrative departments of the local people's governments at the county level or above shall be responsible for supervising and managing the implementation of the labor contract system in their respective administrative jurisdictions.

The labor administrative departments of the people's governments at the county level or above shall solicit the opinions of the labor unions, enterprise representatives and the authorities in charge of the industries concerned in the course of supervising and managing the implementation of the labor contract system.

Article 74 The labor administrative departments of the local people's governments at the county level or above shall supervise and inspect the following matters in the implementation of the labor contract system in accordance with the law:

- (1) Employers' formulation of rules and regulations directly related to the immediate interests of workers, and the implementation thereof;
- (2) the conclusion and termination of labor contracts between Employers and employees;
- (3) compliance with relevant regulations regarding work placement by staffing firms and Accepting Entities;
- (4) Employers' compliance with relevant regulations regarding employee's working hours, rest and leave;
- (5) payment of labor remuneration as specified in the labor contracts and implementation of minimum wage rates by Employers;
- (6) Employers' participation in various types of social insurance and payment of social insurance premiums; and
- (7) other labor matters as prescribed by laws and regulations.

Article 75 During the supervision and inspection process, the labor administrative department of a local people's government at the county level or above shall have the authority to review materials relating to labor contracts and collective contracts, and to conduct on-the-

spot workplace inspection. Both the Employers and the workers shall truthfully provide relevant information and materials.

When performing their supervision and inspection duties, the working personnel of a labor administrative department shall show their IDs, exercise their powers and functions in accordance with the law and enforce the law in a well-disciplined manner.

Article 76 The supervising and administrative departments in charge of construction, health, production safety, etc., of the people's governments at the county level or above shall, to the extent of the respective purviews, supervise and manage the implementation of labor contract system by Employers.

Article 77 A worker whose lawful rights and interests have been infringed upon shall have the right to request the relevant authority to deal with the matter in accordance with the law, or to apply for arbitration or institute legal proceedings in accordance with the law.

Article 78 Labor unions shall safeguard the lawful rights and interests of workers in accordance with the law, and supervise the performance of labor contracts and collective contracts by Employers. If an Employer violates any labor laws or regulations or breaches a labor contract or collective contract, the labor union shall have the right to put forward its opinions or request that the matter be rectified; if a worker applies for arbitration or institutes legal proceedings, the labor union shall provide support and assistance in accordance with the law.

Article 79 Any organization or individual may report any violation of this law. The labor administrative departments of the people's governments at the county level or above shall verify and handle the matter in a timely manner and reward those who have provided valuable information.

Chapter VII Legal Liability

Article 80 Where regulations with a direct bearing on the immediate interests of an employee are formulated by an Employer in violation of law or regulations, the labor administrative department shall order rectification and issue a warning; the Employer shall be liable for damages for any harm or loss caused to the employee by such regulations.

Article 81 In case of failure by an Employer to set out the mandatory clauses in the labor contract as prescribed by this Law or to deliver the text of the labor contract to the employee, the labor administrative department shall order rectification thereof; the Employer shall be liable for damages for any harm or loss caused to the employee by such failure.

Article 82 If an Employer concludes a written labor contract with an employee more than one month but less than one year after the date on which the employee has started work, the Employer shall, each month, pay to the employee twice his wage.

If an Employer fails, in violation of this Law, to conclude an open-ended labor contract with an employee, it shall, each month, pay to the employee twice his wage, starting from the date on which the open-ended labor contract should have been concluded.

Article 83 If the probation period concluded between an Employer and an employee violates this Law, the labor administrative department shall order rectification. If such probation period has been carried out, the Employer shall pay compensation to the employee according to the time worked on probation beyond the statutory probation period, at the rate of the worker's monthly wage following the completion of his probation.

Article 84 If an Employer violates this law by retaining an employee's resident ID card or other identity certificates, the labor administrative department shall order the same to be returned to the employee within a specific period of time and impose punishment in accordance with the provisions of relevant laws.

If an Employer violates this Law by seizing property from an employee as security or under some other guise, the labor administrative department shall order the same to be returned to the employee within a specific period of time and impose a fine on the Employer of not less than RMB 500 and not more than RMB 2,000 for each person; the Employer shall be liable for damages for any harm or loss caused to the employee as a result thereof.

If an Employer retains an employee's file or property after the employee has terminated or ended the labor contract in accordance with the law, punishment shall be imposed in accordance with the provisions of the preceding paragraph.

Article 85 If an Employer falls into any of the following circumstances, the labor administrative department shall order the Employer to pay labor remuneration, overtime wages or financial compensation within a specific period of time. If the labor remuneration is lower than the local minimum wage rate, the Employer shall pay the shortfall; if the payment is not made within the time limit, the Employer shall be ordered to pay extra damages to the employee at a rate of not less than 50% and not more than 100% of the amount payable.

- (1) failing to pay an employee his labor remuneration in full and on time as stipulated in the labor contract or as prescribed by the State;
- (2) paying an employee labor remuneration below the local minimum wage rate;
- (3) failing to pay overtime wages despite the arrangement for overtime work; or
- (4) revoking or terminating a labor contract without paying the employee financial compensation pursuant to this Law.

Article 86 If a labor contract is declared invalid in accordance with Article 26 of this law, the party at fault shall be liable for damages for any harm or loss caused to the other party.

Article 87 If an Employer revokes or terminates a labor contract in violation of this Law, it shall pay the employee double the amount of damages provided for in Article 47 of this law.

Article 88 If an Employer falls into any of the following circumstances, it shall be subjected to administrative punishment; if such conduct constitutes a crime, criminal liability shall be pursued in accordance with the law; if the employee suffers any harm or loss as a result thereof, the Employer shall be liable for damages:

- (1) force an employee to work through the use of violence, coercion or unlawful restriction of personal freedom;
- (2) order an employee to perform dangerous tasks that would endanger his life in violation of rules and regulations, or by force;
- (3) insult, corporally punish, assault, illegally search or detain an employee; or
- (4) provide poor working conditions or a severely polluted environment, resulting in serious damage to the physical and mental health of the employee.

Article 89 If an Employer fails, in violation of this Law, to issue to an employee a certificate evidencing the termination or revocation of his employment contract, the labor administrative department shall order rectification; if the employee suffers any loss as a result of such failure, the Employer shall be liable for damages.

Article 90 If an employee terminates his labor contract in violation of this Law or breaches the confidentiality or non-competition obligations stipulated in the labor contract, he shall be liable for damages for any loss caused to the Employer as a result of such violation or breach.

Article 91 If an Employer hires an employee whose employment contract with another Employer has not yet been terminated or revoked, thereby causing the other Employer to suffer loss, the first-mentioned Employer and the employee shall be jointly and severally liable for damages.

Article 92 If a staffing firm violates this Law, the labor administrative department and other relevant competent authorities shall order it to rectify the situation. If the situation is serious, a fine of not less than RMB 1,000 and not more than RMB 5,000 for each person shall be imposed, and the administrative department for industry and commerce shall revoke the business license. If the worker placed suffers any harm or loss, the staffing firm and the Accepting Entity shall be jointly and severally liable for damages.

Article 93 If an Employer without lawful business operation qualifications commits an illegal or a criminal act, it shall be pursued in accordance with the law. For labor already performed by its employees, the Employer or its investors shall pay them labor remuneration, severance pay or damages in accordance with the relevant provisions of this Law. If the employees suffer any harm or loss as a result thereof, it shall be liable for damages.

Article 94 Where an individual as a business operation contractor hires workers in violation of this Law and thereby causes harm or loss to such workers, the organization that employs such contractor and the contractor shall be jointly and severally liable for damages.

Article 95 If a labor administrative authority or any other relevant administrative authority or any of their personnel neglects its/his duties, fails to perform its/his statutory duties or exercises its/his authority in violation of the Law, thereby causing harm or loss to an employee or an Employer, it/he shall be liable for damages; the direct supervisor in charge and the other persons directly responsible shall be subjected to administrative punishment in accordance with the law, if a criminal offense is constituted, criminal liability shall be pursued in accordance with the law.

Chapter VIII Supplementary Provisions

Article 96 Where laws or administrative regulations provide, or the State Council has formulated separate regulations with respect to the conclusion, performance, amendment, termination or revocation of labor contracts by and between institutions and those of their personnel that are subject to the labor system, those matters shall be handled in accordance with such regulations; in the absence of such regulations, matters shall be handled in accordance with this Law.

Article 97 Labor contracts concluded in accordance with the law before the implementation of this Law and continuing to exist on the implementation date of this Law shall continue to be performed. For the purpose of item (3) of the second paragraph of Article 14 hereof, the number of consecutive occasions on which a fixed-term labor contract is concluded shall be counted from the first renewal of such contract to occur after the implementation of this Law.

If an employment relationship was established prior to the implementation of this Law without a written labor contract, such contract shall be concluded within one month from the implementation of this Law.

If a labor contract existing on the implementation date of this Law is terminated or revoked after the implementation of this Law and, in accordance with Article 46 hereof, financial compensation is payable, the number of years for which financial compensation is payable shall be counted from the implementation date of this Law. If, pursuant to relevant regulations in force prior to the implementation of this Law, the employee is entitled to financial compensation from the Employer in respect of a period preceding the implementation of this Law, the matter shall be handled in accordance with the relevant regulations that were in force at that time.

Article 98 This Law shall be implemented from January 1, 2008.