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中华人民共和国劳动合同法（2012 修正）

Labor Contract Law of the People's Republic of China (2012 Revision)

时效性：现行有效

Validity: Currently in force

发文机关：全国人大常委会

Issuing Authority: Standing Committee of the National People's Congress

文号：中华人民共和国主席令第 73 号

Document No.: Order of the President of the People's Republic of China No. 73

发文日期：2012 年 12 月 28 日

Date of Issuance: December 28, 2012

施行日期：2013 年 7 月 1 日

Effective Date: July 1, 2013

效力级别：法律

Hierarchy: Law

中华人民共和国主席令

Order of the President of the People's Republic of China

第七十三号

No. 73

《全国人民代表大会常务委员会关于修改〈中华人民共和国劳动合同法〉的决定》已由中华人民共和国第十一届全国人民代表大会常务委员会第三十次会议于 2012 年 12 月 28 日通过，现予公布，自 2013 年 7 月 1 日起施行。

The Decision of the Standing Committee of the National People's Congress on Amending the Labor Contract Law of the People's Republic of China, adopted at the 30th Session of the Standing Committee of the Eleventh National People's Congress of the People's Republic of China on December 28, 2012, is hereby promulgated and shall come into force on July 1, 2013.

中华人民共和国主席胡锦涛

Hu Jintao, President of the People's Republic of China

2012年12月28日

December 28, 2012

中华人民共和国劳动合同法

Labor Contract Law of the People's Republic of China

(2007年6月29日第十届全国人民代表大会常务委员会第二十八次会议通过,根据2012年12月28日《全国人民代表大会常务委员会关于修改〈中华人民共和国劳动合同法〉的决定》修订)

(Adopted at the 28th Session of the Standing Committee of the Tenth National People's Congress on June 29, 2007, and amended in accordance with the Decision of the Standing Committee of the National People's Congress on Amending the Labor Contract Law of the People's Republic of China on December 28, 2012)

第一章 总 则

Chapter I General Provisions

第一条 为了完善劳动合同制度,明确劳动合同双方当事人的权利和义务,保护劳动者的合法权益,构建和发展和谐稳定的劳动关系,制定本法。

Article 1 This Law is formulated for the purposes of improving the labor contract system, clarifying the rights and obligations of both parties to labor contracts, protecting the legitimate rights and interests of employees, and building and developing harmonious and stable labor relations.

第二条 中华人民共和国境内的企业、个体经济组织、民办非企业单位等组织(以下称用人单位)与劳动者建立劳动关系,订立、履行、变更、解除或者终止劳动合同,适用本法。

Article 2 This Law applies to enterprises, individual economic organizations, private non-enterprise entities, and other organizations within the territory of the People's Republic of China (hereinafter referred to as "employers") in establishing labor relations with employees and in concluding, performing, modifying, rescinding, or terminating labor contracts.

国家机关、事业单位、社会团体和与其建立劳动关系的劳动者，订立、履行、变更、解除或者终止劳动合同，依照本法执行。

State organs, public institutions, and social organizations shall, in concluding, performing, modifying, rescinding, or terminating labor contracts with employees with whom they establish labor relations, comply with this Law.

第三条 订立劳动合同，应当遵循合法、公平、平等自愿、协商一致、诚实信用的原则。

Article 3 The conclusion of a labor contract shall follow the principles of legality, fairness, equality and voluntariness, consensus through consultation, and good faith.

依法订立的劳动合同具有约束力，用人单位与劳动者应当履行劳动合同约定的义务。

A labor contract lawfully concluded is binding, and the employer and the employee shall perform the obligations stipulated in the labor contract.

第四条 用人单位应当依法建立和完善劳动规章制度，保障劳动者享有劳动权利、履行劳动义务。

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

用人单位在制定、修改或者决定有关劳动报酬、工作时间、休息休假、劳动安全卫生、保险福利、职工培训、劳动纪律以及劳动定额管理等直接涉及劳动者切身利益的规章制度或者重大事项时，应当经职工代表大会或者全体职工讨论，提出方案和意见，与工会或者职工代表平等协商确定。

When an employer formulates, modifies, or decides on rules and regulations or major matters that directly concern the vital interests of employees, such as labor remuneration, working hours, rest and leave, labor safety and health, insurance and welfare, employee training, labor discipline, and labor quota management, the matter shall be discussed by the employees' congress or all employees, and proposals and

opinions shall be put forward and determined through equal consultation with the trade union or the employee representatives.

在规章制度和重大事项决定实施过程中，工会或者职工认为不适当的，有权向用人单位提出，通过协商予以修改完善。

If, in the course of implementing rules and regulations or decisions on major matters, the trade union or the employees consider them inappropriate, they have the right to raise the matter with the employer, and the matter shall be modified and improved through consultation.

用人单位应当将直接涉及劳动者切身利益的规章制度和重大事项决定公示，或者告知劳动者。

Employers shall make public, or inform employees of, the rules and regulations and decisions on major matters that directly concern the vital interests of employees.

第五条 县级以上人民政府劳动行政部门会同工会和企业方面代表，建立健全协调劳动关系三方机制，共同研究解决有关劳动关系的重大问题。

Article 5 The labor administrative departments of people's governments at or above the county level shall, together with trade unions and representatives of enterprises, establish and improve the tripartite mechanism for coordinating labor relations, and jointly study and resolve major issues concerning labor relations.

第六条 工会应当帮助、指导劳动者与用人单位依法订立和履行劳动合同，并与用人单位建立集体协商机制，维护劳动者的合法权益。

Article 6 Trade unions shall help and guide employees in lawfully concluding and performing labor contracts with employers, and shall establish collective consultation mechanisms with employers to safeguard the legitimate rights and interests of employees.

第二章 劳动合同的订立

Chapter II Conclusion of Labor Contracts

第七条 用人单位自用工之日起即与劳动者建立劳动关系。用人单位应当建立职工名册备查。

Article 7 An employer establishes a labor relationship with an employee from the date the employee starts work. The employer shall maintain a roster of employees for inspection.

第八条 用人单位招用劳动者时，应当如实告知劳动者工作内容、工作条件、工作地点、职业危害、安全生产状况、劳动报酬，以及劳动者要求了解的其他情况；用人单位有权了解劳动者与劳动合同直接相关的基本情况，劳动者应当如实说明。

Article 8 When recruiting an employee, the employer shall truthfully inform the employee of the work content, working conditions, workplace, occupational hazards, work safety conditions, labor remuneration, and other circumstances that the employee requests to know; the employer has the right to know the basic information of the employee directly related to the labor contract, and the employee shall truthfully provide it.

第九条 用人单位招用劳动者，不得扣押劳动者的居民身份证和其他证件，不得要求劳动者提供担保或者以其他名义向劳动者收取财物。

Article 9 When recruiting an employee, the employer shall not seize the employee's resident identity card or other certificates, and shall not require the employee to provide a guarantee or collect money or property from the employee under any other pretext.

第十条 建立劳动关系，应当订立书面劳动合同。

Article 10 To establish a labor relationship, a written labor contract shall be concluded.

已建立劳动关系，未同时订立书面劳动合同的，应当自用工之日起一个月内订立书面劳动合同。

Where a labor relationship has been established but a written labor contract has not been concluded at the same time, a written labor contract shall be concluded within one month from the date the employee starts work.

用人单位与劳动者在用工前订立劳动合同的，劳动关系自用工之日起建立。

Where an employer and an employee conclude a labor contract before the employee starts work, the labor relationship is established from the date the employee starts work.

第十一条 用人单位未在用工的同时订立书面劳动合同，与劳动者约定的劳动报酬不明确的，新招用的劳动者的劳动报酬按照集体合同规定的标准执行；没有集体合同或者集体合同未规定的，实行同工同酬。

Article 11 Where an employer fails to conclude a written labor contract at the time the employee starts work, and the labor remuneration agreed upon with the employee is

unclear, the remuneration of a newly recruited employee shall be paid according to the standard stipulated in the collective contract; where there is no collective contract or the collective contract contains no such stipulation, equal pay for equal work shall apply.

第十二条 劳动合同分为固定期限劳动合同、无固定期限劳动合同和以完成一定工作任务为期限的劳动合同。

Article 12 Labor contracts are divided into fixed-term labor contracts, open-ended labor contracts, and labor contracts with a term based on the completion of a specific task.

第十三条 固定期限劳动合同，是指用人单位与劳动者约定合同终止时间的劳动合同。

Article 13 A fixed-term labor contract is one in which the employer and the employee agree on a time of termination of the contract.

用人单位与劳动者协商一致，可以订立固定期限劳动合同。

An employer and an employee may, upon reaching consensus through consultation, conclude a fixed-term labor contract.

第十四条 无固定期限劳动合同，是指用人单位与劳动者约定无确定终止时间的劳动合同。

Article 14 An open-ended labor contract is one in which the employer and the employee agree that there is no definite time of termination.

用人单位与劳动者协商一致，可以订立无固定期限劳动合同。有下列情形之一，劳动者提出或者同意续订、订立劳动合同的，除劳动者提出订立固定期限劳动合同外，应当订立无固定期限劳动合同：

An employer and an employee may, upon reaching consensus through consultation, conclude an open-ended labor contract. Under any of the following circumstances, where the employee proposes or agrees to renew or conclude a labor contract, an open-ended labor contract shall be concluded, unless the employee proposes to conclude a fixed-term labor contract:

(一) 劳动者在该用人单位连续工作满十年的；

(1) The employee has worked for the employer continuously for ten years;

(二) 用人单位初次实行劳动合同制度或者国有企业改制重新订立劳动合同时，劳动者在该用人单位连续工作满十年且距法定退休年龄不足十年的；

(2) When the employer first implements the labor contract system, or a state-owned enterprise re-concludes labor contracts in the course of restructuring, the employee has worked for the employer continuously for ten years and is less than ten years away from the statutory retirement age;

(三) 连续订立二次固定期限劳动合同，且劳动者没有本法第三十九条和第四十条第一项、第二项规定的情形，续订劳动合同的。

(3) Where two consecutive fixed-term labor contracts have been concluded and the employee does not fall under the circumstances specified in Article 39 or Items (1) and (2) of Article 40 of this Law, and the labor contract is to be renewed.

用人单位自用工之日起满一年不与劳动者订立书面劳动合同的，视为用人单位与劳动者已订立无固定期限劳动合同。

Where an employer fails to conclude a written labor contract with an employee within one year from the date the employee starts work, an open-ended labor contract shall be deemed to have been concluded between the employer and the employee.

第十五条 以完成一定工作任务为期限的劳动合同，是指用人单位与劳动者约定以某项工作的完成为合同期限的劳动合同。

Article 15 A labor contract with a term based on the completion of a specific task is one in which the employer and the employee agree that the term of the contract ends upon the completion of a specific task.

用人单位与劳动者协商一致，可以订立以完成一定工作任务为期限的劳动合同。

An employer and an employee may, upon reaching consensus through consultation, conclude a labor contract with a term based on the completion of a specific task.

第十六条 劳动合同由用人单位与劳动者协商一致，并经用人单位与劳动者在劳动合同文本上签字或者盖章生效。

Article 16 A labor contract becomes effective upon the employer and the employee reaching consensus through consultation and signing or affixing their seals to the text of the labor contract.

劳动合同文本由用人单位和劳动者各执一份。

The text of the labor contract shall be held by the employer and the employee respectively.

第十七条 劳动合同应当具备以下条款：

Article 17 A labor contract shall contain the following terms:

(一) 用人单位的名称、住所和法定代表人或者主要负责人；

(1) The name, domicile, and legal representative or principal person in charge of the employer;

(二) 劳动者的姓名、住址和居民身份证或者其他有效身份证件号码；

(2) The name, address, and number of the resident identity card or other valid identity document of the employee;

(三) 劳动合同期限；

(3) The term of the labor contract;

(四) 工作内容和工作地点；

(4) The work content and workplace;

(五) 工作时间和休息休假；

(5) Working hours and rest and leave;

(六) 劳动报酬；

(6) Labor remuneration;

(七) 社会保险；

(7) Social insurance;

(八) 劳动保护、劳动条件和职业危害防护；

(8) Labor protection, working conditions, and protection against occupational hazards;

(九) 法律、法规规定应当纳入劳动合同的其他事项。

(9) Other matters that laws and regulations require to be included in labor contracts.

劳动合同除前款规定的必备条款外，用人单位与劳动者可以约定试用期、培训、保守秘密、补充保险和福利待遇等其他事项。

In addition to the mandatory terms specified in the preceding paragraph, the employer and the employee may agree in the labor contract on other matters such as a probationary period, training, confidentiality, supplementary insurance, and welfare benefits.

第十八条 劳动合同对劳动报酬和劳动条件等标准约定不明确，引发争议的，用人单位与劳动者可以重新协商；协商不成的，适用集体合同规定；没有集体合同或者集体合同未规定劳动报酬的，实行同工同酬；没有集体合同或者集体合同未规定劳动条件等标准的，适用国家有关规定。

Article 18 Where a labor contract is unclear in its stipulations on standards for labor remuneration, working conditions, and the like, giving rise to a dispute, the employer and the employee may renegotiate; if the negotiation fails, the provisions of the collective contract shall apply; where there is no collective contract or the collective contract contains no stipulation on labor remuneration, equal pay for equal work shall apply; where there is no collective contract or the collective contract contains no stipulation on standards such as working conditions, the relevant State provisions shall apply.

第十九条 劳动合同期限三个月以上不满一年的，试用期不得超过一个月；劳动合同期限一年以上不满三年的，试用期不得超过二个月；三年以上固定期限和无固定期限的劳动合同，试用期不得超过六个月。

Article 19 Where the term of a labor contract is three months or more but less than one year, the probationary period shall not exceed one month; where the term is one year or more but less than three years, the probationary period shall not exceed two months; for fixed-term labor contracts of three years or more and open-ended labor contracts, the probationary period shall not exceed six months.

同一用人单位与同一劳动者只能约定一次试用期。

The same employer may agree on a probationary period with the same employee only once.

以完成一定工作任务为期限的劳动合同或者劳动合同期限不满三个月的，不得约定试用期。

For a labor contract with a term based on the completion of a specific task or a labor contract with a term of less than three months, no probationary period may be agreed upon.

试用期包含在劳动合同期限内。劳动合同仅约定试用期的，试用期不成立，该期限为劳动合同期限。

The probationary period is included in the term of the labor contract. Where a labor contract stipulates only a probationary period, the probationary period is not established, and that period shall be the term of the labor contract.

第二十条 劳动者在试用期的工资不得低于本单位相同岗位最低档工资或者劳动合同约定工资的百分之八十，并不得低于用人单位所在地的最低工资标准。

Article 20 The wage of an employee during the probationary period shall not be lower than the lowest grade of wage for the same position in the employer's entity or eighty percent of the wage stipulated in the labor contract, and shall not be lower than the minimum wage standard of the place where the employer is located.

第二十一条 在试用期中，除劳动者有本法第三十九条和第四十条第一项、第二项规定的情形外，用人单位不得解除劳动合同。用人单位在试用期解除劳动合同的，应当向劳动者说明理由。

Article 21 During the probationary period, the employer shall not rescind the labor contract unless the employee falls under the circumstances specified in Article 39 or Items (1) and (2) of Article 40 of this Law. Where an employer rescinds a labor contract during the probationary period, it shall explain the reasons to the employee.

第二十二条 用人单位为劳动者提供专项培训费用，对其进行专业技术培训的，可以与该劳动者订立协议，约定服务期。

Article 22 Where an employer provides special training expenses for an employee and gives the employee professional technical training, it may conclude an agreement with the employee stipulating a service period.

劳动者违反服务期约定的，应当按照约定向用人单位支付违约金。违约金的数额不得超过用人单位提供的培训费用。用人单位要求劳动者支付的违约金不得超过服务期尚未履行部分所应分摊的培训费用。

Where an employee breaches the agreement on the service period, the employee shall pay liquidated damages to the employer as agreed. The amount of the liquidated damages shall not exceed the training expenses provided by the employer. The liquidated

damages that the employer requires the employee to pay shall not exceed the portion of the training expenses apportioned to the unperformed part of the service period.

用人单位与劳动者约定服务期的，不影响按照正常的工资调整机制提高劳动者在服务期期间的劳动报酬。

An agreement between the employer and the employee on a service period shall not affect the increase of the employee's labor remuneration during the service period according to the normal wage adjustment mechanism.

第二十三条 用人单位与劳动者可以在劳动合同中约定保守用人单位的商业秘密和与知识产权相关的保密事项。

Article 23 An employer and an employee may agree in the labor contract on keeping confidential the employer's trade secrets and confidentiality matters related to intellectual property rights.

对负有保密义务的劳动者，用人单位可以在劳动合同或者保密协议中与劳动者约定竞业限制条款，并约定在解除或者终止劳动合同后，在竞业限制期限内按月给予劳动者经济补偿。劳动者违反竞业限制约定的，应当按照约定向用人单位支付违约金。

For an employee who bears confidentiality obligations, the employer may agree with the employee on non-compete clauses in the labor contract or in a confidentiality agreement, and agree to pay the employee economic compensation on a monthly basis during the non-compete period after the rescission or termination of the labor contract. Where the employee breaches the non-compete agreement, the employee shall pay liquidated damages to the employer as agreed.

第二十四条 竞业限制的人员限于用人单位的高级管理人员、高级技术人员和其他负有保密义务的人员。竞业限制的范围、地域、期限由用人单位与劳动者约定，竞业限制的约定不得违反法律、法规的规定。

Article 24 The persons subject to non-compete restrictions are limited to the employer's senior management personnel, senior technical personnel, and other personnel bearing confidentiality obligations. The scope, territory, and duration of the non-compete restriction shall be agreed upon by the employer and the employee, and the non-compete agreement shall not violate the provisions of laws and regulations.

在解除或者终止劳动合同后，前款规定的人员到与本单位生产或者经营同类产品、从事同类业务的有竞争关系的其他用人单位，或者自己开业生产或者经营同类产品、从事同类业务的竞业限制期限，不得超过二年。

After the rescission or termination of the labor contract, the non-compete period during which the persons specified in the preceding paragraph work for another employer that competes with the original employer by producing or dealing in similar products or engaging in similar business, or establish their own business producing or dealing in similar products or engaging in similar business, shall not exceed two years.

第二十五条 除本法第二十二条和第二十三条规定的情形外，用人单位不得与劳动者约定由劳动者承担违约金。

Article 25 Except for the circumstances specified in Articles 22 and 23 of this Law, the employer shall not agree with the employee that the employee shall bear liquidated damages.

第二十六条 下列劳动合同无效或者部分无效：

Article 26 A labor contract shall be invalid or partially invalid under any of the following circumstances:

（一）以欺诈、胁迫的手段或者乘人之危，使对方在违背真实意思的情况下订立或者变更劳动合同的；

(1) The labor contract was concluded or modified by means of fraud or coercion, or by taking advantage of the other party's difficulties, causing the other party to act against its true intention;

（二）用人单位免除自己的法定责任、排除劳动者权利的；

(2) The employer exempts itself from its statutory liability or deprives the employee of his or her rights;

（三）违反法律、行政法规强制性规定的。

(3) The labor contract violates the mandatory provisions of laws or administrative regulations.

对劳动合同的无效或者部分无效有争议的，由劳动争议仲裁机构或者人民法院确认。

Any dispute over the invalidity or partial invalidity of a labor contract shall be confirmed by a labor dispute arbitration institution or a people's court.

第二十七条 劳动合同部分无效，不影响其他部分效力的，其他部分仍然有效。

Article 27 Where part of a labor contract is invalid but the validity of the remaining parts is not affected, the remaining parts shall remain valid.

第二十八条 劳动合同被确认无效，劳动者已付出劳动的，用人单位应当向劳动者支付劳动报酬。劳动报酬的数额，参照本单位相同或者相近岗位劳动者的劳动报酬确定。

Article 28 Where a labor contract is confirmed to be invalid but the employee has already performed labor, the employer shall pay the employee labor remuneration. The amount of the labor remuneration shall be determined with reference to that of employees in the same or similar positions in the employer's entity.

第三章 劳动合同的履行和变更

Chapter III Performance and Modification of Labor Contracts

第二十九条 用人单位与劳动者应当按照劳动合同的约定，全面履行各自的义务。

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

第三十条 用人单位应当按照劳动合同约定和国家规定，向劳动者及时足额支付劳动报酬。

Article 30 The employer shall pay labor remuneration to the employee in full and in a timely manner in accordance with the stipulations of the labor contract and the provisions of the State.

用人单位拖欠或者未足额支付劳动报酬的，劳动者可以依法向当地人民法院申请支付令，人民法院应当依法发出支付令。

Where the employer defaults on or fails to pay in full the labor remuneration, the employee may, in accordance with the law, apply to the local people's court for a payment order, and the people's court shall issue a payment order in accordance with the law.

第三十一条 用人单位应当严格执行劳动定额标准，不得强迫或者变相强迫劳动者加班。用人单位安排加班的，应当按照国家有关规定向劳动者支付加班费。

Article 31 Employers shall strictly implement labor quota standards and shall not compel or compel in a disguised form employees to work overtime. Where an employer arranges overtime work, it shall pay overtime pay to the employees in accordance with the relevant State provisions.

第三十二条 劳动者拒绝用人单位管理人员违章指挥、强令冒险作业的，不视为违反劳动合同。

Article 32 An employee who refuses to follow the unlawful instructions of the employer's management personnel or who refuses to be coerced into risky operations shall not be deemed to have breached the labor contract.

劳动者对危害生命安全和身体健康的劳动条件，有权对用人单位提出批评、检举和控告。

Employees have the right to criticize, report, and accuse the employer in respect of working conditions that endanger their life safety or physical health.

第三十三条 用人单位变更名称、法定代表人、主要负责人或者投资人等事项，不影响劳动合同的履行。

Article 33 A change in the name, legal representative, principal person in charge, investor, or other matters of the employer shall not affect the performance of the labor contract.

第三十四条 用人单位发生合并或者分立等情况，原劳动合同继续有效，劳动合同由承继其权利和义务的用人单位继续履行。

Article 34 Where the employer undergoes a merger, division, or similar circumstances, the original labor contracts shall remain valid and shall continue to be performed by the employer that succeeds to its rights and obligations.

第三十五条 用人单位与劳动者协商一致，可以变更劳动合同约定的内容。变更劳动合同，应当采用书面形式。

Article 35 The employer and the employee may, upon reaching consensus through consultation, modify the content stipulated in the labor contract. Modifications to a labor contract shall be made in writing.

变更后的劳动合同文本由用人单位和劳动者各执一份。

The text of the modified labor contract shall be held by the employer and the employee respectively.

第四章 劳动合同的解除和终止

Chapter IV Rescission and Termination of Labor Contracts

第三十六条 用人单位与劳动者协商一致，可以解除劳动合同。

Article 36 The employer and the employee may, upon reaching consensus through consultation, rescind the labor contract.

第三十七条 劳动者提前三十日以书面形式通知用人单位，可以解除劳动合同。劳动者在试用期内提前三日通知用人单位，可以解除劳动合同。

Article 37 An employee may rescind the labor contract by notifying the employer in writing thirty days in advance. An employee may rescind the labor contract during the probationary period by notifying the employer three days in advance.

第三十八条 用人单位有下列情形之一的，劳动者可以解除劳动合同：

Article 38 Under any of the following circumstances of the employer, the employee may rescind the labor contract:

(一) 未按照劳动合同约定提供劳动保护或者劳动条件的；

(1) Failing to provide labor protection or working conditions as stipulated in the labor contract;

(二) 未及时足额支付劳动报酬的；

(2) Failing to pay labor remuneration in full and in a timely manner;

(三) 未依法为劳动者缴纳社会保险费的；

(3) Failing to pay social insurance contributions for the employee in accordance with the law;

(四) 用人单位的规章制度违反法律、法规的规定，损害劳动者权益的；

(4) The employer's rules and regulations violate the provisions of laws or regulations, harming the rights and interests of the employee;

(五) 因本法第二十六条第一款规定的情形致使劳动合同无效的；

(5) The labor contract is invalid due to the circumstances specified in the first paragraph of Article 26 of this Law;

(六) 法律、行政法规规定劳动者可以解除劳动合同的其他情形。

(6) Other circumstances under which the employee may rescind the labor contract as prescribed by laws or administrative regulations.

用人单位以暴力、威胁或者非法限制人身自由的手段强迫劳动者劳动的，或者用人单位违章指挥、强令冒险作业危及劳动者人身安全的，劳动者可以立即解除劳动合同，不需事先告知用人单位。

Where the employer compels the employee to work by means of violence, threats, or unlawful restriction of personal freedom, or where the employer gives unlawful instructions or coerces the employee into risky operations that endanger the employee's personal safety, the employee may immediately rescind the labor contract without prior notice to the employer.

第三十九条 劳动者有下列情形之一的，用人单位可以解除劳动合同：

Article 39 Under any of the following circumstances of the employee, the employer may rescind the labor contract:

(一) 在试用期间被证明不符合录用条件的；

(1) Being proved not to meet the recruitment conditions during the probationary period;

(二) 严重违反用人单位的规章制度的；

(2) Seriously violating the employer's rules and regulations;

(三) 严重失职，营私舞弊，给用人单位造成重大损害的；

(3) Seriously neglecting duties or engaging in malpractice for personal gain, causing major damage to the employer;

(四) 劳动者同时与其他用人单位建立劳动关系，对完成本单位的工作任务造成严重影响，或者经用人单位提出，拒不改正的；

(4) Simultaneously establishing a labor relationship with another employer, which seriously affects the completion of the work tasks of the original employer, or refusing to make corrections after the employer has raised the matter;

(五) 因本法第二十六条第一款第一项规定的情形致使劳动合同无效的；

(5) The labor contract is invalid due to the circumstances specified in Item (1) of the first paragraph of Article 26 of this Law;

(六) 被依法追究刑事责任的。

(6) Being investigated for criminal liability in accordance with the law.

第四十条 有下列情形之一的，用人单位提前三十日以书面形式通知劳动者本人或者额外支付劳动者一个月工资后，可以解除劳动合同：

Article 40 Under any of the following circumstances, the employer may rescind the labor contract by notifying the employee in writing thirty days in advance or by paying the employee one month's wage in lieu of notice:

(一) 劳动者患病或者非因工负伤，在规定的医疗期满后不能从事原工作，也不能从事由用人单位另行安排的工作的；

(1) The employee suffers from an illness or a non-work-related injury and, upon expiry of the prescribed medical period, is unable to perform the original work or any other work arranged by the employer;

(二) 劳动者不能胜任工作，经过培训或者调整工作岗位，仍不能胜任工作的；

(2) The employee is incompetent for the work and remains incompetent after training or adjustment of the position;

(三) 劳动合同订立时所依据的客观情况发生重大变化，致使劳动合同无法履行，经用人单位与劳动者协商，未能就变更劳动合同内容达成协议的。

(3) The objective circumstances on which the conclusion of the labor contract was based have undergone major changes, rendering the labor contract impossible to perform, and the employer and the employee, after consultation, fail to reach an agreement on modifying the content of the labor contract.

第四十一条 有下列情形之一的，需要裁减人员二十人以上或者裁减不足二十人但占企业职工总数百分之十以上的，用人单位提前三十日向工会或者全体职工说明情况，听取工会或者职工的意见后，裁减人员方案经向劳动行政部门报告，可以裁减人员：

Article 41 Under any of the following circumstances, where it is necessary to lay off twenty or more employees, or fewer than twenty employees but accounting for ten percent or more of the total number of the enterprise's employees, the employer may carry out the layoff after explaining the circumstances to the trade union or all employees thirty days in advance, listening to the opinions of the trade union or the employees, and reporting the layoff plan to the labor administrative department:

(一) 依照企业破产法规定进行重整的；

(1) The enterprise undergoes reorganization in accordance with the Enterprise Bankruptcy Law;

(二) 生产经营发生严重困难的；

(2) The enterprise encounters serious difficulties in production and business operations;

(三) 企业转产、重大技术革新或者经营方式调整，经变更劳动合同后，仍需裁减人员的；

(3) The enterprise changes its production, introduces major technological innovations, or adjusts its mode of business operation, and layoffs are still needed after the modification of labor contracts;

(四) 其他因劳动合同订立时所依据的客观经济情况发生重大变化，致使劳动合同无法履行的。

(4) Other circumstances where the objective economic circumstances on which the conclusion of the labor contracts was based have undergone major changes, rendering the labor contracts impossible to perform.

裁减人员时，应当优先留用下列人员：

In carrying out a layoff, the employer shall retain in priority the following persons:

(一) 与本单位订立较长期限的固定期限劳动合同的；

(1) Those who have concluded fixed-term labor contracts of relatively long terms with the entity;

(二) 与本单位订立无固定期限劳动合同的；

(2) Those who have concluded open-ended labor contracts with the entity;

(三) 家庭无其他就业人员，有需要扶养的老人或者未成年人的。

(3) Those whose families have no other employed members and who have elderly persons or minors to support.

用人单位依照本条第一款规定裁减人员，在六个月内重新招用人员的，应当通知被裁减的人员，并在同等条件下优先招用被裁减的人员。

Where an employer that has laid off employees in accordance with the first paragraph of this Article recruits employees again within six months, it shall notify the laid-off employees and, under equal conditions, recruit the laid-off employees in priority.

第四十二条 劳动者有下列情形之一的，用人单位不得依照本法第四十条、第四十一条的规定解除劳动合同：

Article 42 Under any of the following circumstances of the employee, the employer shall not rescind the labor contract in accordance with Articles 40 and 41 of this Law:

(一) 从事接触职业病危害作业的劳动者未进行离岗前职业健康检查，或者疑似职业病病人在诊断或者医学观察期间的；

(1) An employee engaged in operations exposed to occupational disease hazards has not undergone a pre-departure occupational health examination, or a suspected occupational disease patient is in the period of diagnosis or medical observation;

(二) 在本单位患职业病或者因工负伤并被确认丧失或者部分丧失劳动能力的；

(2) The employee has contracted an occupational disease or suffered a work-related injury in the entity and has been confirmed to have totally or partially lost the ability to work;

(三) 患病或者非因工负伤，在规定的医疗期内的；

(3) The employee suffers from an illness or a non-work-related injury and is within the prescribed medical period;

(四) 女职工在孕期、产期、哺乳期的；

(4) A female employee is in pregnancy, confinement, or the nursing period;

(五) 在本单位连续工作满十五年，且距法定退休年龄不足五年的；

(5) The employee has worked for the entity continuously for fifteen years and is less than five years away from the statutory retirement age;

(六) 法律、行政法规规定的其他情形。

(6) Other circumstances prescribed by laws or administrative regulations.

第四十三条 用人单位单方解除劳动合同，应当事先将理由通知工会。用人单位违反法律、行政法规规定或者劳动合同约定的，工会有权要求用人单位纠正。用人单位应当研究工会的意见，并将处理结果书面通知工会。

Article 43 Where an employer unilaterally rescinds a labor contract, it shall notify the trade union of the reasons in advance. Where the employer violates the provisions of laws or administrative regulations or the stipulations of the labor contract, the trade union has the right to require the employer to make corrections. The employer shall consider the trade union's opinions and notify the trade union in writing of the handling result.

第四十四条 有下列情形之一的，劳动合同终止：

Article 44 A labor contract shall be terminated under any of the following circumstances:

(一) 劳动合同期满的；

(1) The term of the labor contract expires;

(二) 劳动者开始依法享受基本养老保险待遇的；

(2) The employee begins to enjoy basic pension insurance benefits in accordance with the law;

(三) 劳动者死亡，或者被人民法院宣告死亡或者宣告失踪的；

(3) The employee dies, or is declared dead or declared missing by a people's court;

(四) 用人单位被依法宣告破产的；

(4) The employer is declared bankrupt in accordance with the law;

(五) 用人单位被吊销营业执照、责令关闭、撤销或者用人单位决定提前解散的；

(5) The employer's business license is revoked, or the employer is ordered to close or is dissolved, or the employer decides to dissolve in advance;

(六) 法律、行政法规规定的其他情形。

(6) Other circumstances prescribed by laws or administrative regulations.

第四十五条 劳动合同期满，有本法第四十二条规定情形之一的，劳动合同应当续延至相应的情形消失时终止。但是，本法第四十二条第二项规定丧失或者部分丧失劳动能力劳动者的劳动合同的终止，按照国家有关工伤保险的规定执行。

Article 45 Where a labor contract expires while the employee falls under any of the circumstances specified in Article 42 of this Law, the labor contract shall be extended until the corresponding circumstance ceases to exist, at which time it shall terminate. However, the termination of the labor contract of an employee who has totally or partially lost the ability to work as specified in Item (2) of Article 42 of this Law shall be handled in accordance with the relevant State provisions on work-related injury insurance.

第四十六条 有下列情形之一的，用人单位应当向劳动者支付经济补偿：

Article 46 Under any of the following circumstances, the employer shall pay economic compensation to the employee:

(一) 劳动者依照本法第三十八条规定解除劳动合同的；

(1) The employee rescinds the labor contract in accordance with Article 38 of this Law;

(二) 用人单位依照本法第三十六条规定向劳动者提出解除劳动合同并与劳动者协商一致解除劳动合同的；

(2) The employer proposes to the employee the rescission of the labor contract in accordance with Article 36 of this Law, and the labor contract is rescinded upon consensus reached through consultation with the employee;

(三) 用人单位依照本法第四十条规定解除劳动合同的；

(3) The employer rescinds the labor contract in accordance with Article 40 of this Law;

(四) 用人单位依照本法第四十一条第一款规定解除劳动合同的；

(4) The employer rescinds the labor contract in accordance with the first paragraph of Article 41 of this Law;

(五) 除用人单位维持或者提高劳动合同约定条件续订劳动合同，劳动者不同意续订的情形外，依照本法第四十四条第一项规定终止固定期限劳动合同的；

(5) The fixed-term labor contract is terminated in accordance with Item (1) of Article 44 of this Law, except where the employer renews the labor contract on the same or improved conditions as stipulated and the employee does not agree to the renewal;

(六) 依照本法第四十四条第四项、第五项规定终止劳动合同的；

(6) The labor contract is terminated in accordance with Items (4) and (5) of Article 44 of this Law;

(七) 法律、行政法规规定的其他情形。

(7) Other circumstances prescribed by laws or administrative regulations.

第四十七条 经济补偿按劳动者在本单位工作的年限，每满一年支付一个月工资的标准向劳动者支付。六个月以上不满一年的，按一年计算；不满六个月的，向劳动者支付半个月工资的经济补偿。

Article 47 Economic compensation shall be paid to the employee at the rate of one month's wage for each full year of service with the employer. For a period of six months or more but less than one year, it shall be counted as one year; for a period of less than six months, economic compensation of half a month's wage shall be paid to the employee.

劳动者月工资高于用人单位所在直辖市、设区的市级人民政府公布的本地区上年度职工月平均工资三倍的，向其支付经济补偿的标准按职工月平均工资三倍的数额支付，向其支付经济补偿的年限最高不超过十二年。

Where the employee's monthly wage is higher than three times the average monthly wage of employees in the region for the preceding year as published by the people's government of the municipality directly under the Central Government or the city divided into districts where the employer is located, the economic compensation shall be paid at the rate of three times the average monthly wage of employees, and the number of years for which economic compensation is paid shall not exceed twelve years at most.

本条所称月工资是指劳动者在劳动合同解除或者终止前十二个月的平均工资。

The "monthly wage" referred to in this Article means the average wage of the employee over the twelve months preceding the rescission or termination of the labor contract.

第四十八条 用人单位违反本法规定解除或者终止劳动合同，劳动者要求继续履行劳动合同的，用人单位应当继续履行；劳动者不要求继续履行劳动合同或者劳动合同已经不能继续履行的，用人单位应当依照本法第八十七条规定支付赔偿金。

Article 48 Where the employer rescinds or terminates the labor contract in violation of this Law, and the employee demands continued performance of the labor contract, the employer shall continue to perform it; where the employee does not demand continued performance of the labor contract or the labor contract can no longer be performed, the employer shall pay damages in accordance with Article 87 of this Law.

第四十九条 国家采取措施，建立健全劳动者社会保险关系跨地区转移接续制度。

Article 49 The State shall take measures to establish and improve a system for the cross-region transfer and continuation of employees' social insurance relations.

第五十条 用人单位应当在解除或者终止劳动合同时出具解除或者终止劳动合同的证明，并在十五日内为劳动者办理档案和社会保险关系转移手续。

Article 50 The employer shall, at the time of rescission or termination of the labor contract, issue a certificate of rescission or termination of the labor contract, and shall, within fifteen days, complete the procedures for the transfer of the employee's archives and social insurance relations.

劳动者应当按照双方约定，办理工作交接。用人单位依照本法有关规定应当向劳动者支付经济补偿的，在办结工作交接时支付。

The employee shall, in accordance with the agreement of both parties, complete the handover of work. Where the employer shall pay economic compensation to the employee in accordance with the relevant provisions of this Law, the payment shall be made upon completion of the work handover.

用人单位对已经解除或者终止的劳动合同的文本，至少保存二年备查。

The employer shall keep the texts of labor contracts that have been rescinded or terminated for at least two years for inspection.

第五章 特别规定

Chapter V Special Provisions

第一节 集体合同

Section 1 Collective Contracts

第五十一条 企业职工一方与用人单位通过平等协商，可以就劳动报酬、工作时间、休息休假、劳动安全卫生、保险福利等事项订立集体合同。集体合同草案应当提交职工代表大会或者全体职工讨论通过。

Article 51 The employees of an enterprise, as one party, may conclude a collective contract with the employer through equal consultation on matters such as labor remuneration, working hours, rest and leave, labor safety and health, and insurance and welfare. The draft collective contract shall be submitted to the employees' congress or all employees for discussion and adoption.

集体合同由工会代表企业职工一方与用人单位订立；尚未建立工会的用人单位，由上级工会指导劳动者推举的代表与用人单位订立。

A collective contract shall be concluded by the trade union on behalf of the employees of the enterprise with the employer; for an employer that has not yet established a trade union, the contract shall be concluded by representatives elected by the employees under the guidance of the trade union at the next higher level with the employer.

第五十二条 企业职工一方与用人单位可以订立劳动安全卫生、女职工权益保护、工资调整机制等专项集体合同。

Article 52 The employees of an enterprise, as one party, may conclude special collective contracts with the employer on labor safety and health, the protection of the rights and interests of female employees, the wage adjustment mechanism, and the like.

第五十三条 在县级以上区域内，建筑业、采矿业、餐饮服务业等行业可以由工会与企业方面代表订立行业性集体合同，或者订立区域性集体合同。

Article 53 Within regions at or below the county level, industries such as construction, mining, and catering services may have industry-wide collective contracts or regional collective contracts concluded by trade unions with representatives of enterprises.

第五十四条 集体合同订立后，应当报送劳动行政部门；劳动行政部门自收到集体合同文本之日起十五日内未提出异议的，集体合同即行生效。

Article 54 After a collective contract is concluded, it shall be submitted to the labor administrative department; if the labor administrative department raises no objection within fifteen days of receiving the text of the collective contract, the collective contract shall take effect.

依法订立的集体合同对用人单位和劳动者具有约束力。行业性、区域性集体合同对当地本行业、本区域的用人单位和劳动者具有约束力。

A collective contract lawfully concluded is binding on the employer and the employees. An industry-wide or regional collective contract is binding on the employers and employees in the local industry or region concerned.

第五十五条 集体合同中劳动报酬和劳动条件等标准不得低于当地人民政府规定的最低标准；用人单位与劳动者订立的劳动合同中劳动报酬和劳动条件等标准不得低于集体合同规定的标准。

Article 55 The standards for labor remuneration, working conditions, and the like in a collective contract shall not be lower than the minimum standards prescribed by the local people's government; the standards for labor remuneration, working conditions, and the like in a labor contract concluded between the employer and an employee shall not be lower than the standards stipulated in the collective contract.

第五十六条 用人单位违反集体合同，侵犯职工劳动权益的，工会可以依法要求用人单位承担责任；因履行集体合同发生争议，经协商解决不成的，工会可以依法申请仲裁、提起诉讼。

Article 56 Where an employer violates a collective contract and infringes upon the labor rights and interests of employees, the trade union may, in accordance with the law, require the employer to bear liability; where a dispute arises over the performance of a collective contract and cannot be resolved through consultation, the trade union may, in accordance with the law, apply for arbitration or bring a lawsuit.

第二节 劳务派遣

Section 2 Labor Dispatch

第五十七条 经营劳务派遣业务应当具备下列条件：

Article 57 To engage in the labor dispatch business, the following conditions shall be met:

(一) 注册资本不得少于人民币二百万元；

(1) *The registered capital shall not be less than RMB two million yuan;*

(二) 有与开展业务相适应的固定的经营场所和设施；

(2) *Having fixed business premises and facilities commensurate with the business;*

(三) 有符合法律、行政法规规定的劳务派遣管理制度；

(3) *Having a labor dispatch management system that complies with laws and administrative regulations;*

(四) 法律、行政法规规定的其他条件。

(4) *Other conditions prescribed by laws and administrative regulations.*

经营劳务派遣业务，应当向劳动行政部门依法申请行政许可；经许可的，依法办理相应的公司登记。未经许可，任何单位和个人不得经营劳务派遣业务。

To engage in the labor dispatch business, an application for an administrative license shall be filed with the labor administrative department in accordance with the law; upon obtaining the license, the corresponding company registration shall be completed in accordance with the law. Without a license, no entity or individual may engage in the labor dispatch business.

第五十八条 劳务派遣单位是本法所称用人单位，应当履行用人单位对劳动者的义务。劳务派遣单位与被派遣劳动者订立的劳动合同，除应当载明本法第十七条规定的事项外，还应当载明被派遣劳动者的用工单位以及派遣期限、工作岗位等情况。

Article 58 A labor dispatch agency is the "employer" referred to in this Law and shall perform the obligations of an employer toward the employees. In addition to the matters specified in Article 17 of this Law, the labor contract concluded between a labor dispatch agency and a dispatched employee shall also specify the host entity to which the employee is dispatched, the dispatch period, the work position, and other particulars.

劳务派遣单位应当与被派遣劳动者订立二年以上的固定期限劳动合同，按月支付劳动报酬；被派遣劳动者在无工作期间，劳务派遣单位应当按照所在地人民政府规定的最低工资标准，向其按月支付报酬。

The labor dispatch agency shall conclude with the dispatched employee a fixed-term labor contract of two years or more and pay labor remuneration on a monthly basis; during periods when the dispatched employee has no work, the labor dispatch agency

shall pay remuneration to the employee on a monthly basis at the minimum wage standard prescribed by the people's government of the place where the agency is located.

第五十九条 劳务派遣单位派遣劳动者应当与接受以劳务派遣形式用工的单位（以下称用工单位）订立劳务派遣协议。劳务派遣协议应当约定派遣岗位和人员数量、派遣期限、劳动报酬和社会保险费的数额与支付方式以及违反协议的责任。

Article 59 A labor dispatch agency that dispatches employees shall conclude a labor dispatch agreement with the entity that accepts labor in the form of labor dispatch (hereinafter referred to as the "host entity"). The labor dispatch agreement shall stipulate the dispatch positions and number of personnel, the dispatch period, the amounts and payment methods of labor remuneration and social insurance contributions, and the liability for breach of the agreement.

用工单位应当根据工作岗位的实际需要与劳务派遣单位确定派遣期限，不得将连续用工期限分割订立数个短期劳务派遣协议。

The host entity shall, in light of the actual needs of the work position, determine the dispatch period with the labor dispatch agency, and shall not divide a continuous period of employment into several short-term labor dispatch agreements.

第六十条 劳务派遣单位应当将劳务派遣协议的内容告知被派遣劳动者。

Article 60 The labor dispatch agency shall inform the dispatched employee of the content of the labor dispatch agreement.

劳务派遣单位不得克扣用工单位按照劳务派遣协议支付给被派遣劳动者的劳动报酬。

The labor dispatch agency shall not deduct from the labor remuneration paid by the host entity to the dispatched employee in accordance with the labor dispatch agreement.

劳务派遣单位和用工单位不得向被派遣劳动者收取费用。

Neither the labor dispatch agency nor the host entity may charge fees to the dispatched employee.

第六十一条 劳务派遣单位跨地区派遣劳动者的，被派遣劳动者享有的劳动报酬和劳动条件，按照用工单位所在地的标准执行。

Article 61 Where a labor dispatch agency dispatches employees across regions, the labor remuneration and working conditions enjoyed by the dispatched employees shall be governed by the standards of the place where the host entity is located.

第六十二条 用工单位应当履行下列义务：

Article 62 The host entity shall perform the following obligations:

(一) 执行国家劳动标准，提供相应的劳动条件和劳动保护；

(1) Implementing State labor standards and providing corresponding working conditions and labor protection;

(二) 告知被派遣劳动者的工作要求和劳动报酬；

(2) Informing dispatched employees of the work requirements and labor remuneration;

(三) 支付加班费、绩效奖金，提供与工作岗位相关的福利待遇；

(3) Paying overtime pay and performance bonuses, and providing welfare benefits related to the work position;

(四) 对在岗被派遣劳动者进行工作岗位所必需的培训；

(4) Providing dispatched employees on the job with the training necessary for the work position;

(五) 连续用工的，实行正常的工资调整机制。

(5) Implementing a normal wage adjustment mechanism in the case of continuous employment.

用工单位不得将被派遣劳动者再派遣到其他用人单位。

The host entity shall not further dispatch the dispatched employees to other employers.

第六十三条 被派遣劳动者享有与用工单位的劳动者同工同酬的权利。用工单位应当按照同工同酬原则，对被派遣劳动者与本单位同类岗位的劳动者实行相同的劳动报酬分配办法。用工单位无同类岗位劳动者的，参照用工单位所在地相同或者相近岗位劳动者的劳动报酬确定。

Article 63 Dispatched employees enjoy the right to equal pay for equal work with the employees of the host entity. The host entity shall, in accordance with the principle of equal pay for equal work, apply the same labor remuneration distribution method to dispatched employees as to its own employees in similar positions. Where the host entity has no employees in similar positions, the remuneration shall be determined with

reference to that of employees in the same or similar positions at the place where the host entity is located.

劳务派遣单位与被派遣劳动者订立的劳动合同和与用工单位订立的劳务派遣协议，载明或者约定的向被派遣劳动者支付的劳动报酬应当符合前款规定。

The labor remuneration paid to dispatched employees as stated or agreed in the labor contracts concluded between labor dispatch agencies and dispatched employees, and in the labor dispatch agreements concluded with host entities, shall conform to the preceding paragraph.

第六十四条 被派遣劳动者有权在劳务派遣单位或者用工单位依法参加或者组织工会，维护自身的合法权益。

Article 64 Dispatched employees have the right to join or organize trade unions at the labor dispatch agency or the host entity in accordance with the law, so as to safeguard their legitimate rights and interests.

第六十五条 被派遣劳动者可以依照本法第三十六条、第三十八条的规定与劳务派遣单位解除劳动合同。

Article 65 A dispatched employee may rescind the labor contract with the labor dispatch agency in accordance with Articles 36 and 38 of this Law.

被派遣劳动者有本法第三十九条和第四十条第一项、第二项规定情形的，用工单位可以将劳动者退回劳务派遣单位，劳务派遣单位依照本法有关规定，可以与劳动者解除劳动合同。

Where a dispatched employee falls under the circumstances specified in Article 39 or Items (1) and (2) of Article 40 of this Law, the host entity may return the employee to the labor dispatch agency, and the labor dispatch agency may rescind the labor contract with the employee in accordance with the relevant provisions of this Law.

第六十六条 劳动合同用工是我国的企业基本用工形式。劳务派遣用工是补充形式，只能在临时性、辅助性或者替代性的工作岗位上实施。

Article 66 Employment under labor contracts is the basic form of employment for enterprises in China. Labor dispatch is a supplementary form and may be implemented only in temporary, auxiliary, or substituting work positions.

前款规定的临时性工作岗位是指存续时间不超过六个月的岗位；辅助性工作岗位是指为主营业务岗位提供服务的非主营业务岗位；替代性工作岗位是指用工单位

的劳动者因脱产学习、休假等原因无法工作的一定期间内，可以由其他劳动者替代工作的岗位。

The "temporary work positions" specified in the preceding paragraph mean positions lasting no more than six months; "auxiliary work positions" mean non-principal-business positions that provide services for principal business positions; "substituting work positions" mean positions in which the work may be performed by substitute employees during a period when the host entity's employees are unable to work due to off-the-job study, leave, or other reasons.

用工单位应当严格控制劳务派遣用工数量，不得超过其用工总量的一定比例，具体比例由国务院劳动行政部门规定。

The host entity shall strictly control the number of dispatched employees, which shall not exceed a certain proportion of its total workforce; the specific proportion shall be prescribed by the labor administrative department of the State Council.

第六十七条 用人单位不得设立劳务派遣单位向本单位或者所属单位派遣劳动者。

Article 67 An employer shall not establish a labor dispatch agency to dispatch employees to itself or its affiliated entities.

第三节 非全日制用工

Section 3 Part-Time Employment

第六十八条 非全日制用工，是指以小时计酬为主，劳动者在同一用人单位一般平均每日工作时间不超过四小时，每周工作时间累计不超过二十四小时的用工形式。

Article 68 Part-time employment refers to a form of employment in which remuneration is calculated mainly on an hourly basis and the employee's average daily working hours with the same employer generally do not exceed four hours and the cumulative weekly working hours do not exceed twenty-four hours.

第六十九条 非全日制用工双方当事人可以订立口头协议。

Article 69 The parties to part-time employment may conclude an oral agreement.

从事非全日制用工的劳动者可以与一个或者一个以上用人单位订立劳动合同；但是，后订立的劳动合同不得影响先订立的劳动合同的履行。

An employee engaged in part-time employment may conclude labor contracts with one or more employers; however, a labor contract concluded later shall not affect the performance of a labor contract concluded earlier.

第七十条 非全日制用工双方当事人不得约定试用期。

Article 70 The parties to part-time employment shall not agree on a probationary period.

第七十一条 非全日制用工双方当事人任何一方都可以随时通知对方终止用工。终止用工，用人单位不向劳动者支付经济补偿。

Article 71 Either party to part-time employment may notify the other party at any time to terminate the employment. Upon termination of the employment, the employer shall not pay economic compensation to the employee.

第七十二条 非全日制用工小时计酬标准不得低于用人单位所在地人民政府规定的最低小时工资标准。

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

非全日制用工劳动报酬结算支付周期最长不得超过十五日。

The settlement and payment cycle of labor remuneration for part-time employment shall not exceed fifteen days at most.

第六章 监督检查

Chapter VI Supervision and Inspection

第七十三条 国务院劳动行政部门负责全国劳动合同制度实施的监督管理。

Article 73 The labor administrative department of the State Council is responsible for the supervision and administration of the implementation of the labor contract system nationwide.

县级以上地方人民政府劳动行政部门负责本行政区域内劳动合同制度实施的监督管理。

The labor administrative departments of local people's governments at or above the county level are responsible for the supervision and administration of the implementation of the labor contract system within their respective administrative regions.

县级以上各级人民政府劳动行政部门在劳动合同制度实施的监督管理工作中，应当听取工会、企业方面代表以及有关行业主管部门的意见。

In the supervision and administration of the implementation of the labor contract system, the labor administrative departments of people's governments at or above the county level shall listen to the opinions of trade unions, representatives of enterprises, and the relevant competent departments of the industries concerned.

第七十四条 县级以上地方人民政府劳动行政部门依法对下列实施劳动合同制度的情况进行监督检查：

Article 74 The labor administrative departments of local people's governments at or above the county level shall, in accordance with the law, conduct supervision and inspection of the following aspects of the implementation of the labor contract system:

(一) 用人单位制定直接涉及劳动者切身利益的规章制度及其执行的情况；

(1) The employer's formulation of rules and regulations directly concerning the vital interests of employees and the implementation thereof;

(二) 用人单位与劳动者订立和解除劳动合同的情况；

(2) The conclusion and rescission of labor contracts between the employer and employees;

(三) 劳务派遣单位和用工单位遵守劳务派遣有关规定的情况；

(3) The compliance of labor dispatch agencies and host entities with the relevant provisions on labor dispatch;

(四) 用人单位遵守国家关于劳动者工作时间和休息休假规定的情况；

(4) The employer's compliance with the State provisions on employees' working hours and rest and leave;

(五) 用人单位支付劳动合同约定的劳动报酬和执行最低工资标准的情况；

(5) The employer's payment of labor remuneration stipulated in labor contracts and implementation of minimum wage standards;

(六) 用人单位参加各项社会保险和缴纳社会保险费的情况；

(6) The employer's participation in various social insurance schemes and payment of social insurance contributions;

(七) 法律、法规规定的其他劳动监察事项。

(7) Other matters of labor supervision prescribed by laws and regulations.

第七十五条 县级以上地方人民政府劳动行政部门实施监督检查时，有权查阅与劳动合同、集体合同有关材料，有权对劳动场所进行实地检查，用人单位和劳动者都应当如实提供有关情况和材料。

Article 75 When conducting supervision and inspection, the labor administrative departments of local people's governments at or above the county level have the right to consult materials relating to labor contracts and collective contracts and to conduct on-site inspections of workplaces, and both employers and employees shall truthfully provide the relevant circumstances and materials.

劳动行政部门的工作人员进行监督检查，应当出示证件，依法行使职权，文明执法。

The staff of labor administrative departments conducting supervision and inspection shall present their credentials, exercise their powers in accordance with the law, and enforce the law in a civilized manner.

第七十六条 县级以上人民政府建设、卫生、安全生产监督管理等有关主管部门在各自职责范围内，对用人单位执行劳动合同制度的情况进行监督管理。

Article 76 The competent departments of construction, health, work safety supervision and administration, and other relevant departments of people's governments at or above the county level shall, within the scope of their respective functions, supervise and administer employers' implementation of the labor contract system.

第七十七条 劳动者合法权益受到侵害的，有权要求有关部门依法处理，或者依法申请仲裁、提起诉讼。

Article 77 An employee whose legitimate rights and interests are infringed upon has the right to request the relevant departments to handle the matter in accordance with the law, or to apply for arbitration or bring a lawsuit in accordance with the law.

第七十八条 工会依法维护劳动者的合法权益，对用人单位履行劳动合同、集体合同的情况进行监督。用人单位违反劳动法律、法规和劳动合同、集体合同的，工会有权提出意见或者要求纠正；劳动者申请仲裁、提起诉讼的，工会依法给予支持和帮助。

Article 78 Trade unions shall, in accordance with the law, safeguard the legitimate rights and interests of employees and supervise the employers' performance of labor contracts and collective contracts. Where an employer violates labor laws, regulations, labor contracts, or collective contracts, the trade union has the right to put forward opinions or require corrections; where an employee applies for arbitration or brings a lawsuit, the trade union shall, in accordance with the law, provide support and assistance.

第七十九条 任何组织或者个人对违反本法的行为都有权举报，县级以上人民政府劳动行政部门应当及时核实、处理，并对举报有功人员给予奖励。

Article 79 Any organization or individual has the right to report violations of this Law; the labor administrative departments of people's governments at or above the county level shall promptly verify and handle the reports and give rewards to those whose reports render meritorious service.

第七章 法律责任

Chapter VII Legal Liability

第八十条 用人单位直接涉及劳动者切身利益的规章制度违反法律、法规规定的，由劳动行政部门责令改正，给予警告；给劳动者造成损害的，应当承担赔偿责任。

Article 80 Where an employer's rules and regulations directly concerning the vital interests of employees violate the provisions of laws or regulations, the labor administrative department shall order corrections and give a warning; where damage is caused to employees, the employer shall bear liability for compensation.

第八十一条 用人单位提供的劳动合同文本未载明本法规定的劳动合同必备条款或者用人单位未将劳动合同文本交付劳动者的，由劳动行政部门责令改正；给劳动者造成损害的，应当承担赔偿责任。

Article 81 Where the text of a labor contract provided by an employer fails to state the mandatory terms of a labor contract as required by this Law, or the employer fails to deliver the text of the labor contract to the employee, the labor administrative department shall order corrections; where damage is caused to the employee, the employer shall bear liability for compensation.

第八十二条 用人单位自用工之日起超过一个月不满一年未与劳动者订立书面劳动合同的，应当向劳动者每月支付二倍的工资。

Article 82 Where an employer fails to conclude a written labor contract with an employee for more than one month but less than one year from the date the employee starts work, it shall pay the employee double wages for each month.

用人单位违反本法规定不与劳动者订立无固定期限劳动合同的，自应当订立无固定期限劳动合同之日起向劳动者每月支付二倍的工资。

Where an employer, in violation of this Law, fails to conclude an open-ended labor contract with an employee, it shall pay the employee double wages for each month from the date on which the open-ended labor contract should have been concluded.

第八十三条 用人单位违反本法规定与劳动者约定试用期的，由劳动行政部门责令改正；违法约定的试用期已经履行的，由用人单位以劳动者试用期满月工资为标准，按已经履行的超过法定试用期的期间向劳动者支付赔偿金。

Article 83 Where an employer, in violation of this Law, agrees with an employee on a probationary period, the labor administrative department shall order corrections; where the unlawfully agreed probationary period has been served, the employer shall pay damages to the employee, calculated at the employee's full monthly wage after the probationary period, for the period served in excess of the statutory probationary period.

第八十四条 用人单位违反本法规定，扣押劳动者居民身份证等证件的，由劳动行政部门责令限期退还劳动者本人，并依照有关法律规定给予处罚。

Article 84 Where an employer, in violation of this Law, seizes an employee's resident identity card or other certificates, the labor administrative department shall order the return thereof to the employee within a prescribed time limit and impose punishment in accordance with the relevant provisions of law.

用人单位违反本法规定，以担保或者其他名义向劳动者收取财物的，由劳动行政部门责令限期退还劳动者本人，并以每人五百元以上二千元以下的标准处以罚款；给劳动者造成损害的，应当承担赔偿责任。

Where an employer, in violation of this Law, collects money or property from an employee under the pretext of a guarantee or otherwise, the labor administrative department shall order the return thereof to the employee within a prescribed time limit and impose a fine of not less than RMB 500 yuan but not more than RMB 2,000 yuan per person; where damage is caused to the employee, the employer shall bear liability for compensation.

劳动者依法解除或者终止劳动合同，用人单位扣押劳动者档案或者其他物品的，依照前款规定处罚。

Where an employee lawfully rescinds or terminates the labor contract and the employer seizes the employee's archives or other belongings, punishment shall be imposed in accordance with the preceding paragraph.

第八十五条 用人单位有下列情形之一的，由劳动行政部门责令限期支付劳动报酬、加班费或者经济补偿；劳动报酬低于当地最低工资标准的，应当支付其差额部分；逾期不支付的，责令用人单位按应付金额百分之五十以上百分之一百以下的标准向劳动者加付赔偿金：

Article 85 Under any of the following circumstances of the employer, the labor administrative department shall order payment of labor remuneration, overtime pay, or economic compensation within a prescribed time limit; where the labor remuneration is lower than the local minimum wage standard, the difference shall be paid; where payment is not made within the time limit, the employer shall be ordered to pay additional damages to the employee at the rate of not less than fifty percent but not more than one hundred percent of the amount payable:

(一) 未按照劳动合同的约定或者国家规定及时足额支付劳动者劳动报酬的；

(1) Failing to pay the employee labor remuneration in full and in a timely manner in accordance with the stipulations of the labor contract or the provisions of the State;

(二) 低于当地最低工资标准支付劳动者工资的；

(2) Paying the employee wages below the local minimum wage standard;

(三) 安排加班不支付加班费的；

(3) Arranging overtime work without paying overtime pay;

(四) 解除或者终止劳动合同，未依照本法规定向劳动者支付经济补偿的。

(4) Rescinding or terminating a labor contract without paying the employee economic compensation in accordance with this Law.

第八十六条 劳动合同依照本法第二十六条规定被确认无效，给对方造成损害的，有过错的一方应当承担赔偿责任。

Article 86 Where a labor contract is confirmed to be invalid in accordance with Article 26 of this Law, causing damage to the other party, the party at fault shall bear liability for compensation.

第八十七条 用人单位违反本法规定解除或者终止劳动合同的，应当依照本法第四十七条规定的经济补偿标准的二倍向劳动者支付赔偿金。

Article 87 Where an employer rescinds or terminates a labor contract in violation of this Law, it shall pay damages to the employee at twice the rate of economic compensation prescribed in Article 47 of this Law.

第八十八条 用人单位有下列情形之一的，依法给予行政处罚；构成犯罪的，依法追究刑事责任；给劳动者造成损害的，应当承担赔偿责任：

Article 88 Under any of the following circumstances of the employer, an administrative punishment shall be imposed in accordance with the law; where a crime is constituted, criminal liability shall be pursued in accordance with the law; where damage is caused to employees, the employer shall bear liability for compensation:

(一) 以暴力、威胁或者非法限制人身自由的手段强迫劳动的；

(1) Compelling labor by means of violence, threats, or unlawful restriction of personal freedom;

(二) 违章指挥或者强令冒险作业危及劳动者人身安全的；

(2) Giving unlawful instructions or coercing employees into risky operations that endanger their personal safety;

(三) 侮辱、体罚、殴打、非法搜查或者拘禁劳动者的；

(3) Insulting, physically punishing, beating, unlawfully searching, or detaining employees;

(四) 劳动条件恶劣、环境污染严重，给劳动者身心健康造成严重损害的。

(4) Atrocious working conditions or severe environmental pollution causing serious damage to the physical and mental health of employees.

第八十九条 用人单位违反本法规定未向劳动者出具解除或者终止劳动合同的书面证明，由劳动行政部门责令改正；给劳动者造成损害的，应当承担赔偿责任。

Article 89 Where an employer, in violation of this Law, fails to issue to an employee a written certificate of rescission or termination of the labor contract, the labor administrative department shall order corrections; where damage is caused to the employee, the employer shall bear liability for compensation.

第九十条 劳动者违反本法规定解除劳动合同，或者违反劳动合同中约定的保密义务或者竞业限制，给用人单位造成损失的，应当承担赔偿责任。

Article 90 Where an employee rescinds the labor contract in violation of this Law, or breaches the confidentiality obligations or non-compete restrictions agreed upon in the labor contract, causing losses to the employer, the employee shall bear liability for compensation.

第九十一条 用人单位招用与其他用人单位尚未解除或者终止劳动合同的劳动者，给其他用人单位造成损失的，应当承担连带赔偿责任。

Article 91 Where an employer recruits an employee whose labor contract with another employer has not yet been rescinded or terminated, causing losses to the other employer, it shall bear joint and several liability for compensation.

第九十二条 违反本法规定，未经许可，擅自经营劳务派遣业务的，由劳动行政部门责令停止违法行为，没收违法所得，并处违法所得一倍以上五倍以下的罚款；没有违法所得的，可以处五万元以下的罚款。

Article 92 Where, in violation of this Law, any entity or individual engages in the labor dispatch business without a license, the labor administrative department shall order the cessation of the illegal act, confiscate the illegal gains, and impose a fine of not less than one time but not more than five times the illegal gains; where there are no illegal gains, a fine of not more than RMB 50,000 yuan may be imposed.

劳务派遣单位、用工单位违反本法有关劳务派遣规定的，由劳动行政部门责令限期改正；逾期不改正的，以每人五千元以上一万元以下的标准处以罚款，对劳务派遣单位，吊销其劳务派遣业务经营许可证。用工单位给被派遣劳动者造成损害的，劳务派遣单位与用工单位承担连带赔偿责任。

Where a labor dispatch agency or a host entity violates the provisions of this Law on labor dispatch, the labor administrative department shall order rectification within a prescribed time limit; where rectification is not made within the time limit, a fine of not less than RMB 5,000 yuan but not more than RMB 10,000 yuan per person shall be imposed, and the labor dispatch agency's business license for labor dispatch shall be revoked. Where a host entity causes damage to a dispatched employee, the labor dispatch agency and the host entity shall bear joint and several liability for compensation.

第九十三条 对不具备合法经营资格的用人单位的违法犯罪行为，依法追究法律责任；劳动者已经付出劳动的，该单位或者其出资人应当依照本法有关规定向劳

动者支付劳动报酬、经济补偿、赔偿金；给劳动者造成损害的，应当承担赔偿责任。

Article 93 For illegal or criminal acts of an employer that does not have lawful business qualifications, legal liability shall be pursued in accordance with the law; where employees have already performed labor, the entity or its investors shall, in accordance with the relevant provisions of this Law, pay the employees labor remuneration, economic compensation, and damages; where damage is caused to employees, liability for compensation shall be borne.

第九十四条 个人承包经营违反本法规定招用劳动者，给劳动者造成损害的，发包的组织与个人承包经营者承担连带赔偿责任。

Article 94 Where an individual contractor, in recruiting employees, violates the provisions of this Law, causing damage to employees, the organization that awarded the contract and the individual contractor shall bear joint and several liability for compensation.

第九十五条 劳动行政部门和其他有关主管部门及其工作人员玩忽职守、不履行法定职责，或者违法行使职权，给劳动者或者用人单位造成损害的，应当承担赔偿责任；对直接负责的主管人员和其他直接责任人员，依法给予行政处分；构成犯罪的，依法追究刑事责任。

Article 95 Where labor administrative departments, other relevant competent departments, or their staff neglect their duties, fail to perform their statutory duties, or unlawfully exercise their powers, causing damage to employees or employers, they shall bear liability for compensation; the directly responsible supervisors and other directly responsible personnel shall be given administrative sanctions in accordance with the law; where a crime is constituted, criminal liability shall be pursued in accordance with the law.

第八章 附 则

Chapter VIII Supplementary Provisions

第九十六条 事业单位与实行聘用制的工作人员订立、履行、变更、解除或者终止劳动合同，法律、行政法规或者国务院另有规定的，依照其规定；未作规定的，依照本法有关规定执行。

Article 96 Where laws, administrative regulations, or the State Council provide otherwise for the conclusion, performance, modification, rescission, or termination of labor contracts between public institutions and their staff under the employment

(appointment) system, such provisions shall apply; where no such provisions exist, the relevant provisions of this Law shall apply.

第九十七条 本法施行前已依法订立且在本法施行之日存续的劳动合同，继续履行；本法第十四条第二款第三项规定连续订立固定期限劳动合同的次数，自本法施行后续订固定期限劳动合同时开始计算。

Article 97 Labor contracts lawfully concluded before the implementation of this Law that remain in existence on the date of its implementation shall continue to be performed; the number of consecutive conclusions of fixed-term labor contracts specified in Item (3) of the second paragraph of Article 14 of this Law shall be counted from the first renewal of a fixed-term labor contract after the implementation of this Law.

本法施行前已建立劳动关系，尚未订立书面劳动合同的，应当自本法施行之日起一个月内订立。

Where a labor relationship has been established before the implementation of this Law but no written labor contract has been concluded, a written labor contract shall be concluded within one month from the date of implementation of this Law.

本法施行之日存续的劳动合同在本法施行后解除或者终止，依照本法第四十六条规定应当支付经济补偿的，经济补偿年限自本法施行之日起计算；本法施行前按照当时有关规定，用人单位应当向劳动者支付经济补偿的，按照当时有关规定执行。

Where a labor contract in existence on the date of implementation of this Law is rescinded or terminated after the implementation of this Law, and economic compensation shall be paid in accordance with Article 46 of this Law, the number of years for economic compensation shall be calculated from the date of implementation of this Law; where the employer was required to pay economic compensation to the employee under the relevant provisions in force before the implementation of this Law, the provisions in force at that time shall apply.

第九十八条 本法自 2008 年 1 月 1 日起施行。

Article 98 This Law shall come into force on January 1, 2008.