

Employment Promotion Law of the People's Republic of China

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Chapter I General Provisions

Article 1

This Law is formulated in order to promote the employment, the coordination between economic development and employment expansion, and the harmony and stability of society.

Article 2

The State shall put employment expansion as a priority of the economic and social development, implement pro-active employment policies, upholds the guideline according to which the labourers choose jobs on their own initiative, the market regulates employment and the government promotes employment, and expand employment through multiple channels.

Article 3

The labourers shall have the right to equal employment and to choose jobs on their own initiative in accordance with law.

The labourers seeking employment shall not be subject to discrimination on the basis of ethnicity, race, gender, religious belief, etc.

Article 4

The people's governments at the county level and above shall consider employment expansion as one of the important goals for the economic and social development, incorporate it in the plans on the development of national economy and society, and formulate medium and long term planning and annual work plans on employment promotion.

Article 5

The people's governments at the county level and above shall create employment conditions and

expand employment through such measures as developing the economy, adjusting the industrial structure, regulating the market of human resources, improving the employment services, strengthening the vocational education and training, and providing employment aids, etc.

Article 6

The State Council shall establish national coordination mechanism for the employment promotion work, study the significant problems in the employment work, coordinate and push forward the national employment promotion work. The labour administrative department of the State Council shall be specifically in charge of the national employment promotion work.

The people's government of each province, autonomous region or municipality directly under the Central Government shall, according to the needs of employment promotion work, establish a coordination mechanism for the employment promotion work, coordinate and solve the significant problems in the employment work in its own administrative area.

The relevant departments of the people's government at the county level and above shall, under their respective functions, make joint efforts to accomplish the employment promotion work..

Article 7

The State advocates that the labourers establish correct concept of choosing their jobs, enhance their employability and capability of starting-up their own businesses; and encourages the labourers to start up businesses on their own initiative and seek jobs by themselves.

The people's governments at all levels and the relevant departments shall simplify procedures and increase efficiency so as to make it convenient for the labourers to start up businesses on their own initiative and seek jobs by themselves.

Article 8

The employing units shall have the right to employ the labourers on their own initiative in according with the law.

The employing units shall guarantee the legal rights and interests of the labourers in accordance with this Law, other laws and regulations.

Article 9

The trade unions, communist youth leagues, women's federations, disabled persons' federations and other social organizations shall assist the people's governments to carry out the employment promotion work, and protect the labour rights of the labourers in according with the law.

Article 10

The people's governments at all levels and the relevant departments shall commend and reward the units and individuals who have made outstanding achievements in the employment promotion work..

Chapter II Policy Support

Article 11

The people's governments at the county level and above shall consider employment expansion as their important mandate, and uniformly coordinate the industry and the employment policies.

Article 12

The State encourages various enterprises to increase jobs by creating new businesses or expanding production within the scope as prescribed by laws and regulations.

The State encourages the development of labour-intensive industries and service industry, supports medium and small enterprises so as to increase jobs through multiple channels and by diversified means.

The State encourages, supports and directs the development of non-public economy so as to expand employment and increase jobs.

Article 13

The State develops trade both home and abroad as well as international economic cooperation so as to expand employment channels.

Article 14

When the people's governments at the county level and above arrange a government investment or decide an important construction project, they shall make the investment or the important construction project play the roles of driving up the employment and increase jobs.

Article 15

The State implements fiscal policies helpful to employment promotion, increases financial input and improves the employment environment so as to expand employment.

The people's governments at the county level and above shall, according to the employment situation and the goal of employment work, arrange special employment fund for employment promotion work in the fiscal budget.

The special employment fund shall be used as subsidies for job placement, vocational training, posts for public good, verification of occupational skills, specific employment policies, social insurances, etc., as guarantee fund for small loans and discounted interests on small guarantee loans for minor-profit projects, and be used for supporting the public employment services and so on. The management measures for uses of the special employment fund shall be formulated by the finance department and the labour administrative department of the State Council.

Article 16

The State shall establish and improve a unemployment insurance scheme so as to ensure the basic

living of the unemployed persons and promote their employment.

Article 17

The State encourages the enterprises to increase jobs and support the unemployed persons and the disabled persons to get jobs, and offers tax preferential treatments to the following enterprises and persons:

1. Enterprises that meet the requirement for hiring the unemployed persons who satisfy the conditions as prescribed by the State;
2. Medium and small enterprises set up by unemployed persons;
3. Enterprises that meet the prescribed rate of placement of disabled persons, or that hire disabled persons in a centralized manner;
4. Unemployed persons engaging in individual industrial and commercial households and meeting the conditions as prescribed by the State;
5. Disabled persons engaging in individual industrial and commercial households;
6. Other enterprises and persons entitled to enjoy tax preferential treatments under provisions of the State Council.

Article 18

For the persons as mentioned in Article 17 (4) and (5) of this Law, the relevant departments shall give favorable consideration in such aspects as business site, etc. and shall exempt them from administrative fees.

Article 19

The State shall adopt financial policies favorable for employment promotion, increase financing channels for medium and small enterprises, and encourage financial institutions to improve financial services, to give medium and small enterprises more loan support and to provide, within a certain time limit, such supports as small loans and so on to persons who start up businesses on their own initiative.

Article 20

The State shall implement employment policies under an overall urban and rural plan, establish and improve a system for equal employment of urban and rural labourers and direct the transfer of employment of surplus agricultural labour force in an orderly manner.

The local people's governments at the county level and above shall push forward the construction of small towns and accelerate the economic development of county areas, and direct the surplus agricultural labour force to find jobs at or near their own localities. When formulating planning on small towns, they should consider the transfer of employment of the surplus agricultural labour force of their respective areas as an important component.

The local people's governments at the county level and above shall direct the surplus agricultural labour force to transfer to different urban areas for employment in an orderly manner. The people's governments of the labour force export and import areas shall cooperate with each other so as to improve the employment environment and conditions favorable to cities access for rural

labourers.

Article 21

The State supports the development of regional economy, encourages regional cooperation and coordinate comprehensively the balanced increase of employment in different areas.

The State supports ethnic minority areas to develop economy and expand employment.

Article 22

The people's governments at all levels shall do a good job in overall plan on the employment of newly increasing urban labour force, the transfer of employment of surplus agricultural labour force, as well as the employment of unemployed persons.

Article 23

The people's governments at all levels shall take measures to gradually improve and implement the labour and social insurance policies adapted to such flexible employment as part-time jobs so as to provide assistances and services to the persons engaged in flexible employment.

Article 24

The local people's governments and the relevant departments at all levels shall strengthen the guidance to unemployed persons engaging in individual industrial and commercial households, and provide them with such services as policy consultation, vocational training, and instructions on start of businesses.

Chapter III Fair Employment

Article 25

The people's governments at all levels shall create an environment for fair employment, eliminate employment discrimination, and formulate policies and take measures to support and aid the people who have difficulties in finding jobs.

Article 26

When an employing unit recruits labourers, or when an employment agency engages in job intermediary activities, it shall provide labourers with equal employment opportunities and fair employment conditions and shall not have any employment discrimination.

Article 27

The State shall ensure that women enjoy equal labour rights as men.

When an employing unit recruits labourers, it shall not use sex as a pretext for excluding women from employment or to raise recruitment standards for the females, except for the types of work or posts that are not suitable for women as stipulated by the State.

When an employing unit recruits female workers, it shall not stipulate in the labour contract any

content, which restricts female workers from getting married or bearing child.

Article 28

The labourers of all ethnic groups enjoy equal labour rights.

When an employing unit recruits labourers, it shall give appropriate consideration to the labourers of ethnic minorities in accordance with law.

Article 29

The State shall guarantee the labour rights of disabled persons.

The people's governments at all levels shall make an overall plan on the employment of disabled persons so as to create employment conditions favorable to disabled persons.

When an employing unit recruits labourers, it shall not discriminate against disabled persons.

Article 30

When an employing unit recruits labourers, it shall not use the pretext that he or she is a carrier of an infectious disease for excluding him from employment. However, before a carrier of an infectious disease is confirmed upon medical test that he or she is cured or excluded from the possibility of spreading the disease, he or she shall not take up the jobs, in which it is likely to spread the disease and which are prohibited in laws and administrative regulations and by the health administrative department of the State Council.

Article 31

Rural labourers who enter cities for employment shall enjoy equal labour rights as urban labourers. It is not allowed to set discriminatory restrictions against rural labourers entering cities for employment.

Chapter IV Employment Services and Management

Article 32

The people's governments at the county level and above shall foster and improve uniform, open, competitive and orderly human resource markets to provide employment services to the labourers.

Article 33

The people's governments at the county level and above shall encourage the whole society to carry out employment service activities in accordance with law, strengthen the guidance and supervision over the public employment services and employment agency services and gradually improve an employment service system covering urban and rural areas.

Article 34

The people's governments at the county level and above shall intensify the construction of information networks and relevant facilities of human resource markets, establish and improve an

information service system for human resource markets, and improve its market information dissemination regime.

Article 35

The people's governments at the county level and above shall establish and improve a public employment service system and set up public employment service agencies to provide to the labourers the following free services:

1. Consultation on employment policies and regulations;
2. Release of information about supply and demand of jobs, guideline standards for the market wages and vocational training;
3. Vocational guidance and job placement;
4. Employment aids to those who have difficulties in finding jobs;
5. Registration of employment and unemployment, as well as other affairs;
6. Other public employment services.

A public employment service agency shall continuously improve the quality and efficiency of services. It shall not engage in any commercial activity.

The funds for public employment services shall be incorporated in the fiscal budget at the same administrative level.

Article 36

The people's governments at the county level and above shall, under the relevant provisions, offer subsidies to employment agencies, which provide public good employment services.

The State encourages the whole society to provide donations and financial aids for public good employment services.

Article 37

Local people's government at all levels or relevant departments shall not set up any employment agency for a commercial purpose or does that jointly with others.

No fee may be charged against labourers at job fairs held by local people's governments at all levels, relevant departments and public employment service agencies.

Article 38

The people's governments at the county level and above and relevant departments shall strengthen the administration of employment agencies, encourage them to improve the service quality and play their roles in employment promotion.

Article 39

The principle of lawfulness, good faith, fairness and openness shall be observed in engaging in employment intermediary activities.

When an employing unit recruits labourers via an employment agency, it shall faithfully provide the agency with the information about the post demand. It is forbidden for any organization or individual to infringe legitimate rights and interests of the labourers by taking the advantage of job intermediary activities.

Article 40

To establish an employment agency, the following conditions shall be met:

1. Having explicit regulation and management system;
 2. Having a fixed business site, office facilities and a certain sum of startup capital, which are essential to carry out business;
 3. Having a certain number of full time staff, who have corresponding occupational qualifications;
- and
4. Other conditions as prescribed by laws and regulations.

To establish an employment agency, an administrative license shall be applied for in accordance with law. Such employment agency shall register in the industrial and commercial administrative department.

Any institution without license and registration in accordance with law shall not engage in job intermediary activities.

If the State provides otherwise for foreign-funded employment agencies and those employment agencies offering overseas employment services, such provisions shall prevail.

Article 41

No employment agency may

1. provide false employment information;
2. offer job intermediary services to any employing unit without lawful license;
3. counterfeit, alter or transfer the employment agency license;
4. detain the labourers' resident identity cards and other certificates, or charge a deposit against the labourers;
5. conduct other acts in violation of any provision of laws and regulations.

Article 42

The people's governments at the county level and above shall establish an unemployment pre-warning system so as to prevent, adjust and control unemployment on a large scale, which may appear.

Article 43

The State shall establish a statistical inquiry system on the labour force and a registration system on employment and unemployment so as to conduct statistical inquiry on the resource of labour force as well as the status of employment and unemployment, and release the statistical findings.

When statistical departments and labour administrative departments conduct statistical inquiry on

the labour force and register the employment and unemployment, the employing units and individuals shall faithfully provide the information required for the statistical inquiry and registration.

Chapter V Vocational Education and Training

Article 44

The State shall develop vocational education in accordance with law, encourage developing vocational training, promote the labourers to improve their vocational skills and enhance their employability and capability of starting up their own businesses.

Article 45

The people's governments at the county level and above shall, according to the economic and social development and market demands, formulate and implement plans on the development of vocational capabilities.

Article 46

The people's governments at the county level and above shall strengthen the coordination under an overall plan, encourage and support various vocational colleges and schools, vocational skills training institutions and employing units to carry out pre-employment training, on-the-job training, re-employment training and training on starting up businesses, and encourage the labourers to participate in various forms of training.

Article 47

The local people's governments at the county level and above and the relevant departments shall, according to the market demands and the direction of industrial development, encourage and guide enterprises to strengthen vocational education and training.

Vocational colleges and schools and vocational skills training institutions shall keep close touch with enterprises, combine teaching with production, serve the economic construction and foster practical talents and skilled labourers.

An enterprise shall draw the fund for workers' education according to the relevant provisions of the State, and conduct vocational skill training and continuing education for the labourers.

Article 48

The State shall take measures to establish and improve a labour reserve system. The local people's governments at the county level and above shall offer a certain time period of vocational education and training to the graduates of junior and senior middle school, and make them obtain corresponding vocational qualification or master certain vocational skills.

Article 49

The local people's governments at all levels shall encourage and support the employment training, help the unemployed persons to improve their vocational skills and strengthen their employability

and capability of starting up businesses. Where an unemployed person participates in employment training, he or she is entitled to enjoy the training subsidies of the government.

Article 50

The local people's governments at all levels shall take effective measures to organize and guide the rural labourers entering cities for employment to participate in skill training, and encourage various training institutions to provide skill training to rural labourers entering cities for employment so as to enhance their employability and capability of starting up businesses.

Article 51

The State practices a vocational qualification certificate system for the labourers engaging in special types of work such as those relating to the public security, personal health, safety of life and property, etc. Specific measures shall be formulated by the State Council.

Chapter VI Employment Aids

Article 52

The people's governments at all levels shall establish and improve employment aid system, give priority to supporting and helping the persons who have difficulties in finding jobs, by taking such measures as exemption and deduction of taxes and fees, discount interest loans, social insurance subsidies, post subsidies, and by such approaches as placement in posts for public good.

The term "persons who have difficulties in finding jobs" refers to those persons who have difficulties in achieving employment for physical condition, skill level, family factor, loss of land or any other reason, or who still can't achieve employment after continuous unemployment for a certain time period. The specific range of persons who have difficulties in finding jobs shall be prescribed by people's government of each province, autonomous region or municipality directly under the Central Government according to the actual situation of its respective administrative area.

Article 53

The posts for public good, which are invested in and developed by the government, shall give priority to placement of the persons who have difficulties in finding jobs and who meet the requirements of the posts. Those who are placed in the posts for public good shall be given post subsidies according to the provisions of the State.

Article 54

The local people's governments at all levels shall strengthen the grass-root employment aid services, place emphasis on assisting the persons who have difficulties in finding jobs and offer targeted employment services and aids related to the posts for public good.

The local people's governments at all level encourage and support the whole society to provide skill training, post information and other services to persons who have difficulties in finding jobs.

Article 55

The people's governments at all levels shall take special supportive measures to promote the employment of disabled persons.

An employing unit shall arrange the employment of disabled persons according to the provisions of the State. The specific measures shall be formulated by the State Council.

Article 56

The local people's governments at the county level and above shall adopt various employment forms, expand the range of the posts for public good, create jobs, and ensure that at least one member find a job in each urban family that needs employment.

For families of urban residents in which all the family members within the statutory labour age are unemployed, they may apply for employment aids to the public employment services of the sub-district or community of the residence. If it is true upon verification, the public employment service of the sub-district or community of the residence shall provide an appropriate post to at least one member of this family.

Article 57

The State encourages resource exploitation cities and independent industrial and mining areas to develop industries adapted to the market demands and guide the labourers to employment transfer.

The people's government at the superior level shall offer necessary support and assistance to the area where are centralized by the persons who have difficulties in finding jobs due to exhaustion of resources, economic structure adjustment or other reason.

Chapter VII Supervision and Inspection

Article 58

The people's governments at all levels and relevant departments shall establish target responsibility system for employment promotion. The people's government at the county level and above shall, under the requirements of the target responsibility system for employment promotion, examine and supervise its subordinate departments and the people's governments at the next inferior level.

Article 59

The audit organs and finance departments shall supervise and inspect the management and use of special funds for employment in accordance with law.

Article 60

The labour administrative department shall supervise and inspect the implementation of this Law, establish a report system and accept the reports of violations against this Law, and timely check and handle the violations.

Chapter VIII Legal Responsibilities

Article 61

Where the labour administrative departments or any other relevant department or any of their functionaries abuse their power, neglect their duties or commit malpractices for selfish ends in violation of the provisions of this Law, the leading persons directly in charge and other persons directly responsible shall be subject to a sanction in accordance with law.

Article 62

The labourers may lodge a lawsuit in the people's court against those who commit employment discrimination in violation of the provisions of this Law.

Article 63

Where the people's governments at all levels or relevant departments or public employment services, in violation of the provisions of this Law, establish any employment agency for commercial purpose or engage in job intermediary activities for commercial purpose or charge the labourers any fee, the superior administrative organs shall order them to make a correction within a time limit, refund to the labourers the fee illegally charged, and give sanctions to the leading persons directly in charge and other persons directly responsible.

Article 64

Where any agency illegally engages in job intermediary activities without license or registration in violation of the provisions of this Law, the labour administrative departments or other administrative departments shall shut it down in accordance with law, or confiscate the illegal gains if existing and fine it not less than 10, 000 yuan but not more than 50, 000 yuan.

Article 65

Where an employment agency provides any false employment information, or provides employment intermediary services to any employing unit without any legal license or certificate, or forges, alters or transfers the job intermediary license in violation of the provisions of this Law, the labour administrative departments or other administrative departments shall order it to make a correction; confiscate the illegal gains if existing and fine it not less than 10, 000 yuan but not more than 50, 000 yuan; or revoke the employment agency license if the circumstance is severe.

Article 66

Where an employment agency detains the resident identity cards or other certificates of the labourers in violation of the provisions of this Law, the labour administrative departments shall order it to return them to the labourers and shall punish it in accordance with relevant laws.

Where a job intermediary agency charges the labourers any deposit in violation of the provisions of this Law, the labour administrative departments shall order it to refund to the labourers and shall fine it at a rate of not less than 500 yuan but not more than 2, 000 yuan per person.

Article 67

Where any enterprise fails to draw the fund for workers' education according to the provisions of the State or misappropriates the fund for workers' education in violation of the provisions of this Law, the labour administrative department shall order it to make a correction and shall punish it in accordance with law.

Article 68

Where anyone impairs the legal rights and interests of the labourers and causes property losses or other damages in violation of the provisions of this Law, he shall bear civil responsibilities in accordance with law; and criminal responsibilities shall be investigated in accordance with law if the offense constitutes a crime.

Chapter IX Supplementary Provisions

Article 69

This Law shall come into force as of January 1, 2008.