

**LABOR CONTRACT LAW OF THE PEOPLE'S REPUBLIC OF CHINA
ORDER OF THE PRESIDENT OF THE PEOPLE'S REPUBLIC OF CHINA**

NO.65

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

Hu Jintao

President of the People's Republic of China

June 29, 2007

Labor Contract Law of the People's Republic of China

(Adopted at the 28th Meeting of the Standing Committee of the Tenth National People's Congress on June 29, 2007)

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Chapter I

General Provisions

Article 1 This Law is enacted in order to improve the labor contract system, define the rights and obligations of both parties to a labor contract, protect the legitimate rights and interests of workers, and establish and develop a harmonious and stable labor relationship.

Article 2 This Law is applicable where organizations such as enterprises, self-employed economic organizations and private non-enterprise units within the territory of the People's Republic of China (hereinafter referred to as employing units) establish labor relationships with workers through concluding, performing, modifying, revoking or terminating labor contracts with them.

State organs, institutions and public organizations and the workers with whom they are to establish labor relationships shall conclude, perform, modify, revoke or terminate labor contracts in accordance with this Law.

Article 3 Labor contracts shall be concluded in adherence to the principles of lawfulness, fairness, equality, voluntariness, consensus through consultation, and good faith.

A labor contract concluded in accordance with law shall have binding force. Both the employing unit and the worker shall fulfill the obligations stipulated in the labor contract.

Article 4 Employing units shall establish and improve labor rules and regulations to ensure that workers enjoy the labor rights and fulfill the labor obligations.

When formulating or modifying the rules and regulations, or making decisions on important matters, which have a direct bearing on the immediate interests of workers, such as labor remuneration, working hours, rest and vacation, occupational safety and health, insurance and welfare, training, labor discipline and labor quota control, the employing unit shall, after discussion by the conference of workers or all the workers, put forward plans and suggestions and make decisions after consulting with the trade union or the representatives of the workers on an equal footing.

If, during the implementation of the rules and regulations or the decisions on important matters, the trade union or the workers hold that such rules, regulations or decisions are inappropriate, it or they are entitled to put forward the opinion to the employing unit, and have the rules, regulations or decisions modified and improved through consultation.

The employing unit shall make public or inform the workers of the rules and regulations, and the decisions on important matters, which have a direct bearing on the immediate interests of the workers.

Article 5 The administrative department of labor of the people's government at or above the county level shall, together with the representatives of the trade union and the enterprise, establish a sound tripartite mechanism for coordination of labor relationships, in order to jointly discuss and resolve the major issues concerning labor relationships.

Article 6 The trade union shall give assistance and guidance to the workers in lawfully concluding labor contracts with the employing unit and performing the same, and establish a collective consultation mechanism with the employing unit in order to protect the legitimate rights and interests of workers.

Chapter II

Conclusion of a Labor Contract

Article 7 A labor relationship is established by an employing unit with a worker as of the date the former employs the latter. An employing unit shall keep a register of workers for reference.

Article 8 When an employing unit recruits a worker, it shall truthfully inform him of the job description, the working conditions, the place of work, occupational hazards, conditions for work safety, labor remuneration and other matters which the worker requests to be informed of. The employing unit has the right to acquire the basic information of the worker which is directly related to the labor contract, and the worker shall truthfully provide the same.

Article 9 When recruiting a worker, the employing unit may not detain the worker's resident identity card or other certificates, nor may it require him to provide guaranty or collect money or things of value from him in other names.

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

In the event that no written labor contract is concluded at the time when a labor relationship is established, such a contract shall be concluded within one month as of the date when the employing unit employs a worker.

Where an employing unit and a worker conclude a labor contract before the latter starts to work, the labor relationship shall be established as of the date when the latter starts to work.

Article 11 In the event that an employing unit fails to conclude a written labor contract with a worker at the same time as it employs him, and labor remuneration agreed upon with him is not definite, the remuneration shall be decided on according to the rate specified in the collective contract; where there is no collective contract or the collective contract is silent on the matter, equal pay for equal work shall be practiced.

Article 12 Labor contracts consist of fixed-term labor contracts, open-ended labor contracts and labor contracts that expire upon completion of given jobs.

Article 13 A fixed-term labor contract is one the ending date of which is agreed upon between the employing unit and the worker.

An employing unit and a worker may conclude a fixed-term labor contract upon reaching consensus through consultation.

Article 14 An open-ended labor contract is one where the employing unit and the worker have agreed not to stipulate a definite ending date.

An employing unit and a worker may conclude an open-ended labor contract upon reaching consensus through consultation. If a worker proposes or agrees to renew the labor contract or to conclude a labor contract in any of the following circumstances, an open-ended labor contract shall be concluded, unless the worker requests the conclusion of a fixed-term labor contract:

(1) The worker has been working for the employing unit for a consecutive period of 10 or more years;

(2) The worker has been working for the employing unit for a consecutive period of 10 or more years but less than 10 years away from the statutory retirement age when the employing unit introduces the labor contract system or when the State-owned enterprise has to conclude a new labor contract with him as a result of restructuring; or

(3) The worker intends to renew the labor contract after he has consecutively concluded a fixed-term labor contract with the employing unit twice and he has not been found in any of the circumstances specified in Article 39 or Subparagraph (1) or (2) in Article 40 of this Law.

If an employing unit fails to conclude a written labor contract with a worker within one year as of the date when it employs the worker, it shall be deemed to have concluded an open-ended labor contract with the latter.

Article 15 A labor contract that expires upon completion of a given job is one in which the employing unit and the worker have agreed that the period for completion of the given job is the term of the contract.

An employing unit and a worker may, upon reaching consensus through consultation, conclude a labor contract which expires upon completion of a given job.

Article 16 A labor contract shall become effective when the employing unit and the worker reach agreement through consultation thereon and both parties sign or affix their seals on the copies of the contract.

The employing unit and the worker shall each keep a copy of the labor contract.

Article 17 A labor contract shall contain the following terms:

(1) name, domicile and legal representative or the principal leading person of the employing unit;

(2) name, address and the number of the resident identity card or of other valid identity documents of the worker;

(3) term of the labor contract;

(4) job description and the place of work;

(5) working hours, rest and vacation;

(6) labor remuneration;

(7) social insurance;

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

(9) other terms which are required to be included in a labor contract, as provided for by laws and regulations.

In addition to the requisite terms mentioned above, an employing unit and a worker may agree to have other matters stipulated in the labor contract, such as probation period, training, confidentiality, supplementary insurance and welfare benefits.

Article 18 If a dispute arises because the labor remuneration rate, the standard for working conditions, etc. are not definitely specified in the labor contract, the employing unit and the worker may negotiate anew. If the negotiation is unsuccessful, the relevant stipulations of the collective contract shall be applicable. If there is no collective contract or the collective contract is silent on the issue of labor remuneration, equal pay for equal work shall be practiced. If there is no collective contract or the collective contract is silent on the standards for working conditions, etc., the relevant regulations of the State shall apply.

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

An employing unit and a worker may agree upon only one probation period.

No probation period may be stipulated in a labor contract that expires upon completion of a given job or in a labor contract for a term of less than three months.

The probation period shall be included in the term of a labor contract. If a labor contract only provides for a probation period, that period shall not stand and the term provided for shall be the term of the labor contract.

Article 20 The wage of a worker on probation shall not be lower than the lowest wage level for the same job of the employing unit or be less than 80 per cent of the wage agreed upon in the labor contract, and shall not be lower than the minimum wage rate in the place where the employing unit is located.

Article 21 An employing unit may not revoke a labor contract during the probation period unless the worker is found in one of the circumstances specified in Article 39 or Subparagraph (1) or (2) in Article 40 of this Law. If an employing unit revokes a labor contract during the probation period, it shall explain the reasons to the worker.

Article 22 If an employing unit provides special funding for a worker's training and gives him professional technical training, it may conclude an agreement with the worker specifying the term of service.

If the worker breaches the agreement on the term of service, he shall pay a penalty to the employing unit as agreed upon. The sum of the penalty may not exceed the training expenses paid by the employing unit. The penalty that the employing unit requires the worker to pay may not exceed the portion of the training expenses allocable to the unperformed portion of the term of service.

Where the employing unit and the worker reach an agreement on the term of service, the raise in the worker's remuneration according to the regular wage adjustment mechanism during the term of service shall not be adversely affected.

Article 23 An employing unit and a worker may have such terms stipulated in the labor contract as keeping business secrets of the employing unit and keeping confidential the matters relating to its intellectual property rights.

With regard to a worker who has a confidentiality obligation, the employing unit may have stipulated in the labor contract or confidentiality agreement competition restriction and payment of financial compensation to him on a monthly basis during the term of the competition restriction after the labor contract is revoked or terminated. If the worker breaches the stipulation on competition restriction, he shall pay penalty to the employing unit as agreed upon.

Article 24 The persons subject to competition restriction shall be limited to senior managers, senior technicians and other persons who are under the confidentiality obligation to the employing unit. The scope, geographic area and term of competition restriction shall be agreed upon by the employing unit and the worker, and such agreement shall not be at variance with the provisions of laws and regulations.

The term of competition restriction, calculated from the revocation or termination of the labor contract, for one of the persons, as mentioned in the preceding paragraph, to go to work for a competing employing unit that produces or deals in the same type of products or is engaged in the same type of business as his original employing unit, or to establish his own business to produce or deal in the same type of products or engage in the same type of business shall not exceed two years.

Article 25 With the exception of the circumstances specified in Articles 22 and 23 of this Law, an employing unit shall not enter into an agreement with a worker on payment of penalty by the worker for breach of contract.

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

- (1) The labor contract is concluded or modified against a party's true intention by means of deception or coercion, or when the party is in precarious situations;
- (2) The employing unit disclaims its statutory responsibility or denies the worker his rights;
or
- (3) The labor contract is at variance with the mandatory provisions of laws or administrative regulations.

If a dispute arises over the invalidity or partial invalidity of a labor contract, the matter shall be determined by a labor dispute arbitration institution or a people's court.

Article 27 If part of a labor contract is invalid, which does not affect the validity of the rest of the contract, the rest shall remain valid.

Article 28 If a labor contract is determined to be invalid but the worker has performed it, the employing unit shall pay the worker remuneration. The amount of remuneration shall be determined mutatis mutandis according to that for the workers holding the same or similar posts in the employing unit.

Chapter III

Performance and Modification of a Labor Contract

Article 29 An employing unit and a worker shall fully perform their respective obligations in accordance with the labor contract.

Article 30 The employing unit shall pay their workers remuneration on time and in full in accordance with the labor contract and the regulations of the State.

If an employing unit defaults in payment or underpays the labor remuneration, the worker concerned may, in accordance with law, apply to the local people's court for an order for payment, and the people's court shall issue such an order in accordance with law.

Article 31 The employing unit shall strictly implement the norm set for labor quota and shall not compel the workers to work overtime or do so in disguised form. If an employing unit arranges for a worker to work overtime, it shall give him overtime pay in accordance with the relevant regulations of the State.

Article 32 A worker shall not be deemed to be breaching the labor contract if he refuses to perform hazardous operations under instructions given in violation of rules and regulations or peremptorily given by a manager of the employing unit.

A worker shall have the right to criticize or report or lodge accusations against the employing unit in respect of the working conditions that endanger his life or health.

Article 33 Where an employing unit alters its name, replaces its legal representative, the principal leading person or investor(s), etc., performance of the labor contract shall not be affected.

Article 34 Where an employing unit is merged, divided, etc., the existing labor contract shall remain valid and continue to be performed by the employing unit which succeeds to its rights and obligations.

Article 35 An employing unit and a worker may modify the provisions of the labor contract, if they reach consensus on the matter through consultation. Modification of a labor contract shall be made in writing.

The employing unit and the worker shall each keep a copy of the modified labor contract.

Chapter IV

Revocation and Termination of a Labor Contract

Article 36 An employing unit and a worker may revoke the labor contract if they reach consensus on the matter through consultation.

Article 37 A worker may have the labor contract revoked by giving a written notification to the employing unit 30 days in advance. During the probation period, a worker may have the labor contract revoked by notifying the employing unit of his intention three days in advance.

Article 38 A worker may have the labor contract revoked if the employing unit is found in any of the following circumstances:

- (1) failing to provide occupational protection or working conditions as agreed upon in the labor contract;
- (2) failing to pay labor remuneration on time and in full;
- (3) failing to pay the social insurance premiums for the worker in accordance with law;
- (4) having rules and regulations that are at variance with laws or regulations, thereby impairing the worker's rights and interests;
- (5) invalidating the labor contract as a result of one of the circumstances specified in the first paragraph of Article 26 of this Law; or
- (6) other circumstances in which a worker may have the labor contract revoked as provided for by laws or administrative regulations.

If an employing unit forces a person to work by resorting to violence, intimidation or illegal restriction of personal freedom, or if it gives instructions in violation of rules and regulations or gives peremptory orders to the worker to perform hazardous operations, which endanger his personal safety, the latter may revoke the labor contract forthwith without notifying the employing unit of the matter in advance.

Article 39 The employing unit may have the labor contract revoked if a worker is found in any of the following circumstances:

- (1) being proved unqualified for recruitment during the probation period;
- (2) seriously violating the rules and regulations of the employing unit;
- (3) causing major losses to the employing unit due to serious dereliction of duty or engagement in malpractices for personal gain;
- (4) concurrently establishing a labor relationship with another employing unit, which seriously affects the accomplishment of the task of the original employing unit, or refusing to rectify after the original employing unit brings the matter to his attention;
- (5) invalidating the labor contract as a result of the circumstance specified in Subparagraph (1) of the first paragraph of Article 26 of this Law; or
- (6) being investigated for criminal responsibility in accordance with law.

Article 40 In one of the following circumstances, an employing unit may revoke the labor contract, if it notifies in writing the worker of its intention 30 days in advance or after paying him an extra one month salary:

- (1) The worker is unable to take up his original work or any other work arranged by the employing unit on the expiration of the specified period of medical treatment for illness or for injury incurred when not at work;
- (2) The worker is incompetent for the post and remains incompetent after receiving a training or being assigned to another post; or

(3) The objective conditions taken as the basis for conclusion of the contract have greatly changed, so that the original labor contract cannot be performed and, after consultation between the employing unit and the worker, no agreement is reached on modification of the contents of the labor contract.

Article 41 If, in any of the following circumstances, an employing unit needs to cut employment by more than 20 persons, or by less than 20 persons, which, however, accounts for more than 10 per cent of the total number of the enterprise's employees, it may do so after it explains the situation to the trade union or all of its employees 30 days in advance, solicits opinions from among them and submit its plan for cutting employment to the administrative department of labor:

(1) The enterprise is to undergo reorganization pursuant to the provisions of the Law on Enterprise Bankruptcy;

(2) The enterprise is in dire straits in production and management;

(3) The enterprise changes its line of production, introduces a major technological updating or adjusts its business method, and, after modification of the labor contracts, still needs to reduce its personnel; or

(4) The objective economic conditions taken as the basis for conclusion of the labor contracts have greatly changed, so that the original labor contracts cannot be performed.

When cutting employment, the employing unit shall continue to employ the following persons by giving priority to them:

(1) persons who have concluded fixed-term labor contracts for a relatively long term with the employing unit;

(2) persons who have concluded open-ended labor contracts with the employing unit; and

(3) persons none of whose other family members has a job or who have an elder or minor depending on his support.

If an employing unit that has cut its employment pursuant to the provisions in the first paragraph of this Article goes to recruit employees anew within six months, it shall give notification to the laid off persons and, under equal conditions, recruit them before others.

Article 42 The employing unit may not revoke the labor contract concluded with the worker, who is under one of the following circumstances, by applying the provisions in Articles 40 and 41 of this Law:

(1) Being engaged in operations exposed to occupational disease hazards, the worker is not given pre-departure occupational health examinations, or being suspected of an occupational disease, is in the process of being diagnosed or is under medical observation;

(2) Having contracted an occupational disease or being injured at work, the work is confirmed to have totally or partially lost the ability to work;

(3) The worker is in the prescribed period of medical treatment for illness, or for injury incurred when not at work, and;

- (4) The worker is during the pregnant, puerperal or breast-feeding stage;
- (5) The worker has been working for the employing unit continuously for 15 years in full and is less than 5 years away from the statutory retirement age; or
- (6) The worker is in any other circumstances as provided for by laws or administrative regulations.

Article 43 Where an employing unit intends to revoke a labor contract unilaterally, it shall notify the trade union of the reasons in advance. If the employing unit violates the provisions of laws or administrative regulations or the labor contracts, the trade union shall have the right to demand that the employing unit put it right. The employing unit shall consider the trade union's opinion and notify the trade union in writing of the settlement of the matter.

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

- (1) The term of the contract expires;
- (2) The worker concerned begins to enjoy the benefits of the basic old-age insurance pension in accordance with law;
- (3) The worker concerned dies, or is declared dead or missing by the people's court;
- (4) The employing unit is declared bankrupt in accordance with law;
- (5) The business license of the employing unit is revoked, the employing unit is ordered to close down or to dissolve, or it decides to dissolve on an earlier date; or
- (6) any other circumstances provided for by laws and administrative regulations.

Article 45 At the expiration of a labor contract, under one of the circumstances prescribed in Article 42 of this Law, the term of the labor contract shall be extended until the necessary conditions cease to exist. However, the termination of a labor contract with a worker who has totally or partially lost the ability to work, as specified in Subparagraph (2) of Article 42 of this Law shall be handled in accordance with the regulations of the State governing insurance for work-related injury.

Article 46 The employing unit shall pay financial compensation to a worker under one of the following circumstances:

- (1) The worker revokes the labor contract pursuant to the provisions in Article 38 of this Law;
- (2) The employing unit proposes revocation of the labor contract to the worker pursuant to the provisions in Article 36 of this Law and the parties reach an agreement thereon through consultation;
- (3) The employing unit revokes the labor contract pursuant to the provisions in Article 40 of this Law;
- (4) The employing unit revokes the labor contract pursuant to the provisions in the first paragraph of Article 41 of this Law;

(5) The fixed-term labor contract is terminated pursuant to the provisions in Subparagraph (1) of Article 44 of this Law, except that the worker does not agree to renew the contract even though the employing unit maintains the same conditions as, or offers better conditions than, the ones stipulated in the previous contract;

(6) The labor contract is terminated pursuant to the provisions of Subparagraph (4) or (5) of Article 44 of this Law; or

(7) Under any other circumstances provided for by laws or administrative regulations.

Article 47 Financial compensation shall be paid on the basis of the number of years a person works in a unit, the rate being one month's salary for the work of one full year. If he has worked for six months or more but less than one year, the time shall be calculated as one year; and if he has worked for less than six months, he shall be paid half of his monthly salary as financial compensation.

If the monthly salary of a worker is three times the average monthly salary of the workers of the region for the previous year, which is published by the people's government of the municipality directly under the Central Government or by that of the city divided into districts where the employing unit is located, the rate for his financial compensation payable shall be three times the average monthly salary of the workers, and the number of years involved shall not exceed 12 years.

For the purposes of this Article, the monthly salary means the average of a given worker's monthly salary for the 12 months prior to the revocation or termination of the labor contract.

Article 48 Where an employing unit revokes or terminates a labor contract in violation of the provisions of this Law and the worker involved demands continued performance of the contract, the employing unit shall continue performing the same. If the worker does not demand so or if it becomes impossible for continued performance of the labor contract, the employing unit shall pay compensation pursuant to the provisions in Article 87 of this Law.

Article 49 The State takes measures to establish and improve an inter-regional system to ensure that a worker's social insurance account is continued when he is transferred to another region.

Article 50 An employing unit shall issue a certificate of revocation or termination of the labor contract at the time of its revocation or termination and shall, within 15 days, undergo the formalities for the transfer of the worker's personal file and social insurance account.

The worker shall hand over the matters related to his work as agreed upon by both parties. If the employing unit needs to pay financial compensation to the worker according to the relevant provisions of this Law, it shall make such payment upon completion of the procedure for handover of the work-related matters.

The employing unit shall keep the copy of a revoked or terminated labor contract for at least two years for reference.

Chapter V

Special Provisions

Section 1

A Collective Contract

Article 51 The employees of an enterprise as one party and the employing unit as the another may, through negotiation on an equal basis, conclude a collective contract on matters relating to labor remuneration, working hours, rest and vocation, occupational safety and health, insurance, welfare benefits, etc. The draft collective contract shall be submitted to the worker's congress or to all the employees for discussion and adoption.

A collective contract shall be concluded by the trade union on behalf of the employees of the enterprise with the employing unit. In an enterprise where a trade union has not yet been set up, such a contract shall be concluded with the employing unit by the representatives elected by the workers under the guidance of the trade union at a higher level.

Article 52 The employees of an enterprise as one party may conclude special collective contracts with the employing unit in respect of occupational safety and health, protection of the rights and interests of female employees, wage adjustment mechanism, etc.

Article 53 In regions at or below the county level, industry-wide or region-wide collective contracts may be concluded between the trade unions and the representatives of the enterprises engaging in such industries as construction, mining and catering service.

Article 54 After conclusion, a collective contract shall be submitted to the administrative department of labor and it shall become valid if the department raises no objection within 15 days from the date it receives the text of the labor contract.

A collective contract concluded in accordance with law is binding on the employing unit and the workers. An industry-wide or region-wide collective contract is binding on the employing units and the workers engaged in a given local industry or a given region.

Article 55 The rates for labor remuneration and the standards for working conditions, etc. stipulated in a collective contract shall not be lower than the minimum rates and standards prescribed by the local People's government. The rates for labor remuneration and standards for working conditions, etc. stipulated in the labor contract between an employing unit and a worker shall not be lower than those stipulated in the collective contract.

Article 56 Where an employing unit breaches the collective contract and infringes upon the labor rights and interests of the workers, the trade union concerned may, in accordance with law, demand that the employing unit assume liability. If a dispute arise over the performance of the collective contract and cannot be resolved through consultation, the trade union may apply for arbitration or bring a lawsuit in accordance with law.

Section 2

Labor Dispatch

Article 57 A labor-dispatching unit shall be established in accordance with the relevant provisions in the Companies Law, and its registered capital shall be not less than RMB 500,000 yuan.

Article 58 For the purposes of this Law, a labor-dispatching unit is an employing unit which performs the obligation of an employing unit to the workers. In the labor contract concluded between the labor-dispatching unit and the workers to be dispatched shall, in addition to the terms specified in Article 17 of this Law, be specified such terms as the units to which the workers are to be dispatched, the period of dispatch and the specific jobs.

The labor-dispatching unit shall conclude with the workers to be dispatched a fixed-term labor contract for a period of not less than two years and shall pay labor remuneration on a monthly basis. During the intervals when there is no work to do, the labor-dispatching unit shall pay labor remuneration on a monthly basis at the minimum wage rate prescribed by the people's government of the place where the workers are working.

Article 59 When dispatching workers, the labor-dispatching unit shall conclude an agreement on labor dispatch with the unit that receives the workers under the dispatch arrangement (hereinafter referred to as the receiving unit). In the agreement on labor dispatch shall be stipulated the jobs dispatched to, the number of persons, the period for dispatch, the amounts and methods of payment of labor remuneration and social insurance premiums, and the liability for breach of the agreement.

An receiving unit shall decide with the labor-dispatching unit on the period of dispatch based on the actual need for jobs and shall not divide a continuous period of employment in order to conclude a number of short-term agreements.

Article 60 The labor-dispatching unit shall inform the workers to be dispatched of the content of the agreement on labor dispatch.

The labor-dispatching unit shall not pocket the labor remuneration that the receiving unit pays to the workers in accordance with the agreement on labor dispatch.

The labor-dispatching unit and the receiving unit may not charge any fees from the workers dispatched.

Article 61 If a labor-dispatching unit dispatches workers to a receiving unit located in another place, the labor remuneration and working conditions to be enjoyed by the workers dispatched shall be provided in conformity with the rates and standards of the place where the receiving unit is located.

Article 62 The receiving unit shall perform the following obligations:

- (1) to apply the labor standards of the State and provide the necessary working conditions and occupational protection;
- (2) to inform the dispatched workers of the job requirements and labor remuneration;
- (3) to give overtime pay and performance bonuses and provide welfare benefits related to specific posts;
- (4) to provide the dispatched workers training that is necessitated by the job they are on; and
- (5) to apply a regular wage adjustment mechanism in case of continued employment.

The receiving unit may not re-dispatch the workers to another employing units.

Article 63 Dispatched workers shall enjoy the right of equal pay for equal work as the workers of the receiving unit do. If a receiving unit has no workers holding the same kind of posts, labor remuneration shall be determined in light of that paid to the workers holding the same or similar posts at the place where the receiving unit is located.

Article 64 The dispatched workers shall have the right, in accordance with law, to join the trade union of the labor-dispatching unit or the receiving unit or to organize a trade union, in order to protect their own legitimate rights and interests.

Article 65 Dispatched workers may have their labor contracts with the labor-dispatching unit revoked pursuant to the provisions in Article 36 or 38 of this Law.

If a dispatched worker is in any of the circumstances specified in Article 39 and Subparagraph (1) or (2) of Article 40 of this Law, the receiving unit may send him back to the labor-dispatching unit, which may have the labor contract with him revoked in accordance with the relevant provisions of this Law.

Article 66 Workers are dispatched generally for temporary, auxiliary or substitute jobs.

Article 67 No employing unit may establish labor-dispatching units to dispatch workers to its own unit or to its subordinate units.

Section 3

Part-Time Employment

Article 68 Part-time employment is a form of employment under which remuneration is chiefly calculated by the hour and the workers generally work for not more than 4 hours per day in average and not more than an aggregate of 24 hours per week for the same employing unit.

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

A worker in part-time employment may conclude a labor contract with one or more employing units; however, the labor contract concluded later may not prejudice the performance of the one concluded earlier.

Article 70 The two parties to part-time employment may not conclude an agreement on probation period.

Article 71 Either of the two parties to part-time employment may give a notice to the other party at any time to terminate the employment, and in such a case the employing unit shall not pay any financial compensation.

Article 72 The hourly remuneration rate for part-time employment may not be lower than the minimum hourly wage rate specified by the people's government of the place where the employing unit is located.

Labor remuneration settlement and payment cycle for part-time employment may not exceed 15 days.

Chapter VI

Supervision and Inspection

Article 73 The administrative department of labor under the State Council shall be in charge of supervision over and administration of the implementation of the labor contract system nationwide.

The administrative departments of labor of the local people's governments at or above the county level shall be in charge of supervision over and administration of the implementation of the labor contract system in their own administrative areas.

In supervising and administering the implementation of the labor contract system, the administrative departments of labor of the local people's governments at or above the county level shall listen to the opinions of the trade unions, the enterprise representatives and the departments in charge of the specific industries.

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

- (1) the rules and regulations formulated by the employing units that have a direct bearing on the immediate interests of the workers, and the implementation of such rules and regulations;
- (2) conclusion of labor contracts between employing units and workers and their revocation;
- (3) compliance with the relevant regulations on labor dispatch by the labor-dispatching units and the receiving units;
- (4) compliance by the employing units with the State regulations on working hours, rest and vacation of workers;
- (5) payment by the employing units of labor remuneration as stipulated in the labor contracts, and their compliance with the minimum wage standards;
- (6) purchase of the various types of social insurance by the employing units for the workers, and payment of social insurance premiums by the same; and
- (7) other matters subject to supervision and inspection concerning labor as specified in laws and regulations.

Article 75 When the administrative department of labor of a local people's government at or above the county level conducts supervision and inspection, it shall have the right to check the materials relating to labor contracts and collective contracts and to conduct on-the-spot inspection of the workplaces, and both the employing units and the workers shall truthfully provide relevant information and materials.

When staff members of an administrative department of labor conduct supervision and inspection, they shall produce their papers, exercise their duties and powers according to law and enforce the law in a polite manner.

Article 76 The departments in charge of supervision over and administration of construction, health, work safety, etc. under the people's governments at or above the county level shall,

within the limits of their respective duties, supervise and administer the implementation of the labor contract system by the employing units.

Article 77 A worker whose legitimate rights and interests are infringed upon shall have the right to request the relevant department to deal with such infringement according to law, or to apply for arbitration or bring a lawsuit according to law.

Article 78 The trade unions shall protect the legitimate rights and interests of the workers in accordance with law and supervise the performance of labor contracts and collective contracts by the employing units. Where an employing unit violates the labor laws or regulations or breaches a labor contract or a collective contract, the trade union concerned shall have the right to put forward its opinions or request rectification. Where a worker applies for arbitration or brings a lawsuit, the trade union concerned shall provide him with support and assistance in accordance with law.

Article 79 All organizations and individuals shall have the right to inform against violations of this Law, and the administrative departments of labor of the people's governments at or above the county level shall verify and deal with such violations in a timely manner and reward the ones that perform meritorious service.

Chapter VII

Legal Responsibility

Article 80 Where the rules and regulations of an employing unit that have a direct bearing on the immediate interests of workers are in contravention with the provisions of laws and regulations, the administrative department of labor shall order it to rectify and shall give it a warning. If harm is done to a worker, the employing unit shall be liable for compensation.

Article 81 Where the requisite terms provided for by this Law are not clearly stated in the text of a labor contract provided by an employing unit or an employing unit fails to deliver a copy of the labor contract to the worker, the administrative department of labor shall order it to rectify. If harm is done to the worker, the unit shall be liable for compensation.

Article 82 Where an employing unit fails to conclude a written labor contract with a worker for more than a month but less than a year from the date it starts employing him, it shall pay the worker two times his salary for each month.

Where an employing unit fails to conclude an open-ended labor contract with a worker in violation of the provisions of this Law, it shall pay the worker two times his salary for each month, starting from the date on which an open-ended labor contract should be concluded.

Article 83 Where in violation of the provisions of this Law, an employing unit reaches an agreement with a worker on a probation period, the administrative department of labor shall order it to rectify. If the illegal agreement on a probation period is executed, the employing unit shall pay compensation to the worker at the rate of the worker's monthly salary following the completion of his probation, for the period of performance by the worker in excess of the statutory probation period.

Article 84 Where an employing unit, in violation of the provisions of this Law, detains a worker's resident identity card or other certificates, the administrative department of labor

shall order it to return the same to the worker within a time limit and impose on it a penalty in accordance with the provisions of relevant laws.

Where an employing unit, in violation of the provisions of this Law, collect money or things of value from the workers in the name of guaranty or in other names, the administrative department of labor shall order it to return the same to the workers within a time limit and impose on it a fine at the rate of not less than 500 yuan but not more than 2,000 yuan for each person from whom it has collected money or things of value; if harm is done to the workers, it shall be liable for compensation.

Where an employing unit detains a worker's personal file or other articles when the worker has his labor contract revoked or terminated in accordance with law, it shall be penalized in accordance with the provisions in the preceding paragraph.

Article 85 Where an employing unit commits one of the following acts, the administrative department of labor shall order it to pay the labor remuneration, give overtime pay or make other financial compensation within a time limit; if the labor remuneration is lower than the local minimum wage rate, it shall pay the difference. If it fails to make such payment at the expiration of the time limit, it shall be ordered to pay an additional compensation to the worker at a rate of not less than 50 percent but not more than 100 percent of the amount payable:

- (1) failing to pay a worker his labor remuneration on time and in full as stipulated in the labor contract or as prescribed by the State;
- (2) paying labor remuneration at a rate below the local minimum wage rate;
- (3) arranging overtime work but giving no overtime pay; or
- (4) failing to pay the worker financial compensation pursuant to the provisions of this Law when revoking or terminating a labor contract.

Article 86 Where a labor contract is determined to be invalid in accordance with the provisions of Article 26 of this Law, which causes harm to the other party, the party in default shall be liable for compensation.

Article 87 Where an employing unit revokes or terminates a labor contract in violation of the provisions of this Law, it shall pay compensation to the worker two times the rate of financial compensation specified in Article 47 of this Law.

Article 88 Where an employing unit commits one of the following acts, it shall be subjected to an administrative sanction in accordance with law; if a criminal is constituted, it shall be investigated for criminal responsibility according to law; if harm is done to a worker, the employing unit shall be liable for compensation:

- (1) forcing a person to work by resorting to violence, intimidation or illegal restriction of personal freedom;
- (2) giving instructions in violation of rules and regulations or giving peremptory orders to a worker to perform hazardous operations, which endanger his personal safety;

(3) humiliating, giving corporal punishment to, beating , illegally searching or detaining a worker; or

(4) providing a worker with hazardous working conditions or a severely polluted environment, thus causing serious harm to the physical or mental health of the worker.

Article 89 Where in violation of the provisions of this Law, an employing unit fails to issue to a worker a written statement proving the revocation or termination of the labor contract, the administrative department of labor shall order it to rectify. If harm is caused to the worker, the unit shall be liable for compensation.

Article 90 Where a worker revokes the labor contract in violation of the provisions of this Law or breaches the confidentiality obligation or competition restriction stipulated in the labor contract, thus causing losses to the employing unit, he shall be liable for compensation.

Article 91 Where an employing unit recruits a worker whose labor contract with another employing unit has not yet been revoked or terminated, and thus causing losses to the other employing unit, it shall bear joint and several liability for compensation.

Article 92 Where a labor-dispatching unit violates the provisions of this Law, the administrative department of labor and other competent departments concerned shall order it to rectify. If the circumstances are serious, a fine shall be imposed on it, with not less than 1,000 yuan but not more than 5,000 yuan for each person, and its business license shall be revoked by the administrative department for industry and commerce. If harm is caused to the dispatched workers, the labor-dispatching unit and the labor-receiving unit shall bear joint and several liability for compensation.

Article 93 An employing unit without the lawful business qualifications shall, in accordance with law, be investigated for legal responsibility for its illegal or criminal acts. If the workers have done their work, the employing unit or its sponsor(s) shall pay them labor remuneration, financial compensation and damages in accordance with the relevant provisions of this Law. If losses are caused to the workers, the unit shall be liable for compensation.

Article 94 Where an individual that contracts for the operation of a business recruits workers in violation of the provisions of this Law, thus causing losses to the workers, the organization giving out the contract and the individual contractor shall bear joint and several liability for compensation.

Article 95 Where an administrative department of labor or another competent department concerned or its staff member neglects its/his duties and fails to perform the statutory duties, or exercises its/his functions and powers in violation of law, thus causing losses to a worker or an employing unit, it /he shall be liable for compensation; the person directly in charge and the other persons directly responsible shall be given administrative sanctions according to law; if a crime is constituted, it/he shall be investigated for criminal responsibility according to law.

Chapter VIII

Supplementary Provisions

Article 96 Where there are stipulations made in other laws or administrative regulations or by the State Council to govern the conclusion, performance, modification, revocation or termination of labor contracts between public institutions and the persons employed by them under the employment system, the provisions there shall prevail; otherwise, the relevant provisions in this Law shall apply.

Article 97 A labor contract which is concluded in accordance with law prior to implementation of this Law and remains valid as of the date this Law goes into effect shall continue to be performed. With respect to the number of times for consecutive conclusion of a fixed-term labor contract, as provided for in Subparagraph (3) of the second paragraph in Article 14 of this Law, it shall begin to be calculated from the time the labor contract is renewed after this Law goes into effect.

Where a labor relationship is established prior to the implementation of this Law but no written labor contract is concluded yet, such a contract shall be concluded within one month from the date this Law goes into effect.

Where a labor contract which remains valid as of the date this Law goes into effect is revoked or terminated thereafter, financial compensation shall be paid pursuant to the provisions of Article 46 of this Law, and the number of years for which financial compensation should be paid shall be calculated from the date this Law goes into effect; where the employing unit should pay financial compensation to the worker concerned according to the relevant regulations at the time before this Law goes into effect, it shall do so in accordance with the relevant provisions then.

Article 98 This Law shall go into effect as of January 1, 2008.