PRC Labor Contract Law

[Law of the People's Republic of China on Labor Contracts, adopted at the 28th session of the 10th National People's Congress Standing Committee on 29 June 2007]

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Chapter I General Principles

Article 1 This law has been formulated in order to improve the labor contract system, define the rights and obligations of the parties to labor contracts, protect the lawful rights and interests of workers, and build and develop harmonious and stable labor relationships.

Article 2 This law applies to the establishment of labor relationships between organizations such as enterprises, individual economic organizations, and private non-enterprise units (hereinafter referred to as "employer units") on the one hand and workers on the other hand within the PRC territory, as well as to the conclusion, execution, modification, dissolution, or termination of labor contracts.

The conclusion, execution, modification, dissolution, or termination of labor contracts between state agencies, public institutions, or social organizations and the workers with whom they establish labor relationships shall be handled pursuant to this law.

Article 3 The conclusion of labor contracts shall comply with the principles of lawfulness, fairness, equality, free volition, consensus through negotiations, honesty, and good faith.

A lawfully concluded labor contract is binding, and both the employer unit and the worker shall perform their obligations stipulated in the labor contract.

Article 4 Employer units shall establish and improve labor rules and regulations in accordance with the law to ensure that workers enjoy labor rights and discharge their labor obligations.

Employer units seeking to formulate, revise, or decide on rules and regulations or significant matters that have a direct bearing on the immediate interests of their workers, such as those concerning remuneration, work hours, rest, leave, work safety and hygiene, insurance, benefits, employee training, labor discipline, and work quota management, shall determine the matters through negotiations conducted on an equal footing with trade unions or employee representatives, after employee representatives' conferences or all the employees have held discussions and put forward proposals and comments.

If trade unions or employees deem the rules and regulations or decisions on significant matters inappropriate during the course of implementation, they are entitled to raise the matter with employer units and seek to modify or improve them through negotiations.

Employer units shall make public rules and regulations or decisions on significant matters that have a direct bearing on the immediate interests of their workers or inform the workers thereof.

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

Article 6 A labor union shall assist and guide workers in the conclusion and execution of labor contracts with their employer units in accordance with the law and establish a collective bargaining mechanism with employer units in order to safeguard the lawful rights and interests of workers.

Chapter II Conclusion of Labor Contracts

Article 7 An employer unit's labor relationship with a worker is established on the date the worker is put to work. An employer unit shall keep a register of employees for reference purposes.

Article 8 When an employer unit hires a worker, it shall truthfully inform him or her of the job description, working conditions, the place of work, occupational hazards, production safety conditions, remuneration, and other matters which the worker requests to be informed about. The employer unit has the right to learn from the worker basic

information directly relating to the labor contract, and the worker shall truthfully provide said information.

Article 9 When hiring a worker, an employer unit may not retain the worker's resident identity card or card or other papers, nor may it require the worker to provide surety or collect property from the worker under some other guise.

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 of the establishment of a labor relationship, a written labor contract shall be concluded within one month after the date on which the worker is put to work.

Where an employer unit and a worker conclude a labor contract before the worker is put to work, the labor relationship shall be established on the date on which the worker is put to work.

Article 11 Where an employer unit fails to conclude a written labor contract with a worker at the time its puts the worker to work, and it is not clear what the remuneration is agreed upon with the worker, the remuneration of the newly recruited worker shall be decided pursuant to the rate specified in the collective contract; where there is no collective contract or the collective contract does not provide for the same, equal pay shall be given for equal work.

Article 12 Labor contracts are divided into fixed-term labor contracts, open-ended labor contracts, and labor contracts that expire upon the completion of a specific job.

Article 13 A fixed-term labor contract is a labor contract whose expiration date is agreed upon by the employer unit and the worker.

An employer unit and a worker may conclude a fixed-term labor contract if they agree to do so after negotiations.

Article 14 An open-ended labor contract is a labor contract for which the employer unit and the worker have agreed not to set a definite expiration date.

An employer unit and a worker may conclude an open-ended labor contract if they agree to do so after negotiations. If a worker proposes or agrees to renew his or her labor contract or 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) Where the worker has been working at the employer unit continuously for not less than 10 years;

(2) Where the employer unit implements the labor contract system for the first time or the state-owned enterprise employs the worker labor contracts anew as a result of restructuring, and the worker has been working at the employer unit continuously for not less than 10 years and is less than 10 years away from his or her legal retirement age; or

(3) Where a labor contract is renewed, with a fixed-term labor contract having been concluded on two consecutive occasions earlier, and there is not any of the circumstances provided for in items (1) and (2) of Article 39 and Article 40 of this law.

If an employer unit fails to conclude a written labor contract with a worker within one year from the date on which it begins putting the worker to work, the employer unit and the worker shall be deemed to have concluded an open-ended labor contract.

Article 15 A labor contract that is set to expire upon the completion of a specific job is a labor contract in which the employer unit and the worker have agreed that the completion of a specific job is the period of the labor contract.

An employer unit and a worker may, upon agreeing to do so after negotiations, conclude a labor contract that is set to expire upon the completion of a specific job.

Article 16 A labor contract shall become effective when the employer unit and the worker agree upon it after negotiations, and both of them have affixed their signatures or seals to the text of the labor contract.

The employer unit and the worker shall each hold a copy of the labor contract.

Article 17 A labor contract shall specify the following matters:

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

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

(3) The period of the labor contract;

(4) The job description and place of work;

(5) Work hours, rest, and leave;

(6) Remuneration;

(7) Social insurance;

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

(9) Other matters which shall be included in labor contracts as required by laws and regulations.

In addition to the aforementioned requisite terms, an employer unit and a worker may agree to stipulate other matters in the labor contract, such as probation periods, training, confidentiality, supplementary insurance, and benefits.

Article 18 If a dispute arises due to a lack of clarity in a labor contract regarding standards such as remuneration or working conditions, the employer unit and the worker may renegotiate. If the negotiations are unsuccessful, the provisions of the collective contract shall apply. If there is no collective contract or the collective contract does not provide for remuneration, equal pay shall be given for equal work. If there is no collective contract or the collective contract does not specify such standards as working conditions, relevant state regulations shall apply.

Article 19 If a labor contract has a period of not less than three months but not more than a year, the probation period may not exceed a month. If a labor contract has a period of not less than a year but not more than three years, the probation period may not exceed two months. If a labor contract has a period of not less than three years or is open-ended, the probation period may not exceed six months.

An employer unit may specify only one probation period with any given worker.

No probation period may be specified in a labor contract that is set to expire upon the completion of a specific job or if a labor contract has a period of less than three months.

The probation period shall be included in the period of a labor contract. If a labor contract only stipulates a probation period, there shall be no probation period, and the period in question shall be the period of the labor contract.

Article 20 The wages of a worker on probation may not be less than the lowest pay for the same job at the employer unit or less than 80 percent of the wages agreed upon in the labor contract, and may not be less than the minimum wages in the place where the employer unit is located.

Article 21 An employer unit may not dissolve a labor contract during the probation period unless any of the circumstances provided for in items (1) and (2) of Article 39 and Article 40 of this law occur with the worker. If an employer unit dissolves a labor contract during the probation period, it shall explain the reasons to the worker.

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

If the worker violates the agreement on the period of service, he or she shall pay a penalty fee to the employer unit as stipulated. The penalty fee may not exceed the training

expenses paid by the employer unit. The penalty fee that the employer unit requires the worker to pay may not exceed the training expenses that shall be allocated for the unfulfilled portion of the period of service.

Where the employer unit and the worker have agreed upon a period of service, the same shall not affect an increase in the worker's remuneration during the period of service under the mechanism of normal wage adjustments.

Article 23 An employer unit and a worker may stipulate in their labor contract the protection of the employer unit's commercial secrets as well as confidentiality matters relating to intellectual property rights. If a worker has an obligation to protect confidential information, the employer unit may specify with the worker clauses restricting competition in the labor contract or confidentiality agreement and stipulate that the worker shall be paid financial compensation on a monthly basis during the period of restrictions on competition after the labor contract is dissolved or terminated. If the worker violates the clauses restricting competition, he or she shall pay a penalty fee to the employer unit as stipulated.

Article 24 Personnel subject to restrictions on competition shall be limited to senior management personnel, senior technicians, and other personnel that have obligations to protect confidential information in the employer unit. The scope, geographical areas, and time limits of restrictions on competition shall be agreed upon by the employer unit and the worker, and the agreed-upon restrictions on competition shall not violate the provisions of laws and regulations.

Following the dissolution or termination of the labor contract, the period for which a person mentioned in the preceding paragraph is subject to restrictions on competition in terms of working for a competing employer unit that produces or deals in the same type of products or engages in the same type of business as his or her current employer unit, or in terms of establishing his or her 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 Article 22 and Article 23 of this law, an employer unit may not enter into an agreement with a worker that the worker shall bear penalty fees.

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

(1) A party uses the means of deception or coercion, or takes advantage of the other party's difficulties, to cause the other party to conclude or modify a labor contract that is contrary to that party's real intentions;

(2) The employer unit disavows its legal liability or denies the worker his or her rights; or

(3) It violates the mandatory provisions of laws or administrative statutes.

If the invalidity or partial invalidity of a labor contract is disputed, it shall be confirmed by a labor dispute arbitration organ or a people's court.

Article 27 If a labor contract is partially invalid, the validity of other portions shall not be affected, and said portions shall remain valid.

Article 28 If a labor contract is confirmed as invalid and the worker has already provided labor service, the employer unit shall pay the worker remuneration. The amount of remuneration shall be determined with reference to the remuneration of workers holding the same or a similar position at the employer unit.

Chapter III Execution and Modification of Labor Contracts

Article 29 An employer unit and a worker shall fully perform their respective his obligations as specified in the labor contract.

Article 30 An employer unit shall pay its worker remuneration on time and in full as stipulated in the labor contract and pursuant to state regulations.

If an employer unit falls behind with the payment of remuneration or fails to make payment in full, the worker may, in accordance with the law, apply to a local people's court for an order to make payment; and the people's court shall issue said order in accordance with the law.

Article 31 An employer unit shall strictly implement work quota standards and may not compel or in a disguised manner compel workers to work overtime. If an employer unit arranges for a worker to work overtime, it shall offer overtime pay to the worker pursuant to relevant state regulations.

Article 32 Workers shall not be deemed to be in violation of their labor contracts if they refuse to perform dangerous operations directed in violation of rules and regulations or peremptorily ordered by management personnel at the employer unit.

Workers have the right to criticize, report to the authorities, or file complaints against their employer units over working conditions that endanger their lives or health.

Article 33 Where an employer unit modifies matters such as its name, legal representative or principal person in charge, or investor(s), the same shall not affect the execution of a labor contract.

Article 34 If an employer unit is merged or split up, its existing labor contracts shall remain valid and shall continue to be fulfilled by the employer unit(s) inheriting its rights and obligations.

Article 35 An employer unit and a worker may modify the provisions of their labor contract if they agree to do so after negotiations. Modifications of a labor contract shall

be made in writing. The employer unit and the worker shall each hold a copy of the modified labor contract.

Chapter IV Dissolution and Termination of Labor Contracts

Article 36 An employer unit and a worker may dissolve their labor contract if they agree to do so after negotiations.

Article 37 A worker may dissolve a labor contract by giving 30 days' prior notice in writing to his or her employer unit. During the probation period, a worker may dissolve the labor contract by giving the employer unit three days' prior notice.

Article 38 A worker may dissolve the labor contract if any of the following circumstances arises with respect to the employer unit:

(1) Failure to provide labor protection or working conditions as specified in the labor contract;

(2) Failure to pay remuneration in full and on time;

(3) Failure to pay social insurance premiums for the worker in accordance with the law;

(4) Where the employer unit's rules and regulations violate the provisions of laws or regulations to the detriment of the worker's rights and interests;

(5) Where the labor contract is rendered invalid due to the circumstances specified in the first paragraph of Article 26 of this law; or

(6) Other circumstance in which laws or administrative statutes permit a worker to terminate the labor contract.

If an employer unit uses the means of violence, threats, or unlawful restrictions on personal freedom to force a worker to work, or if a worker is instructed in violation of rules and regulations or peremptorily ordered by the employer unit to perform dangerous operations which threaten his or her personal safety, the worker may dissolve the labor contract immediately without having to give the employer unit prior notice.

Article 39 An employer unit may dissolve a labor contract if any of the following circumstances arises with respect to a worker:

(1) Being proven to be unable to meet the conditions for employment during the probation period;

(2) Gravely violate the employer unit's rules and regulations;

(3) Committing serious dereliction of duty or seeking private gain through fraudulent and unlawful practices, thereby causing substantial damage to the employer unit;

(4) Where the worker has established a labor relationship with another employer unit simultaneously, thereby gravely affecting the completion of his or her task at the first employer unit, or where the worker refuses to take corrective action after the first employer unit has raised the matter;

(5) Where the labor contract is rendered invalid due to the circumstances specified in item (1) of the first paragraph of Article 26 of this law; or

(6) Where criminal liability is pursued in accordance with the law.

Article 40 An employer unit may dissolve a labor contract by giving the worker 30 days' prior notice in writing or an additional month of wages in any of the following circumstances:

(1) Where the worker cannot engage in his or her original work or any other work arranged by the employer unit after the prescribed period of medical care for an illness or non-work-related injury has ended;

(2) Where the worker is incompetent and remains incompetent after training or the adjustment of his or her position; or

(3) Where a major change in the objective circumstances upon which the conclusion of the labor contract is based renders the labor contract non-executable, and, after negotiations, the employer unit and the worker cannot reach an agreement on modifying the labor contract.

Article 41 If any of the following circumstances makes it necessary to reduce the workforce by 20 persons or more or by fewer than 20 persons but by a proportion that accounts for 10 percent or more of the total number of employees in an enterprise, the employer unit may reduce the workforce after it has explained the circumstances to the trade union or to all of its employees 30 days in advance, considered the opinions of the trade union or the employees, and reported the workforce reduction plan to the labor administrative department:

(1) Restructuring carried out pursuant to the provisions of the Enterprise Bankruptcy Law;

(2) Serious difficulties in production or business operations;

(3) Where the enterprise switches production, introduces major technological innovations, or adjusts its operational mode, and, after modifying its labor contracts, still needs to reduce its workforce; or

(4) Where other major changes in the objective economic circumstances upon which the conclusion of the labor contracts is based render the labor contracts non-executable.

In the event of a workforce reduction, priority shall be given to retaining the following personnel:

(1) Those who have concluded with the employer unit fixed-term labor contracts with relatively long periods;

(2) Those who have concluded open-ended labor contracts with the employer unit; or

(3) Those who are the only ones in their families to be employed and whose families have a senior citizen or a minor who needs to provided for.

If an employer unit that has reduced its workforce pursuant to the first paragraph of this article hires again within six months, it shall notify its dismissed personnel and give precedence to them in hiring when the conditions are equal.

Article 42 An employer unit may not dissolve a labor contract pursuant to the provisions of Article 40 and Article 41 of this law if any of the following circumstances occurs in respect of a worker:

(1) Where the worker engages in hazardous operations that expose him or her to occupational diseases and has not undergone a pre-departure occupational health examination, or where he or she is being diagnosed or is under medical observation as a patient suspected of having contracted an occupational disease;

(2) Being confirmed as having lost or partially lost the capacity to work due to an occupational disease contracted or a work-related injury sustained at the employer unit;

(3) Undergoing the prescribed period of medical care for an illness or a non-work-related injury;

(4) Where a female employee is pregnant, is in confinement, or nursing;

(5) Having worked continuously at the employer unit for not less than 15 years and is less than five years away from the legal retirement age; or

(6) Other circumstances specified in laws and administrative statutes.

Article 43 Where an employer unit plans to dissolve a labor contract unilaterally, it shall give the trade union advance notice of the reasons. If the employer unit violates the provisions of laws and administrative statutes or the labor contract, the trade union has the right to demand that the employer unit take corrective action. The employer unit shall study the trade union's opinions and notify the trade union in writing of the outcome of its handling of the matter.

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

(1) Where the period of the labor contract expires;

(2) Where the worker has begun drawing his or her basic old-age insurance benefits in accordance with the law;

(3) Where the worker dies or is declared dead or missing by a people's court;

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

(5) Where the employer unit has its business license revoked, is ordered to close or has its qualifications revoked, or decides to disband ahead of time; or

(6) Other circumstances specified in laws or administrative statutes.

Article 45 If a labor contract expires and any of the circumstances specified in Article 42 of this law applies, the labor contract shall be extended until the relevant circumstance ceases to exist, at which point the contract shall end. However, matters relating to the termination of the labor contract of a worker who has lost or partially lost the capacity to work as specified in item (2) of Article 42 of this law shall be handled pursuant to state regulations concerning work-related injury insurance.

Article 46 In any of the following circumstances, an employer unit shall pay a worker financial compensation:

(1) Where the labor contract is dissolved by the worker pursuant to the provisions of Article 38 of this law;

(2) Where the labor contract is dissolved after the dissolution is proposed to the worker by the employer unit pursuant to the provisions of Article 36 of this law and the parties have reached an agreement after negotiations;

(3) Where the labor contract is dissolved by the employer unit pursuant to the provisions of Article 40 of this law;

(4) Where the labor contract is dissolved by the employer unit pursuant to the provisions of the first paragraph of Article 41 of this law;

(5) Where the labor contract is a fixed-term contract that is terminated pursuant to the provisions of item (1) of Article 44 of this law, unless the worker does not agree to renew the contract even though the conditions offered by the employer unit for renewal are the same as or better than those stipulated in the current labor contract;

(6) Where the labor contract is terminated pursuant to items (4) and (5) of Article 44 of this law; or

(7) Other circumstances specified in laws or administrative statutes.

Article 47 A worker shall be paid financial compensation based upon the number of years worked at the employer unit, at the rate of one month's wages for each full year worked. Any period of not less than six months but not more than a year shall be counted as a year. The financial compensation payable to a worker for a period of less than six months shall be one-half of his or her monthly wages.

If the monthly wages of a worker are higher than three times the average monthly wages of employees in the local area for the preceding year as published by the people's government of the municipality directly under the central government or of the city divided into districts where the employer unit is located, the rate at which financial compensation is to be paid shall be three times the average monthly wages of employees. The maximum period of financial compensation shall not exceed 12 years.

The monthly wages referred to in this article denote the worker's average monthly wages in the 12 months prior to the dissolution or termination of the labor contract.

Article 48 If an employer unit dissolves or terminates a labor contract in violation of the provisions of this law and the worker requests the continued execution of the contract, the employer unit shall continue to execute the contract. If the worker does not request the continued execution of the labor contract or if the continued execution of the labor contract is impossible, the employer unit shall pay damages pursuant to the provisions of Article 87 of this law.

Article 49 The state will take measures to establish a sound system that will allow workers' social insurance accounts to be transferred from one region to another and to be continued in other regions.

Article 50 At the time of dissolving or terminating a labor contract, an employer unit shall produce proof of the dissolution or termination of the labor contract and, within 15 days, attend to procedures for the transfer of the worker's personnel file and social insurance account.

The worker shall attend to procedures for the handover of his or her work as agreed upon by both parties. If the relevant provisions of this law require the employer unit to pay the worker financial compensation, it shall make payment upon the completion of procedures for the handover of work.

The employer unit shall keep dissolved or terminated labor contracts on file for a period not less than two years, for possible future reference purposes.

Chapter V Special Provisions

Section I Collective Contracts

Article 51 After bargaining on an equal basis, enterprise employees as a party and their employer unit may conclude a collective contract on such matters as remuneration, work hours, rest, leave, work safety and hygiene, insurance, and benefits. The draft of the collective contract shall be presented to an employee representatives' conference or all the employees for discussion and approval.

A collective contract shall be concluded by the trade union on behalf of enterprise employees acting as a party with the employer unit. If the employer unit does not yet have a trade union, it shall conclude the collective contract with a representative chosen by the workers under the guidance of the trade union at the next higher level.

Article 52 Enterprise employees as a party and their employer unit may enter into special collective contracts addressing labor safety and hygiene, the protection of the rights and interests of female employees, and wage adjustment mechanisms.

Article 53 Industry-specific or area-specific collective contracts may be concluded between representatives of trade unions on the one hand and of enterprises on the other hand in such industries as construction, mining, and catering services in areas below the county level.

Article 54 After a collective contract has been concluded, it shall be submitted to the labor administrative department. The collective contract shall become effective if no objections are raised within 15 days from the date on which the labor administrative department receives the text.

A collective contract that has been concluded in accordance with the law is binding on the employer unit and the workers. An industry-specific or area-specific collective contract is binding on employer units and workers in the local industry or area concerned.

Article 55 The rates and standards for remuneration and working conditions stipulated in a collective contract may not be lower than the minimum rates and standards specified by the local people's government. The rates and standards for remuneration and working conditions specified in a labor contract between an employer unit and a worker may not be lower than those stipulated in the collective contract.

Article 56 If an employer unit violates the collective contract and infringes upon the labor rights and interests of its employees, the trade union may, in accordance with the law, demand that the employer unit assume liability. If a dispute over the execution of the collective contract is not resolved following negotiations, the trade union may apply for arbitration or institute legal proceedings in accordance with the law.

Section II Staffing Services

Article 57 Staffing firms shall be established pursuant to the relevant provisions of the Company Law and shall have registered capital not less than 500,000 yuan.

Article 58 Staffing firms are employer units as mentioned in this law and shall perform the obligations of employer units toward their workers. The labor contract between a staffing firm and a worker to be placed shall, in addition to the matters specified in Article 17 of this law, specify matters such as the unit with which the worker will be placed, the period of placement, and the position.

A staffing firm and a worker to be placed shall conclude a fixed-term labor contract with a period of not less than two years, with remuneration to be paid on a monthly basis. During periods when there is no work for which a worker can be placed, the staffing firm shall pay the worker remuneration on a monthly basis at the rate of the minimum wages prescribed by the people's government of the place in which it is located.

Article 59 When placing workers, a staffing firm shall enter into a staffing agreement with the unit that accepts the workers under staffing arrangements (hereinafter referred to as the hiring unit). The staffing agreement shall specify the job positions in which the workers are to be placed, the number of workers to be placed, the periods of placement, the amounts and methods of payment of remuneration and social insurance premiums, and the liability for violations of the agreement.

A hiring unit shall decide with the staffing firm on the period of placement based upon the actual needs of a job position and may not conclude several short-term staffing agreements to cover a continuous period of labor service.

Article 60 A staffing firm shall inform the workers to be placed of the content of the staffing agreement.

A staffing firm may not pocket part of the remuneration that a hiring unit pays to a worker under a staffing agreement.

A staffing firm and a hiring unit may not charge fees from the workers to be placed.

Article 61 If a staffing firm places a worker with a hiring unit in another region, the worker's remuneration and working conditions shall be in line with the rates and standards in the place where the hiring unit is located.

Article 62 A hiring unit shall perform the following obligations:

(1) Implement state labor standards and provide corresponding working conditions and labor protection;

(2) Inform the workers to be placed of the job requirements and remuneration;

(3) Offer overtime pay and performance bonuses and provide benefits appropriate for the job positions;

(4) Provide placed workers on the job with the training necessary for their job positions; and

(5) In the case of continuous placement, implement a mechanism of normal wage adjustments.

A hiring unit may not in turn place the workers with other hiring units.

Article 63 Placed workers shall have the right to receive the same pay as workers at the hiring unit for the same work. If a hiring unit has no workers in the same positions, remuneration shall be determined with reference to the remuneration paid in the place where the hiring unit is located to workers in the same or similar positions.

Article 64 Placed workers shall have the right to join the trade union of their staffing firm or the hiring unit in accordance with the law or to organize a trade union in order to protect their own lawful rights and interests.

Article 65 Placed workers may dissolve their labor contracts with their staffing firms pursuant to the provisions of Article 36 and Article 38 of this law.

If any of the circumstances provided for in items (1) and (2) of Article 39 and Article 40 of this law applies to a placed worker, the hiring unit may return the worker to the staffing firm, which may dissolve its labor contract with the worker pursuant to the relevant provisions of this law.

Article 66 The placement of workers shall generally be practiced for temporary, auxiliary, or substitute positions.

Article 67 Employer units may not arrange to have staffing firms to place workers with themselves or their subordinate units.

Section III Part-Time Labor

Article 68 The term part-time labor means a form of labor for which remuneration is chiefly calculated by the hour and where the worker generally do not work for more than four hours on average per day or more than a total of 24 hours per week for the same employer unit.

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

A worker who engages in part-time labor may conclude a labor contract with one or more employer unit, but the labor contract(s) that are subsequently concluded may not affect the execution of the previously concluded labor contract(s).

Article 70 The two parties to part-time labor may not specify a probation period.

Article 71 Either of the two parties to part-time labor may terminate the use of labor upon giving notice to the other party at any time. No financial compensation shall be payable by the employer unit to the worker upon the termination of the use of labor.

Article 72 The hourly compensation rate for part-time labor may not be lower than the minimum hourly wages prescribed by the people's government of the place where the employer unit is located. The maximum remuneration settlement and payment cycle for part-time labor may not exceed 15 days.

Chapter VI Supervision and Inspections

Article 73 The State Council's labor administrative department shall be responsible for overseeing and managing the implementation of the labor contract system nationwide.

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

In the course of overseeing and managing the implementation of the labor contract system, the labor administrative departments of people's governments at all levels at or above the county level shall consider the opinions of representatives of trade unions and enterprises as well as departments in charge of relevant industries.

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

(1) The formulation of rules and regulations by an employer unit that have a direct bearing on the immediate interests of workers and the implementation thereof;

(2) The conclusion and dissolution of labor contracts by employer units and workers;

(3) Compliance with relevant regulations on staffing services on the part of staffing firms and hiring units;

(4) Compliance by employer units with state regulations on workers' work hours, rest, and leave;

(5) Payment of remuneration as specified in labor contracts and compliance with the rates of minimum wages by employer units;

(6) Enrollment by employer units in various types of social insurance and payment of social insurance premiums; and

(7) Other labor matters requiring supervision as specified in laws and regulations.

Article 75 When the labor administrative department of a local people's government at or above the county level exercises supervision or conducts inspections, it has the authority to review material relating to labor contracts and collective contracts and to conduct on-site inspections of workplaces. Both the employer units and workers shall truthfully provide relevant information and material.

When personnel of a labor administrative department exercise supervision and conduct inspections, they shall show their identification, exercise their functions and powers according to law, and enforce the law in a civilized manner.

Article 76 Competent departments of people's governments at or above the county level, such as those in charge of construction, health, and production safety supervision and management, shall oversee and manage the implementation of the labor contract system by employer units that fall within their purviews.

Article 77 A worker whose lawful rights and interests have been infringed upon shall have the right to request that the relevant departments deal with the infringement according to law, or to apply for arbitration or institute legal proceedings according to law.

Article 78 Trade unions shall safeguard the lawful rights and interests of workers in accordance with the law and oversee the execution of labor contracts and collective contracts by employer units. If an employer unit violates labor laws or regulations or a labor contract or collective contract, a trade union has the right to raise its opinions or demand corrective action. If a worker applies for arbitration or institutes legal proceedings, the trade union shall provide support and assistance in accordance with the law.

Article 79 All organizations and individuals are entitled to report violations of this law. The labor administrative departments of people's governments at or above the county level shall verify and handle the violations reported in a timely manner and reward those people whose reports turn out to be valuable.

Chapter VII Legal Liability

Article 80 If the rules and regulations of an employer unit that have a direct bearing on the immediate interests of workers violate laws or regulations, the labor administrative department shall order corrective action and give warning. If said rules and regulations cause a worker to suffer harm, the employer unit shall be liable for damages.

Article 81 If the text of a labor contract provided by an employer unit lacks any of the mandatory clauses which this law requires to be included in such contracts or if an employer unit fails to deliver the text of the labor contract to the worker, the labor administrative department shall order corrective action. If the worker has suffered harm as a result thereof, the employer unit shall be liable for damages.

Article 82 If an employer unit fails to conclude a written labor contract with a worker more than a month but less than a year after the date on which the worker is put to work, it shall pay the worker twice his or her wages each month.

If an employer 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 twice his or her wages each month, starting from the date on which an open-ended labor contract should have been concluded.

Article 83 If a probation period is stipulated by an employer unit with a worker in violation of the provisions of this law, the labor administrative department shall order corrective action. If the illegally stipulated probation has been performed, the employer unit shall pay compensation to the worker for the time worked on probation beyond the statutory probation period, at the rate of the worker's monthly wages following the completion of his or her probation.

Article 84 If an employer unit violates the provisions of this law by retaining a worker's resident identity card or other papers, the labor administrative department shall order that the same be returned to the worker within a specified period of time and mete out punishment in accordance with the provisions of relevant laws.

If an employer unit violates the provisions of this law by collecting property from workers as security or under

some other guise, the labor administrative department shall order that the same be returned to the workers within a specified period of time and impose a fine on the employer unit of not less than 500 yuan but not more than 2,000 yuan for each person involved. If the workers have suffered harm as a result, the employer unit shall be liable for damages.

If an employer unit retains a worker's personnel file or other articles after the worker has dissolved or terminated the labor contract in accordance with the law, punishment shall be meted out pursuant to the provisions of the preceding paragraph.

Article 85 If any of the following circumstances occurs with respect to an employer unit, the labor administrative department shall order the payment of remuneration, overtime pay, or financial compensation within a specified period of time. If the remuneration is lower than the local minimum wages, the shortfall shall be made up. If payment is not made after the deadline, the employer unit shall be ordered to additionally pay the worker damages at a rate of not less than 50% but not more than 100% of the amount that is payable:

(1) Failure to pay a worker remuneration in full and on time as stipulated in the labor contract or pursuant to state regulations;

(2) Where wages are paid to a worker below the local minimum wages;

(3) Where overtime work is arranged without paying overtime pay; or

(4) Where a labor contract is dissolved or terminated without paying the worker financial compensation pursuant to the provisions of this law.

Article 86 If a labor contract is confirmed as being invalid in accordance with the provisions of Article 26 of this law and the other party suffers harm as a result thereof, the party at fault shall be liable for damages.

Article 87 If an employer unit dissolves or terminates a labor contract in violation of the provisions of this law, it shall pay damages to the worker at twice the rate of the financial compensation provided for in Article 47 of this law.

Article 88 If any of the following circumstances arises in respect to the employer unit, administrative punishment shall be meted out in accordance with the law. If the conduct in question constitutes a criminal offense, criminal liability shall be pursued according to law. If a worker suffers harm as a result, the employer unit shall be liable for damages:

(1) Using the means of violence, threats, or unlawful restrictions on personal freedom to force a worker to work;

(2) Directing in violation of rules and regulations or peremptorily ordering a worker to perform dangerous operations which threaten his or her personal safety;

(3) Insulting, administering corporal punishment, beating, conducting illegal searches on, or illegally detaining a worker; or

(4) Causing serious harm to the physical or mental health of workers due to horrific working conditions or serious environmental pollution.

Article 89 If an employer unit fails to issue to a worker written proof of the dissolution or termination of the labor contract in violation of the provisions of this law, the labor administrative department shall order corrective action. If the worker has suffered harm as a result, the employer unit shall be liable for damages.

Article 90 If a worker dissolves the labor contract in violation of the provisions of this law or contravenes the confidentiality obligations or restrictions on competition as provided for in the labor contract, causing the employer unit to suffer losses, he or she shall be liable for damages.

Article 91 If an employer unit hires a worker whose labor contract with another employer unit has not yet been dissolved or terminated, thereby causing the other employer unit to suffer losses, it shall be jointly and severally liable for damages along with the worker.

Article 92 If a staffing firm violates the provisions of this law, the labor administrative department and other relevant competent departments shall order it to take corrective

action. If the circumstances are serious, a fine of not less than 1,000 yuan but not more than 5,000 yuan for each person involved shall be levied on it, and the industrial and commercial administrative department shall revoke its business license. If the worker(s) placed has (have) suffered harm, the staffing firm and the hiring unit shall be jointly and severally liable for damages.

Article 93 The legal liability of an employer unit that conducts business without the legal qualifications shall be pursued according to law for its illegal and criminal acts. If the workers have already performed labor service, the employer unit or its investor(s) shall pay them remuneration, financial compensation, and damages in accordance with the relevant provisions of this law. If the workers have suffered harm as a result, the employer unit shall be liable for damages.

Article 94 If an individual that does business under contract hires workers in violation of the provisions of this law and a worker suffers harm as a result, the organization that lets the contract shall be jointly and severally liable for damages along with the contractor.

Article 95 If a labor administrative department, another competent department, or its working personnel neglect their duties, fail to perform their statutory duties, or exercise their authority in violation of the law, thereby causing harm to a worker or an employer unit, they shall be liable for damages, and the leading official directly in charge and other people who are directly responsible shall be administered administrative penalties in accordance with the law. If the conduct in question constitutes a criminal offense, criminal liability shall be pursued in accordance with the law.

Chapter VIII Supplementary Articles

Article 96 Where it is otherwise provided for in laws or administrative statutes or by the State Council concerning the conclusion, execution, modification, dissolution, or termination or labor contracts by and between public institutions and their personnel that are covered by the contract employment system, relevant matters shall be handled in accordance with said provisions. In the absence of said provisions, relevant matters shall be handled in accordance with the pertinent provisions of this law.

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

If a labor relationship has been established prior to the implementation of this law without the conclusion of a written labor contract, said contract shall be concluded within a month from the date this law is implemented.

If a labor contract existing on the date of the implementation of this law is dissolved or terminated after the implementation of this law and, pursuant to the provisions of Article 46 of this law, financial compensation is payable, the number of years for which financial compensation is payable shall be counted from the date of the implementation of this law. If, under relevant regulations in effect prior to the implementation of this law, the worker is entitled to financial compensation to the employer unit, the matter shall be handled in accordance with the relevant regulations in effect at the time.

Article 98 This law shall take effect on 1 January 2008.