

Haiwen Labor Law Bi-Monthly Newsletter (March-April, 2025)

Author: LIU, Yuxiang, WU, Qiong



Summary

本期摘要



新规速递：全国多部门相继发布通知，涉及稳岗、就业等多方面，四川省发布劳动人事争议裁审意见，福州市发布通知规范住房公积金管理

Quick View of New Regulations: Relevant Departments in Various Regions Issued Notices Concerning Job Stabilization and Employment; Sichuan Issued Labor Disputes Judicial Views; Fuzhou Issued Notice to Regulate the Management of Housing Funds



典型案例：人社部、最高院联合发布第四批劳动人事争议典型案例，最高院发布新就业形态劳动者权益保障典型案例

Exploration of Typical Cases: The MOHRSS and the Supreme People's Court Jointly Released the Fourth Batch of Typical Labor and Personnel Dispute Cases; The Supreme People's Court Released Typical Cases to Safeguard the Rights and Interests of Workers in the New Work Models



典型案例：上海市发布劳动争议纠纷典型案例

Exploration of Typical Cases: Shanghai Released Typical Labor Dispute Cases



典型案例：江苏省、杭州市、深圳市发布商业秘密保护典型案例

Exploration of Typical Cases: Jiangsu, Hangzhou and Shenzhen Released Typical Cases of Trade Secret Protection



典型案例：四川省、重庆市、山东省等多地陆续发布劳动人事争议典型案例

Exploration of Typical Cases: Sichuan, Chongqing, Shandong and Other Places Have Successively Released Typical Cases of Labor and Personnel Disputes

一、新规速递：全国多部门相继发布通知，涉及稳岗、就业等多方面，四川省发布劳动人事争议裁审意见，福州市发布通知规范住房公积金管理

Quick View of New Regulations: Relevant Departments in Various Regions Issued Notices, Concerning Job Stabilization and Employment; Sichuan Issued Labor Disputes Judicial Views; Fuzhou Issued Notice to Regulate the Management of Housing Funds

1. 人社部等五部门发布《关于开展2025年清理整顿人力资源市场秩序专项行动的通知》

The MOHRSS and Other Four Departments Issued the Notice on Carrying out a Special Operation to Rectify and Regulate the Order of The Human Resources Market In 2025

2025年4月17日，人社部、中央网信办、教育部、公安部、市场监管总局发布《关于开展2025年清理整顿人力资源市场秩序专项行动的通知》，其中强调依法整治劳务派遣违法行为等突出违法违规问题，以提供法治、公平的市场环境。

On April 17, 2025, the MOHRSS, the Cyberspace Administration of China, the Ministry of Education, the Ministry of Public Security, and the State Administration for Market Regulation jointly issued the Notice on Carrying out the Special Action to Rectify and Regulate the Order of the Human Resources Market in 2025, which emphasized the need to regulate illegal acts in labor dispatch and other prominent unlawful issues in order to provide a law-based and fair market environment.

2. 人社部等三部门发布《关于延续实施失业保险稳岗惠民政策措施的通知》

The MOHRSS and Other Two Departments Jointly Issued the Notice on Extending the Implementation of Unemployment Insurance Policies to Stabilize Employment and Benefit the People

2025年4月14日，人社部、财政部、税务总局三部门联合印发《关于延续实施失业保险稳岗惠民政策措施的通知》，明确延续实施助力企业稳定岗位和助力劳动者提升技能两项稳岗惠民政策举措。

On April 14, 2025, the MOHRSS, the Ministry of Finance, and the State Taxation Administration jointly issued the Notice on Extending the Implementation of Unemployment Insurance Policies to Stabilize Employment and Benefit the People. The notice clarified the issues on two key points: one is to assist enterprises in stabilizing job positions, and the other is to help workers enhance their skills, both aimed at stabilizing employment and benefiting the public.

3. 国务院就业促进和劳动保护工作领导小组发布就业创业支持方案

State Council Employment Promotion and Labor Protection Leading Group Released Plans for Promotion of Employment

2025年3月27日，国务院就业促进和劳动保护工作领导小组发布《加力重点领域、重点行业、城乡基层和中小微企业岗位挖潜扩容支持重点群体就业创业实施方案》，支持重点群体就业创业，并提到依法规范劳务派遣用工，切实保障劳动者权益。

On March 27, 2025, the State Council Employment Promotion and Labor Protection Leading Group released the Implementation Plan for Increasing Potential and Expanding Capacity of Positions in Key Areas, Key Industries, Urban and Rural Grassroots and Small and Medium-sized Enterprises to Support Employment and Entrepreneurship for Key Groups. The plan supported employment and entrepreneurship for key groups, and mentioned the need to regulate labor dispatch employment in accordance with the law to effectively safeguard the rights and interests of workers.

4. 中共中央办公厅、国务院办公厅印发《提振消费专项行动方案》

The General Office of the Communist Party of China Central Committee and the General Office of the State Council Issued a Plan on Special Initiatives to Increase Consumption

2025年3月16日，中共中央办公厅、国务院办公厅发布《提振消费专项行动方案》，其中提到推动将参加职工基本医疗保险的各类人员纳入生育保险、推动取消灵活就业人员在就业地参保的户籍限制、严格落实带薪年假制度等举措。

On March 16, 2025, the General Office of the Communist Party of China Central Committee and the General Office of the State Council jointly issued a plan on special initiatives to increase consumption, which mentioned the measures promoting the inclusion of all personnel participating in the basic medical insurance for employees into the maternity insurance, pushing for the removal of household registration restrictions for flexible workers to participate in insurance in their employment locations, and strictly implementing the paid annual leave system.

5. 四川省印发《关于审理劳动人事争议案件有关问题的会议纪要（一）》

Sichuan Issued the "Minutes of the Meeting on Several Issues Concerning the Adjudication of Labor and Personnel Dispute Cases (I)"

2025年3月10日，四川省劳动人事争议仲裁委员会发布《关于审理劳动人事争议案件有关问题的会议纪要（一）》，涉及工伤职工以用人单位未足额支付停工留薪期待遇为由单方解除劳动关系是否能要求支付经济补偿、离职前十二个月平均工资计算等问题。

On March 10, 2025, Sichuan Province issued the Minutes of the Meeting on Several Issues Concerning the Adjudication of Labor and Personnel Disputes (I), which involved issues whether an work-related injured employee can request severance pay when unilaterally terminating the labor relationship on the grounds that the employer has not fully paid the salary during the period of suspension of work with pay for work-related injury, and the calculation of the average monthly wage over the 12 months prior to termination.

6. 福州市发布《关于进一步规范住房公积金管理工作的通知》

Fuzhou Issues Notice on Further Regulating the Management of Housing Provident Fund

2025年4月8日，福州住房公积金管理委员会发布《关于进一步规范住房公积金管理工作的通知》，规定投诉职工与被投诉单位终止劳动关系超过三年或双方已就住房公积金补缴事宜达成书面协议并履行到位的（如协商一致按不低于5%（含）缴存比例补缴），住房公积金管理机构将不予受理投诉。

On April 8, 2025, the Fuzhou Housing Provident Fund Management Committee issued the Notice on Further Regulating the Management of Housing Provident Fund. The notice clarified that if the labor relationship between the complainant and the complained company has been terminated for more than three years, or if both parties have reached a written agreement on the arrears payment of housing provident fund and have fulfilled it (such as negotiating to pay the arrears at a rate of not less than 5% (inclusive)), the housing provident fund management institution will not accept the complaint.

二、典型案例：人社部、最高院联合发布第四批劳动人事争议典型案例，最高院发布新就业形态劳动者权益保障典型案例

Exploration of Typical Cases: The MOHRSS and the Supreme People's Court Jointly Released the Fourth Batch of Typical Labor and Personnel Dispute Cases; The Supreme People's Court Released Typical Cases to Safeguard the Rights and Interests of Workers in the New Work Models

2025年4月9日，人社部、最高院联合发布《关于联合发布第四批劳动人事争议典型案例的通知》，包含的裁审观点如下：

On April 9, 2025, the MOHRSS and the Supreme People's Court jointly issued the Notice on Jointly Releasing the Fourth Batch of Typical Labor and Personnel Dispute Cases, showing the following judicial views:

1. 工伤职工不能仅依医疗机构诊断证明书主张延长停工留薪期，而应向劳动能力鉴定委员会申请确认。

Work-related injured employees cannot claim an extension of the period of suspension of work with pay solely based on a medical diagnosis certificate from a healthcare institution. Instead, they should apply to the labor capacity appraisal committee for confirmation.

2. 未经本人同意或医疗机构证明存在孕期不能适应原劳动的情形，用人单位因女职工怀孕而单方调岗降薪违法，应补齐孕期工资差额。

It is illegal for the employer to unilaterally transfer the post and reducing the wage of female employees due to pregnancy without their consent or a medical certificate indicating that they are unable to perform their original job during pregnancy. Employers must make up the wage difference for the female employees during their pregnancy.

3. 用人单位未依法为劳动者缴纳社会保险费，导致劳动者遗属少领取抚恤金的，用人单位应赔偿抚恤金差额损失。

When an employer fails to pay social insurance premiums for an employee as required by law, resulting in the employee's dependents receiving less in funeral allowances, the employer shall compensate for the difference in the funeral allowances.

4. 用人单位未依法为劳动者缴纳社会保险费，劳动者自行代用人单位承担部分系劳动者的损失，可向用人单位主张损失赔偿。

When an employer fails to pay social insurance premiums for an employee as required by law, and the employee has to bear the costs that should have been covered by the employer, the employer is liable for compensation for the employee's losses.

5. 竞业限制义务的适格主体限于高级管理人员、高级技术人员和其他负有保密义务的人员，从事保安岗位的员工不属于适格主体，用人单位与其约定竞业限制条款无效。

The qualified subjects to bear non-compete obligations are limited to senior managers, senior technical personnel, and other individuals with confidentiality obligations. Employees in security positions are not qualified subjects, and non-compete clauses agreed upon with them by employers are invalid.

2025年4月30日，最高院发布了新就业形态劳动者权益保障典型案例，涉及下述社会关切问题：根据用工事实及支配性劳动管理认定劳动关系、新就业形态相关责任保险理赔标准认定，以及执行工作任务致人损害和致己损害的责任承担问题。

On April 30, 2025, the Supreme People's Court released typical cases to safeguard the rights and interests of workers in the new work models, addressing the following social concerns: recognition of labor relationship based on employment facts and dominant labor management, the settlement standard of liability insurance in the new work forms, and the assumption of the liabilities for damages caused to others or to themselves due to execution of work task.



三、典型案例：上海市发布劳动争议纠纷典型案例

Exploration of Typical Cases: Shanghai Released Typical Labor Dispute Cases

2025年4月28日，上海市二中院与上海市人社局共同发布十个劳动争议纠纷裁审衔接典型案例，其中体现了以下裁审观点：

On April 28, 2025, the Shanghai Second Intermediate People's Court and the Shanghai MOHRSS jointly released ten typical cases illustrating the interface between arbitration and litigation of labor disputes, showing the following judicial views:

1. 依据客观情况发生重大变化解除劳动合同需同时满足实体和程序要件。劳动合同约定岗位存在的基础是某合作项目，合作项目终止符合“客观情况发生重大变化”的情形，且该情形导致劳动合同无法继续履行，公司在与员工就变更劳动合同内容进行协商未达成协议的情况下解除劳动合同，符合法律规定。

Termination for “significant change in the objective circumstances” requires both substantive and procedural compliance. Where a labor contract provides that the basis for the existence of the position is a specific project, the project's termination constitutes a significant change which leads to the performance of labor contract impossible. Termination of the labor contract after unsuccessful negotiations on amendment, complies with the legal requirements.

2. 以严重违纪为由解除劳动合同应考量行为严重性及与惩罚后果的对称性。例如：（1）作为报销审批流程的一环，行政经理未发现下属用虚假发票报销客户招待费的行为，尚未达到严重违纪的程度；（2）员工提交的病假单虽存在一定瑕疵，但公司未要求说明或补正、未确认病假事实，亦尚未达到欺诈和严重违纪的程度；（3）物业工作人员在工作期间多次向租户的员工发送含低俗内容的微信构成职场性骚扰，公司以严重违纪为由解除合法。

Termination of labor contract on grounds of serious disciplinary violations must balance the seriousness of the employee's behavior against the punitive outcome. For example, i) an administrative manager's failure to discover a subordinate's use of fake invoices for client entertainment did not reach the threshold of serious disciplinary violation; ii) a sick-leave certificate containing minor flaws, while the employer neither requested clarification nor confirmed the medical fact, did not constitute fraud or serious disciplinary violation; by contrast, iii) an employee who repeatedly sent tenants' staff lewd WeChat messages during work hours committed workplace sexual harassment, justifying lawful termination of the employee's labor contract.

3. 劳动者因失职轻信诈骗给公司造成重大经济损失，应综合工作时间、工资标准、责任比例等因素酌情赔偿部分损失。

When an employee's dereliction of duty and trust in a fraudster causes substantial economic loss to the employer, the employee should compensate part of the loss, taking into account factors such as length of service, wage level, and degree of fault.

4. 公司滥用疫情期间的特殊政策，通过民主程序调整个别部门的薪资无法律依据，应补发工资差额。

An employer that abused special epidemic-era policies to adjust some departments' salaries through a democratic process was considered lacking legal basis, must make up for the difference in wages.

5. 公司不能仅以劳动者未履行报告义务直接认定其违反竞业限制义务，仍应支付竞业限制经济补偿；带货主播属于互联网公司核心价值员工，知悉直播运营的数据信息等商业秘密，属于竞业限制义务适格主体。

An employer cannot deny non-compete compensation on the sole ground that the employee had not fulfilled his/her reporting obligations as agreed; a live-streaming host is a core employee of an internet company who knows the operational data and other trade secrets, is the eligible subject for applying non-compete obligations.

6. 对于新业态劳动者与企业是否构成劳动关系，应根据实际用工情况，综合审查劳动者工作模式、用工管理、报酬结算等进行审慎认定。

To determine whether workers in new work forms and a company has a de-facto labor relationship, arbitration and judicial authorities should be prudent in examination the actual arrangement, management practice, and compensation structure in accordance with the law.

2025年3月14日，上海市闵行区劳动人事争议仲裁院和闵行法院共同发布《上海市闵行区劳动人事争议调解仲裁与审判白皮书（2023-2024年）》，并发布闵行区劳动人事争议十大典型案例，关注离职后奖金争议、工伤补偿协议效力等典型问题。

On March 14, 2025, the Minhang District Labor and Personnel Dispute Arbitration Committee and Minhang District People's Court jointly published the "White Paper on Labor and Personnel Dispute Mediation, Arbitration, and Trial in Minhang District (2023-2024)", together with the ten typical cases. These spotlight methods for post-employment bonus disputes, and the validity of work-injury compensation agreements.

四、典型案例：江苏省、杭州市、深圳市发布商业秘密保护典型案例

Exploration of Typical Cases: Jiangsu, Hangzhou and Shenzhen Released Typical Cases of Trade Secret Protection

1. 2025年3月24日，江苏高院发布商业秘密司法保护典型案例（2020-2024），其中3个案例涉及离职员工侵犯前用人单位商业秘密的情形。与用人单位签订保密协议并掌握商业秘密的员工，在离职后对前用人单位的技术秘密予以改进使用、向他人披露明知是实施商业秘密不可或缺的技术信息、违法披露并指导他人使用前用人单位技术秘密，均构成侵犯商业秘密，应承担相应的民事或刑事责任。

On March 24, 2025, Jiangsu Higher People's Court released typical cases of trade secret protection (2020-2024), three of which relating ex-employees infringing on the trade secrets of the former employer. Where an ex-employee who signed a confidentiality agreement with the former employer and possessed trade secrets, improving and using the former employer's technical secrets, disclosing the technical information that he/she knows to be indispensable for the implementation of the trade secrets, disclosing and instructing others to use the former employer's technical secrets illegally,

all constituted infringement of the trade secrets and shall be subject to the corresponding civil or criminal liabilities.

2. 2025年4月23日，杭州中院发布“杭州法院2024年度知识产权司法保护暨服务保障新质生产力发展典型案例”，其中2个案例为离职员工侵犯前用人单位商业秘密的刑事案件。案例重点关注了商业秘密的认定、侵犯商业秘密行为情节严重的判断标准、损失的计算标准等问题。

On April 23, 2025, Hangzhou Intermediate People's Court released the typical cases on intellectual property rights protection and development in Hangzhou courts for the year of 2024, two of which are criminal cases of ex-employees infringing on former employer's trade secrets. The cases focus on the identification of trade secrets, the criteria for determining the seriousness of infringement of trade secrets, the calculation of damages, etc.

3. 2025年4月23日，深圳宝安法院发布《深圳市宝安区人民法院商业秘密司法保护工作报告——企业与员工篇（2020-2024年）》及5个商业秘密典型案例，其中体现了商业秘密侵权的主要模式及司法裁判导向，为企业识别风险和设置合理保密措施提供了参考。

On April 23, 2025, Shenzhen Bao'an People's Court issued the Report on the Judicial Protection of Trade Secrets - Employers and Employees (2020-2024) and five typical cases on trade secrets, which reflects the main modes and judicial opinions of trade secret infringement, and provides guidance for enterprises to identify the risks and set up reasonable confidentiality measures.

五、典型案例：四川省、重庆市、山东省等多地陆续发布劳动人事争议典型案例

Exploration of Typical Cases: Sichuan, Chongqing, Shandong and Other Places Have Successively Released Typical Cases of Labor and Personnel Disputes

2025年3月至4月，各地裁审机构陆续发布与妇女权益保障以及劳动人事相关争议的典型案例，主要包括：

In March and April 2025, the courts and labor arbitration committees in various regions have successively released typical cases regarding disputes related to women's rights and interests and labor and personnel.

1. **川渝地区：**2025年4月9日，重庆高院发布2024年度民事审判十大典型案例，其中包括2个劳动争议，关注用人单位规章制度规定的严重违纪情形的合理性、劳动者频繁提起仲裁诉讼的合理性等问题；2025年4月29日，四川高院、重庆高院等联合发布第二批劳动人事争议共十六个典型案例，涉及劳动关系的认定、劳动合同履行与变更、加班费计算标准等问题；2025年3月31日，成都中院于发布了成都市新就业形态劳动争议十大典型案例，关注新业态下事实劳动关系的认定等热点问题。

Sichuan and Chongqing: on April 9, 2025, Chongqing Higher People's Court released ten typical cases of civil trials in 2024, two of which are labor disputes, focusing on the reasonableness of misconducts circumstances stipulated in the employer's rules and regulations and the reasonableness of the employee's frequent arbitration and lawsuits, etc. On April 29, 2025, Sichuan Higher People's Court, Chongqing Higher People's Court and other agencies jointly released sixteen typical cases of labor and personnel disputes, touching identification of employment relationship, implementation and change of labor contracts, calculation of overtime pay, etc. On March 31, 2025, Chengdu Intermediate People's Court released ten typical cases of labor dispute on new work models, which focuses on the determination of de facto employment relationship under the new work models and other hot issues.

2. **山东省：**2025年4月28日，山东省高院与人社厅联合发布山东省2024年度劳动人事争议十大典型案例，其中案例6值得关注：该案中，用人单位基于品牌合作方终止合作的客观情况重大变化对劳动者进行调岗，但在劳动者拒绝执行调岗决定后以旷工严重违纪为由直接解除劳动合同，被认定为违法解除。

Shandong Province: On April 28, 2025, Shandong Higher People's Court and Human Resources and Social Security Department jointly released ten typical cases of labor and personnel disputes in 2024. In Case 6, the employer transferred the employee's post based on the significant change in the objective circumstances of the termination of the cooperation with a business partner, but directly terminated the labor contract on the misconduct ground after the employee refused to transfer to the new post, and is accordingly deemed as a wrongful termination.

3 . 天津市、广东省：2025年3月7日，天津高院、天津市女法官协会发布8件妇女权益司法保护典型案例；广东高院、广东省妇女联合会联合发布一批维护妇女合法权益典型案例。其中各涉及1个女职工与用人单位的劳动争议，强调三期女职工的解雇保护。

Tianjin and Guangdong: On March 7, 2025, Tianjin Higher People’s Court and Tianjin Women Judges’ Association released eight typical cases on the judicial protection of women’s rights and interests, and Guangdong Higher People’s Court and the Guangdong Women’s Federation also jointly released a batch of typical cases on the protection of women’s rights and interests. Each of these contains a labor dispute between a female employee and her employer, which emphasis the dismissal protection for female employees in special periods.

此外，其他地区发布的劳动人事相关争议的典型案例主要包括：

Typical cases of labor and personnel disputes released by other regions mainly include:

北京市	昌平法院发布“ 六大典型案例，这些情形算工伤 ”；
广东省	广东高院、省人社厅联合发布“ 劳动争议典型案例 ”； 南京中院发布“ 2024年度劳动人事争议十大典型案例 ”； 南京法院与市人社局、市总工会联合发布“ 南京新就业形态用工纠纷典型案例 ”；
江苏省	常州中院、常州市人社局联合发布“ 2024年度劳动争议典型案例 ”； 无锡中院发布“ 2024年度无锡地区劳动人事争议典型案例 ”； 苏州中院、苏州市人社局联合发布“ 2024年度劳动争议典型案例 ”；
贵州省	贵州高院、贵州人社厅联合发布“ 劳动争议典型案例 ”；
陕西省	陕西高院发布“ 劳动争议典型案例 ”；
河北省	河北高院发布“ 《河北法院劳动争议审判白皮书（2020-2024年）》 ”
安徽省	安徽高院、安徽人社厅、安徽总工会联合发布“ 劳动争议典型案例 ”。