

Llinks Legal Alert – Labor & Employment Law
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LINKS
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Spotlight on News

1. Nationwide: Summary of Official Announcements of Parental Leave and Extended Maternity Leave in Several Regions

Recently, 20 provinces and regions have announced amendments to their local population and family planning regulations, proposing measures such as extending maternity leave and adding parental leave, to echo the implementation measures of the three-child policy. The regulations on marriage and childbirth related leaves in some regions are set forth as follows:

Regions	Extended Maternity Leave	Parental Leave (until child reaches the age of three)	Paternity Leave
Shanghai	60 days	5 days for a couple separately	10 days
Beijing	60 days	5 days for a couple separately	15 days
Zhejiang	60 days for 1 child, 90 days for 2 children and 3 children	10 days for a couple separately	15 days
Guangdong	80 days	10 days for a couple separately	15 days
Jiangsu	30 days	implementation measures to be formulated by the provincial government	15 days
Chongqing	80 days	either party of a couple can take time off until child reaches the age of 1, or a couple is entitled to 5-10 day leaves per year (until child reaches the age of 6) separately	20 days
Tianjin	60 days	10 days for a couple separately	15 days
Hunan	60 days	10 days for a couple separately	20 days
Liaoning	60 days	10 days for a couple separately	20 days
Anhui	60 days	10 days for a couple separately (until child reaches the age of 6)	30 days
Hebei	60 days for 1 child and 2 children, 90 days for 3 children	10 days for a couple separately	15 days
Sichuan	60 days	10 days for a couple separately	20 days
Shanxi	60 days	15 days for a couple separately	15 days
Jiangxi	90 days	10 days for a couple separately	30 days

Guizhou	60 days	10 days for a couple separately	15 days
Hubei	60 days	10 days for a couple separately	15 days
Heilongjiang	180 days including maternity leave	10 days for a couple separately	15 days
Gansu	180 days including maternity leave	15 days for a couple separately	30 days
Jilin	extended maternity leave up to 1 year upon the consent of employers	to be considered	implementation measures to be formulated by the provincial government
Qinghai	90 days	15 days for a couple separately	15 days

2. Beijing: Local Labor Authorities Released Ten Typical Labor Dispute Arbitration Cases of 2021

Recently, the Beijing Municipal Human Resources and Social Security Bureau published 10 typical labor dispute arbitration cases of 2021, which includes overtime pay, determination of labor relationships in gig economy, formulation of company policies, non-competition restriction, protection of rights and interests of female workers during special periods, termination of labor contracts and service contracts, etc. These typical cases are useful references for companies in Beijing to carry out labor and employment management legally.

3. Shenzhen and Guangzhou: Social Minimum Wage Standards were Raised to RMB 2,360 and RMB 2,300 Respectively

Guangdong recently issued a *Notice on Adjusting the Minimum Wage Standard*, which adjusts the minimum wage standard of full-time employees since December 1, 2021. The adjustment still maintains four categories of standards, among which Guangzhou and Shenzhen implement the first category of standards, with RMB 2,300/month in Guangzhou and RMB 2,360/month in Shenzhen. It is worth noting that in Shenzhen and Guangzhou, the minimum wage standard includes the social insurance premiums and individual income tax that the employee should contribute.

4. Corporate Internal Countering-corruption Trend: Xiaomi and Miniso Released Investigation and Penalty Report of Disciplinary Violations in the Third Quarter of 2021

Xiaomi released a case briefing for the third quarter of 2021. It is reported that total 28 cases of violation of discipline were investigated, and 4 cases were transferred to the relevant judicial organizations. Several



employees were dealt with according to laws. The violations mainly focus on accepting bribes, embezzlement, fraud with vendors, etc.

Also, Miniso released a notice stating that in October 2021, Miniso conducted investigations on 29 compliance violations, with a total of 26 employees being held accountable and 8 employees being terminated. The violations involved mainly were dereliction of duty, fraud, misappropriation and embezzlement, etc.

Legislation Updates

1. Nationwide: The Draft of Basic Labor Standards Law is Expected to be Submitted to the National People's Congress for Consideration in 2022

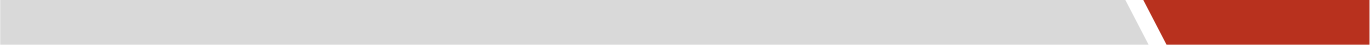
In view of the fact that China's current labor standard legislations are scattered in different laws and regulations, administrative rules and policy documents, which can no longer meet the needs of economic and social development at this stage. The Social Construction Committee of the National People's Congress has carried out preliminary research on improving working hour system, coordinating rest and holidays, and improving minimum salary systems, etc. The legislation on basic labor standards has been included in the legislative plan of the Standing Committee of the 13th National People's Congress and is expected to be submitted to the Standing Committee of the National People's Congress for consideration in 2022. It will be a significant legislation move after the implementation of the Labor Contract Law in 2008.

2. Nationwide: Three Departments Jointly Issued the *Nine Guidelines for Probity Practices of Staff in Medical Institutions*

The National Health Commission recently issued the *Nine Guidelines for Probity Practices of Staff in Medical Institutions* (the "**Guidelines**"), which requests the staff in medical institutions to practice based on the basic principles of the professional ethics. The National Health Commission requests all staff (including the full time employees and contractors etc.) of medical institutions of all levels and types to incorporate the Guidelines into their practice training and education activities, and take the implementation of the Guidelines as the key assessment content of the staff, which will be weighed when deciding staff's remuneration. The National Health Commission also requests the health administrative departments at all levels to establish a normal supervision mechanism and severely investigate and deal with violations of the Guidelines. *For more details of the Guidelines, please read our [previous article](#).*

3. Guangzhou: Soliciting Public Opinion on the *Draft of Measures on Incentives and Special Support for Family Planning*

Recently, the Guangzhou Municipal Health Commission released the *Draft of Measures on Incentives and Special Support for Family Planning* ("**Measures**"). The measures put forward that the family planning bonus for one-child parents shall be paid at the standard of RMB 150 per person per month. The special assistance of family planning will be paid at the rate of RMB 1,100 per month per person for families whose only child dies, and RMB 780 per month per person for families whose only child is injured or disabled.



Case Study

An employee caused the company's loss of RMB 2 million for the internet scam, and the people's court opined that the employee compensated RMB 550,000 to the company for the reason of gross negligence

Facts

Mr. Zhang joined the Company D as a financial cashier. Zhang received a call from Mr. Zhao, who claimed to be the authorized representative of a cooperative company. Mr. Zhao added Mr. Zhang to a QQ (an instant communication app) group. The QQ nickname of another person in the group was same as Mr. Chu's (he is the legal representative of the Company D). Mr. Zhao claimed that he wrongly transferred the contract payment to the personal account of Mr. Chu, and asked Mr. Zhang to refund the wrongly-remitted RMB 2 million to the company's business account owned by Mr. Zhao. Mr. Zhang then transferred a total of RMB 2 million to Zhao's company account. After Mr. Zhang's remittance was completed, Mr. Chu was aware of such abnormal remittance and verified with him, and then found out that Mr. Zhang had been deceived by the internet scam, because the person in the QQ group is not Mr. Chu. He immediately reported such case to the police. The Company D brought labor arbitration against Mr. Zhang to claim all losses.

Judge's Viewpoint

The court opined that if the employee caused economic losses to the employer due to gross negligence during the performance of the labor contract, the employee shall make appropriate compensation. Although the losses of the Company D involved in the case were caused by suspected online fraud, Mr. Zhang, as a financial professional with accounting knowledge and working experience, failed to fully fulfill his duty of attention and prudence and lacked necessary professional vigilance. Thus, his behavior constituted the gross negligence. As a result, he should be accountable for the loss. However, there was no sufficient legal basis for the Company D to request Mr. Zhang to bear all compensation liability for the losses, and the Company D oversaw the financial management system as well, and should also bear part of the loss by itself. The court finally ruled that Mr. Zhang should compensate RMB 550,000 to the Company D after taking the extent of his negligence and the consequences of damage into consideration.

Introduction of Llinks Labor and Employment Law Practice

Llinks provides clients with efficient solutions and pragmatic labor law compliance advice based on clients' business needs. Our services include: providing daily labor law compliance advice and training; designing strategies and plans for mass layoffs and participating in on-site negotiations; assisting in solving personnel replacement in mergers and acquisitions, and providing on-site support and crisis management for strikes and other collective action; representing clients in labor arbitrations and litigations involving terminations of labor contracts, bonus payments, etc.; advising on issues of white-collar crime, anti-corruption and anti-bribery, anti-discrimination, personal information protection, protection of trade secrets and non-competition obligation, equity incentives, and senior-level employee dismissals, etc.

Awards and Honors:

- In 2020, Llinks Law Offices were awarded Best Law Firm for Client Service of Chambers China Awards
- In 2021, 2020 and 2019, Patrick Gu was consecutively recommended as the top-tier labor lawyer by LEGALBAND
- In 2020 and 2019, Patrick Gu was consecutively recommended as the leading labor lawyer by China Law & Practice

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