

# **Llinks Legal Alert – Labor & Employment Law**

## **August 2025**



Shanghai · Beijing · Shenzhen · Hong Kong · London

**LINKS**  
Law Offices  
通力律师事务所



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## Spotlight on News

1. The Supreme People's Court issued the *Interpretation (II) of the Supreme People's Court on Issues Concerning the Application of Law in the Trial of Labor Dispute Cases* along with six representative labor dispute cases, clarifying contentious issues to foster the development of labor relations.


The Supreme People's Court issued the *Interpretation (II) of the Supreme People's Court on Issues Concerning the Application of Law in the Trial of Labor Dispute Cases* (the “**Judicial Interpretation II**”) along with six accompanying representative labor dispute cases (the “Representative Cases”). The Judicial Interpretation II will take effect on September 1, 2025.

In recent years, labor disputes involving non-compete agreements, mixed employment arrangements among affiliated enterprises, and social security payment have occurred frequently. The Judicial Interpretation II refines the application of relevant legislations and provides critical guidance for reviewing key issues. It has also unified the adjudication standards for common and frequent practical issues, such as the validity of non-compete clauses, determination of scenarios where labor contracts are unable to be performed, as well as employers' failure to contribute to social security, safeguarding the workers' interests. Furthermore, the Judicial Interpretation II introduces new perspectives on the conclusion of open-ended employment contracts, the definition of labor rights for foreign employees located in China, and the protection of workers' rights beyond the statutory retirement age, offering innovative statutory solutions to real-world disputes.

The Representative Cases closely align with the core provisions of the Judicial Interpretation II, systematically integrating local courts' research on complex matters of labor disputes into adjudication of certain claims. These Representative Cases have reflected the exploration and invention of judicial practice, bringing out the transition of legal application from theoretical basis to practical situations.

The Corporate Compliance Team of Llinks Law Office has conducted a comprehensive analysis of the key provisions of Judicial Interpretation II and the corresponding new adjudication rules, providing practical compliance suggestions from lawyers' perspective. For further details, please refer to our WeChat official account article titled [China's New Labor Rules: Key Provisions, Corporate Impacts, and Compliance Strategies](#).

2. The Ministry of Human Resources and Social Security released the *Interim Provisions on the Protection of Basic Rights and Interests of Over-Age Workers (Draft for Public Comment)* to seek public opinions on safeguarding the rights and interests of workers beyond statutory retirement age.



The Ministry of Human Resources and Social Security issued the *Interim Provisions on the Protection of Basic Rights and Interests of Over-Age Workers (Draft for Public Comments)* (the “**Interim Provisions**”) on July 31, 2025, aiming to protect the interests of workers beyond the statutory retirement age and clarify the rights and obligations of employers and employees. The Interim Provisions has been released for public feedback until August 31, 2025.


The Interim Provisions breaks through the traditional definitions of labor relations and service relationships by establishing the concept of “employment relationships for over-age workers.” It specifies the basic rights of elderly workers, strengthening defenses for over-age workers’ access to remuneration, rest and leave, occupational safety and health, protection of work-related injuries, and further clarifies legal application of employment relationships during the flexible deferred retirement age.

In addition, the Interim Provisions has unblocked the rights-protection channels for over-age workers involved in labor disputes, and thereby establishes a dispute resolution mechanism. Over-age workers may protect their rights and interests through labor dispute mediation and arbitration, filing lawsuits to courts, or raising complaints towards human resources and social security authorities.

**3. Beijing Municipal People’s Procuratorate issued the *Guidelines for Trade Secret Protection and Risk Prevention*, summarizing common issues identified in cases involving trade secrets infringement.**

Beijing Municipal People’s Procuratorate issued the *Guidelines for Trade Secret Protection and Risk Prevention* (the “**Guidelines**”) on August 12, 2025 in response to common issues identified in cases involving trade secret infringement, intending to reinforce the protection of trade secrets.

The Guidelines recommends that relevant developers and operators promptly determine whether specific information enjoys secrecy and commercial value, and whether corresponding confidentiality measures have already been implemented. By accurately distinguish the characteristics of trade secrets—non-public knowledge, confidentiality, and value—companies are able to elucidate the scope of information and rights ownership which need to be protected, and reasonably decide whether to protect such information as trade secrets. To prevent risks during research development and business operations, it is recommended to adopt ongoing and targeted management measures such as “limited access” and “reasonable disclosure”, while enhancing the supervision of confidential carriers and secure areas. For technical or business information provided by employees or former employees from suspected competing firms, entities should confirm the authenticity of the information and refrain from using any technical or operational details obtained through infringement of trade secrets.



According to the Guidelines, rights owners should concentrate on preserving written evidence which demonstrates the research and development process, implementation of confidentiality measures, and direct or indirect economic losses in their daily management. Such evidence includes but is not limited to project approvals, research and development documentation, cost details and relevant contracts. In the event of trade secret infringement, rights owners may choose one or multiple paths for safeguarding their rights based on the actual circumstances, including administrative complaints, civil trials and criminal reports.


## Legislation Updates

1. The Ministry of Commerce issued the *Guidelines for Overseas Integrity and Compliance of Enterprises* to promote the development of the compliance management system for enterprises operating overseas under the "Belt and Road" Initiative.

The Ministry of Commerce issues the *Guidelines for Overseas Integrity and Compliance of Enterprises* (the "Integrity and Compliance Guidelines") on June 13, 2025. The Integrity and Compliance Guidelines mainly applies to enterprises engaged in economic cooperation activities such as global investment, overseas contracted projects, international labor cooperation and foreign aid. The announcement of Integrity and Compliance Guidelines is a milestone of developing the integrity of the Silk Road, leading the "going global" enterprises in advancing the integrity and compliance management systems by profound knowledge of domestic and international anti-corruption laws and regulations as well as relevant international rules, and ensure integrity and compliance in their business overseas.

According to the Integrity and Compliance Guidelines, enterprises conducting overseas operations shall undertake primary responsibility for integrity and compliance. Enterprises are also encouraged to actively guide and support their overseas branches in joining chambers of commerce or industry associations for Chinese enterprises in the host country or region, and to voluntarily adhere to self-regulatory rules of the industry. Meanwhile, enterprises shall establish and improve their integrity and compliance management systems, including but not limited to organizational structures, management policies, culture of integrity, oversight and accountability mechanisms with clearly defined integrity and compliance standards and procedures. The Integrity and Compliance Guidelines further stipulates that shareholders, actual controllers, board directors, supervisors, and management personnel shall set an example by making integrity and compliance commitments. Enterprises are encouraged to strengthen education for employees assigned overseas, conduct regular integrity and compliance training for all staff and sign liability statements to ensure obedience to the requirements of integrity and compliance.

Furthermore, enterprises shall enhance internal assessment and evaluation mechanisms for integrity and compliance, linking assessment results to employees' occupation adjustments, promotions, compensation and performance awards. Employees who violate integrity and compliance policies shall be held responsible in accordance with relevant regulations. The Integrity and Compliance Guidelines particularly emphasizes that relatively high integrity and compliance risks will be involved in the following scenarios: offering or accepting items prohibited from circulation by local laws, regulations, or international treaties, cash, shopping cards, consumption cards, cash equivalents, other valuables, shares, stocks, bonds, etc.; arranging or accepting



arrangements for travel, fitness entertainment, watching commercial performances or sports events; providing gifts and hospitality to interested parties; or embezzling funds under the pretext of false gifts and hospitality.

**2. Five municipal authorities in Shanghai jointly promulgated a significant policy to support childbirth: a 50% subsidy of social security payment will be granted from the month of birth.**

Shanghai Municipal Human Resources and Social Security Bureau, Shanghai Municipal Finance Bureau, Shanghai Municipal Development and Reform Commission, Shanghai Municipal Health Commission, and Shanghai Municipal Healthcare Security Administration jointly issued the *Notice on Implementing Employer Social Insurance Subsidies During Maternity Leave and Additional Childbirth Leave for Female Employees* (the “**Notice**”), which takes effect on January 1, 2025. According to the Notice, employers who provide statutory maternity leave and additional childbirth leave for female employees giving birth during employment can apply for a social insurance subsidy, which covers 50% of the employer’s actual contributions for the female employee’s basic pension insurance, basic medical insurance (including maternity insurance), unemployment insurance, and work-related injury insurance during the maternity and additional childbirth leave period. The subsidy is provided for a six-month duration starting from the month of childbirth.

The Notice specifies that the subsidy follows the principles of “territorial management” and “reimbursement-after-payment”, and will be disbursed in a lumpsum by one-time application. Employers may file the application to the human resources and social security authorities in its located district within one year after the end of the female employee’s maternity and additional childbirth leave. The six-month subsidiary payment will be made upon approval. Online applications for the subsidy will be available starting from the end of August 2025.

In addition, the Notice encourages employers to establish “family-friendly positions” for female employees returning to work after childbirth, adopting flexible management approaches such as staggered working hours, remote or telecommuting options, flexible leave arrangements, and adaptable performance assessments to help female employees balance family and work responsibilities. The Notice aims to establish a cost-sharing mechanism for childbirth involving the government, society, and employers to further consolidate the value orientation of “family-friendly” policies. Through the coordinated implementation of “family-friendly positions” and “maternity leave social insurance subsidies”, the policy seeks to minimize employment barriers and enhance the quality of employment for female employees.



## Case Study

### 1. Shanghai Third Intermediate Court has sentenced 14 Huawei's former employees to prison and imposing fines of RMB 13.5 million for infringement on trade secrets of HiSilicon's chip.

- **Facts**

Zhang once served as the head of the RF chip development department at HiSilicon (a wholly-owned subsidiary of Huawei). After leaving HiSilicon, he established Zunpai Communications Technology (Nanjing) Co., Ltd. (hereinafter referred to as “**Zunpai**”) in March 2021. Zunpai lured multiple former R&D employees from HiSilicon with offers of high salaries and equity incentives. These employees were instructed to illegally obtain Huawei's core Wi-Fi 6 chip technology, including RF circuit designs, protocol stack code, and test data by photographing, copying code, screenshotting design documents, and splitting files for transmission before their resignation. The stolen technology was subsequently replicated into chips developed by Zunpai.


Shanghai police have intervened in this case in December 2023, arresting 14 suspects and seizing seven servers containing the infringing technology. On April 10, 2024, the Third Branch of the Shanghai People's Procuratorate indicted Zhang and 13 others on charges of trade secret infringement. Judicial appraisal confirmed that 40 core technical features in Zunpai's chip designs showed over 90% similarity to Huawei's trade secrets, meeting the standard of “substantial similarity” and thus constitutes substantive infringement. This directly resulted in the loss of Huawei's trade secrets, causing over RMB 100 million in direct economic losses, including R&D costs and losses of expected benefits. It has also weakened Huawei's bargaining power in Wi-Fi 7 standard negotiations, leading to a determination that the losses were “particularly severe”.

- **Judge's Viewpoint**

On July 28, 2025, Shanghai Third Intermediate People's Court issued a first-instance judgment, ruling that 14 individuals, including the principal offender Zhang, were convicted of trade secret infringement. Zhang was sentenced to six years imprisonment and fined RMB 3 million, with a five-year ban on working in the chip industry. The other 13 defendants also received prison terms ranging from one to five years. The total amount of fines across this case has reached RMB 13.5 million. In addition to criminal penalties, the court ordered the freezing of over RMB 90 million in assets belonging to Zunpai and its affiliated companies, and mandated the destruction of all infringing chip-related technical materials. The first-instance judgment has currently taken effect.

This case is regarded as one of “the most horrible technology theft cases” in the semiconductor industry, exposing compliance weaknesses in technology sourcing and talent mobility. The severe penalties reflect the





judiciary's zero-tolerance standpoint toward trade secret crimes, serving as a strong warning to technology professionals. It is also a landmark in encouraging technological innovation, safeguarding fair competition, and promoting the restructure of the intellectual property ecosystem.

## **2. Suzhou Intermediate People's Court: an employee was fined RMB 60,000 due to violation of the court's non-compete injunction by working for a rival firm.**

- **Facts**


In September 2020, Xu entered into a five-year labor contract with a technology company, undertaking the role of Chief Engineer at the R&D Center. Both parties simultaneously executed a confidentiality agreement and a non-compete agreement. In August 2023, Xu resigned due to personal family matters and health reasons. Pursuant to the agreed 24-month non-compete period, the company paid Xu a monthly compensation of over RMB 20,000 following his departure.

Several months later, the company discovered that Xu had joined another technology firm within the same industry, with both entities engaged in identical core business activities. Consequently, the company has initiated labor arbitration proceedings, demanding that Xu return the non-compete compensation totaling over RMB 60,000 and pay penalties exceeding RMB 300,000. The company also applied for behavioral preservation measures against Xu's breach of non-compete obligations. After the arbitration ruling upheld the company's claims, Xu filed a lawsuit to challenge the decision.

- **Judge's Viewpoint**

Given that non-compete dispute cases often involve prolonged litigation periods, it is common for the legally effective documents to be issued when the non-compete period has already expired or is about to expire. Therefore, either before or during litigation, employers may apply for behavioral preservation measures against violations of non-compete obligations. By mandating strict compliance with the agreed non-compete terms, such measures promptly correct and restrain breaches of obligation by employees bound by non-compete agreements, thereby minimizing potential adverse impacts on high-tech companies' competitive advantages due to protracted case proceedings.

In this case, the Wuzhong District People's Court of Suzhou issued a ruling prohibiting Xu from engaging in similar work at employers competing with the technology company until the non-compete period expires on August 28, 2025. However, after receiving the preservation order, Xu failed to comply and continued working for the aforementioned competing company. The Wuzhong District Court accordingly issued a decision imposing a fine of RMB 60,000 on Xu for refusing to comply with the legally effective ruling. Additionally, the court



rendered a first-instance judgment ordering Xu to return over RMB 60,000 in non-compete compensation, pay penalties exceeding RMB 200,000, and continue fulfilling the non-compete obligations until the agreed expiration date.

Dissatisfied with the first-instance judgment and the penalty decision, Xu filed an appeal and applied for a review. The second-instance court dismissed the appeal and upheld the original judgment. Furthermore, due to Xu's refusal to comply with the legally effective ruling of the People's Court, which constituted an open challenge to judicial authority and seriously disrupted judicial order, the Suzhou Intermediate People's Court also rejected Xu's application for review.

**3. Beijing Second Intermediate People's Court released typical cases of commingling of assets in single-shareholder companies: the sole shareholder shall bear joint and several liability for the company's debts when unable to prove the independence of personal assets.**


- **Facts**

The effective judgment confirmed that a one-person company shall pay Li intermediary fees of RMB 500,000. The enforcement procedure was terminated due to the company's lack of executable assets. Li filed an enforcement objection, applying to add Zhao, the sole shareholder of the company, as a person subject to enforcement on the grounds that Zhao's personal assets were commingled with those of the company, and requested that Zhao assume joint and several liability for the company's debts.

During the proceedings, Zhao submitted annual special audit reports of the company since its establishment, which were commissioned by Zhao during the litigation. Zhao argued that these reports proved the separation of personal and company assets. However, Li presented several final and unenforced court rulings involving the company, pointing out that the debts identified in those rulings were not reflected in the balance sheets within the audit reports, thereby challenging their credibility. In court, neither Zhao nor the company could arrange for the auditing firm that prepared the reports to appear and accept judicial inquiry.

- **Judge's Viewpoint**

The court held that, given the unique governance structure of a one-person company—where the shareholder and the company are highly overlapping, creating a significant risk of asset commingling—the law imposes a heightened burden of proof on the shareholder to balance the protection of creditors' rights and the maintenance of the company's independent legal status. The shareholder must provide sufficient and valid evidence to demonstrate that the company's assets are separate from their personal assets. This directly determines whether the shareholder shall bear joint and several liability for the company's debts.



In this case, the core issue was whether Zhao had fulfilled this burden of proof. First, the annual audit reports submitted by Zhao were not prepared within the respective fiscal years but were generated collectively during the litigation. Second, based on the several rulings suspending enforcement submitted by Li, the audit reports failed to include publicly ascertainable enforcement debts in the balance sheets. Finally, neither Zhao nor the company arranged for the auditing firm to appear in court and accept inquiry as required. In summary, although Zhao submitted special audit reports, the evidence contained critical flaws in terms of the timing of its preparation, correlation with probative value, completeness and authenticity of debt disclosure, and legitimacy of the audit procedure. Zhao also failed to provide original supporting documents such as bank statements or business contracts to substantiate the separation of assets. The evidence obviously did not reach the standard of "high probability," and Zhao must bear the adverse consequences of insufficient proof. Consequently, the court ruled that Zhao's assets were commingled with those of the company, ordered Zhao to be added as a person subject to enforcement, and held Zhao jointly and severally liable for the company's debt of RMB 500,000 to Li.



## 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 employment 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 2024 and 2025, Patrick Gu was recommended as a Ranked Lawyer in the Greater China Region Guide by Chambers and Partners.
- In 2023 and 2025, Patrick Gu was recommended for Regulatory and Compliance, Labor and Employment by The Legal 500 Greater China Ranking.
- In 2024, Patrick Gu was recommended for Labor and Employment by The Legal 500 Greater China Ranking.
- In 2023, Patrick Gu was recommended as a Leading Lawyer by The Legal 500.
- In 2023, Llinks Law Offices received the Labor & Employment PRC Firms of the Year award from The Legal 500.
- In 2021, 2020 and 2019, Patrick Gu was consecutively recommended as a Leading Labor Lawyer by China Law & Practice.
- In 2023, 2022, 2021, 2020 and 2019, Patrick Gu was consecutively recommended as a Top-Tier Labor Lawyer by LEGALBAND.
- In 2020, Llinks Law Offices received the Best Law Firm for Client Service (China Awards) from Chambers and Partners.

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