

Q&A: Human Resources Policies for the Epidemic Period

1: Enrolment of Employee

1

The company has issued an offer request to employees in early February to start the job, can the company cancel the employment for the sake of epidemic prevention and control?

A company sending an offer is a unilateral legal action, although it is not subject to the Labor Law and the Labor Contract Law, it is regulated by the Contract Law, and from the point of view of good faith and enterprise credibility, we do not recommend that the enterprise cancel the employment, on the one hand, if the recruitment is cancelled by the epidemic prevention and control, after all, it is a special period, the company may bear the liability for the fault of the contracting party; on the other hand, it is not in line with the basic principle of honesty and trustworthiness, the enterprise can solve it by changing the entry date through consultation with the employing staff, and cancelling through consultation and so on.

2

The employee received an offer which states that the employee should start to work at the beginning of February, can he/she request for postpone the entry due to the epidemic prevention and control?

Yes. According to the State Council's "Notice on Extending the Spring Festival Holidays 2020" issued on January 26 and the local government's notice on delaying the resumption of work of enterprises, employees who were asked to start after the Chinese new year may use this as the basis for the postponement of entry, but it is suggested that employees take the initiative to contact the company to clearly express accepting the offer and confirm the specific time of the extension.

3

During recruitment, the Company encounters a potential employee who has been cured of the novel coronavirus pneumonia, is the company allowed to not employ him/her?

No. According to Article 3 of the Employment Promotion Law, workers shall enjoy equal employment and the right to choose their own jobs according to law. The employment of workers shall not be discriminated against on the basis of nationality, race, sex or religious belief.

At the same time, Article 30 stipulates that the employer shall not refuse to employ personnel on the grounds that they are carriers of infectious diseases. However, the carriers of infectious diseases who have been medically identified shall not engage in any work that the laws, administrative regulations and regulations of the department of public health under the State

Council prohibit from spreading infectious diseases before they are cured or removed. Therefore, enterprises that face cured new coronavirus pneumonia workers must not refuse to hire, otherwise it is suspected of employment discrimination, to which can be assumed legal responsibility.

4

Can the employer extend the probation period if the employee cannot provide normal labor activities due to the epidemic situation?

Employers are not allowed to unilaterally extend probation period.

According to Article 19 of the Labor Contract Law, the same employer and the same worker can only agree on one probationary period. So according to most arguments, the probation period cannot be extended. The unilateral decision by the employer to extend the probation period is likely to be considered as a re-agreement on the probation period, which violates the aforementioned mandatory regulations.

Although Article 35 of the Labor Contract Law stipulates that the employer and the employee may change the contents of the labor contract through consultation. The probationary period is a matter stipulated in the labor contract between the two parties, according to which the two parties may change the agreement of the labor contract through consultation, but this article we recommend needs to be carefully used, and the complete probationary period after being extended shall not be longer than the maximum legal probationary period corresponding to the term of labor contract.

Article 83 of the Labor Contract Law stipulates that if an employer violates the provisions of this Law by agreeing on a probationary period with a labourer, the labour administrative department shall order it to make corrections; if the illegal probationary period as stipulated in the law has been fulfilled, the employer shall take the full salary of the labourer's after the probationary period as the standard and pay compensation to the laborer according to the period that has been fulfilled beyond the statutory probationary period. Therefore, We do not recommend that the employer unilaterally extend the probation period at this time. You can change the duration of the probation period in consultation with the workers on the basis of force majeure, but you must pay attention not to exceed the legal limit.

5

If the Employee's probation period expires during the extension of the timing to restart work, after the resumption of work can the assessment of probation on employee be made again?

No. The probation period is the inspection period that the law gives the employer and the employee to understand each other during the performance of the labor contract, however because of the outbreak of epidemic during the Spring Festival, the time of resumption of work is extended, but the expiration of the probation period will be regarded as automatic conversion, two parties shall continue to perform the labor contract according to the contract signed by both parties, the employer shall not carry out the probation appraisal of the employee to decide whether he/she

could be confirmed for formal employment after probation, however if the labor relationship is terminated for this reason, it constitutes a violation of the law.

2: Labor Contract Management

6

Does this epidemic outbreak constitute a "significant change in the objective circumstances on which the labour contract was concluded" or "force majeure or other circumstances in which all or part of the terms of the labour contract cannot be fulfilled"?

Yes. The epidemic situation is obviously a situation that part of the statutory and agreed liability under certain conditions due to force majeure should be exempted or delayed in performance.

But specific matters need to be specifically analysed, taking whether to resume work on time as an example, now Shanghai, Guangdong and other relevant government departments have requested to postpone the resumption of work, the government measures are not something the employer can control. In addition, according to the need to block the epidemic, different regions have adopted traffic restrictions according to the situation, such as large-scale activities, shopping malls, cinemas and so on are greatly affected. As far as the epidemic incident itself is concerned, the epidemic does not of course constitute a reason why the employer can terminate the labor contract or stop paying wages. However, it is certain that some workers and employers are still unable to resume work because of force majeure after the extension of their holidays.

7

Due to the impact of the epidemic, with the extended holiday or employees working from home, how do employers deal with the issue of renewal of labor contracts with employees if their labor contracts expire?

The contract has to be extended. Where an employee proposes or agrees to renew or conclude a labor contract under any of the following circumstances according to the provisions of Article 14 of the "Labor Contract Law", he shall conclude a labor contract without a fixed term only if the proposal of the employee to conclude a fixed term labor contract:(1) where the employee has worked in the company continuously for ten years;(2) where the employer has implemented the labor contract system for the first time or the state-owned enterprise has re-established the labor contract, the employee has been working for the company for a period of 10 years and remains less than 10 years from the statutory retirement age;(3) where the employer has concluded a second fixed term labor contract continuously and has not renewed the labor contract as stipulated in the first and second items of Article 39 and Article 40 of this Law. If the employer fails to conclude a written labor contract with the employee at the expiration of one year from the date of employment, the employer and the laborer shall be deemed to have concluded a labor contract without a fixed period of time.

Article 1 of the Circular of the Ministry of Human Resource and Social Affairs on Proper Handling of Labor Relations in the Period of Prevention and Control of Pneumonia Epidemic of novel Coronavirus Infection clearly stipulates that Pneumonia patients with new coronavirus infection,

suspected patients, close contacts who are not able to work as normal in the period of isolation and treatment, or during the period of medical observation, as well as in the period of isolation measures or other emergency measures taken by the government, the enterprise shall pay remuneration to the workers during this period and shall not terminate the labor contract with the workers in accordance with Articles 40 and 41 of the Labor Contract Law. During this period, if the labor contract expires, it will be postponed to the end of the employee's medical period, the medical observation period, the quarantine period, or the emergency measures taken by the government. That is to say, the labor contract shall be extended until the expiry of the medical period of the employee, the expiry of the medical observation period, the expiration of the quarantine period or the end of emergency measures adopted by the government.

Therefore, during the period of no resumption of work or having arranged for employees to work at home, the employer needs to properly handle the renewal of labor contracts. For the renewal of labor contract if it expires, employers can confirm with workers by email, WeChat or other electronic data, if the contract to be renewed, sign a written new labor contract immediately after the resumption of work.

8

Can the employer terminate the labor contract with an employee suspected to have novel coronavirus pneumonia?

Not an excuse to terminate the labor contract.

Article 1 of the Circular of the Ministry of Human Resource and Social Affairs on Proper Handling of Labor Relations in the Period of Prevention and Control of Pneumonia Epidemic of novel Coronavirus Infection clearly stipulates that Pneumonia patients with new coronavirus infection, suspected patients, close contacts who are not able to work as normal in the period of isolation and treatment, or during the period of medical observation, as well as in the period of isolation measures or other emergency measures taken by the government, the enterprise shall pay remuneration to the workers during this period and shall not terminate the labor contract with the workers in accordance with Articles 40 and 41 of the Labor Contract Law.

9

Can the employer terminate the labor contract after the expiration of the medical period of the employee suffering from the new coronavirus pneumonia?

The employer shall terminate the labor contract in accordance with the conditions prescribed by law and pay economic compensation according to law.

In accordance with the provisions of the first paragraph of Article 40 of the Labor Contract Law, the employer may terminate the labor contract with employees who are suffering from novel coronavirus pneumonia who, after the expiration of their medical treatment period, are unable to engage in their original work or engage in other work arrangements.

Can the employer terminate the labor contract with an employee who is a suspected coronavirus pneumonia and refuse to cooperate with quarantine and treatment?

This needs to be decided case by case.

It is the duty of every citizen to cooperate with quarantine and treatment. According to Article 1 of the Interpretation of Certain Questions Concerning the Specific Application of Law in Handling Criminal Cases Concerning Obstruction of Prevention and Control of Outbreak Epidemic Epidemics and Epidemics of Infectious Diseases and Other Disasters, if a suspected employee refuses to accept quarantine inspection, compulsory quarantine or treatment, resulting spread of infectious diseases, and the cases are serious, endangering the public safety, it shall be deemed a crime. If the employee does so, it is suggested that the employer may report it to the health department or police station.

If it has not constituted a crime, it needs to be determined according to the company's rules and regulations, and the employee's disobedience is a serious violation of the company's rules and regulations, the employer may terminate the labor contract according to the provisions of Article 39(2) of the Labor Contract Law. If the rules and regulations do not provide for this, it may also be considered to terminate the labor contract with serious violations of labor discipline, but there are certain legal risks in this move.

Can the employer terminate the labor contract on the grounds that the employee intentionally spreads the virus or conceals the history of contact?

If an employee intentionally spreads a virus or conceals contact history, intentionally fabricates false terrorist information related to an infectious disease epidemic, refuses to accept compulsory isolation or treatment, or intentionally damages the protective equipment of medical personnel, and the behavior itself constitutes a crime, if criminal liability is investigated in accordance with the law, the employer may dissolve it in accordance with the provisions of Article 39, paragraph 6, of the Labor Contract Law, but only after the court makes a valid judgment. If the labourer's conduct constitutes a crime, the labor contract may be terminated in accordance with the provisions of article 39, paragraph 6, of the Labour Contract Law. If it has not yet constituted a crime, whether or not the labor contract depends on the employer's rules and regulations and the legality of the rules and regulations of democracy and publicity procedures.

The Interpretation of the Supreme People's Court and the Supreme People's Procuratorate on Certain Issues Concerning the Specific Application of Laws in Handling Criminal Cases Obstruction of Prevention and Control of Outbreak of Infectious Diseases and Other Disasters (Interpretation of the Law No.8[2003]) stipulate that those who intentionally spread sudden transmission of Infectious Diseases and endanger public safety shall be punished for the crime of endangering public safety by dangerous means in accordance with the provisions of Article 114 and Article 115, paragraph 1, of the Criminal Law.

According to Article 39, Item 6, of the Labor Contract Law: "Employers may terminate their employment contracts if they have one of the following circumstances: (2) if employees seriously violate the rules and regulation of the company (6) Those who have been investigated for criminal responsibility according to law.

If the employee has not been investigated for criminal responsibility according to law, but does not cooperate with the relevant institutions in adopting medical measures, or obstructs emergency workers from performing their duties, if the circumstances are serious and the rules and regulations are violated, the employer may terminate the labor contract in accordance with the provisions of item 2 of Article 39 of the Labor contract Law.

12

The employee has applied for leave before the Spring Festival, now due to the epidemic prevention and control the resignation procedures cannot be handled, then is the resignation effective?

Yes.

According to Article 37 of the Labor Contract Law, workers may terminate their labor contracts by notifying the employer in writing 30 days in advance. The worker proposes to resign, and the employer shall deem effective this release notice. Therefore, in cases where the employee's application for resignation is in accordance with his or her true wishes, the fact that the resignation procedure cannot be processed due to the extension of holiday due to epidemic prevention and control will not affect the legal effect of the proposed resignation.

13

Can the employer terminate the labor contract if the employee's labor contract expires during the quarantine period due to epidemic prevention?

The term of the labour contract shall be extended in accordance with the provisions.

According to the Circular of the Ministry of Human Resource and Social Affairs on Proper Handling of Labor Relations During the Period of Prevention and Control of Pneumonia Epidemic of novel coronavirus Infection, if the labor contract expires during the period that the laborer is isolated due to being infected, suspected being infected or has close contact with coronavirus, or during the period of medical observation, isolation or emergency measures taken by the government, the labor contract shall be extended till the expiration of the period of medical observation, isolation or the emergency measures taken by the government. The expiration date of the labour contract shall be adjusted as follows:(1) Where a labourer has been treated in isolation directly, the expiration date of the labour contract shall be extended to the end of the period of isolation. (2) If a worker has not been diagnosed as a new type of coronavirus pneumonia after taking medical observation measures, the expiration date of the labour contract shall be extended to the end of the medical observation period. (3) Where a labourer is first given medical observation and then diagnosed as having taken isolation measures, the expiration date of the labour contract shall be extended to the

"date of the end of the isolation period ". (4) If a worker is not suffering from a new type of coronavirus pneumonia or has not been given medical observation or quarantine treatment, but travel is restricted by the local people's government, the expiration date of the labor contract shall be extended to the "date on which the local people's government announces the termination of the ban ".

14

Can the employer recall the dispatched workers who are unable to provide normal labor due to the epidemic?

No

According to the Circular of the Ministry of Human Resource and Social Affairs on Proper Handling of Labor Relations During the Period of Prevention and Control of Pneumonia Epidemic of New Coronary Virus Infection, the employer shall not, in the light of the circumstances stipulated in Articles 40 and 41 of the Labor Contract Law, recall the dispatching units of the novel pneumonia patients, suspected patients, close contacts or persons who are unable to provide normal work due to the adoption of isolation measures and other emergency measures by the government. The wages of the dispatched workers during the period of employment refer to the relevant policies of direct employment by the employer.

15

Can company lay off workers because of the epidemic?

This needs to be decided case by case.

If an enterprise is experiencing difficulties in its production and operation as a result of the epidemic, it may, through consultation with the staff and workers, adopt the methods of adjusting remuneration, taking rotational shifts, shortening working hours and being furloughed, etc., so as not to lay off or lay off fewer staff as possible. Enterprises affected by the epidemic are encouraged to maintain normal production and operation by means of concentrated work and rest. Because of the special circumstances, enterprises should also take care of their employees from a humanistic perspective. If you negotiate with the staff to wait for job assignment, be sure to sign an agreement on "waiting for the job assignment " with the staff, and through email, WeChat and other forms to determine.

16

Employee cannot return to work on time due to isolation, traffic restrictions and other prevention and control measures, can the enterprise treat this as absence.

No.

In accordance with the provisions of the Circular on Issues Concerning the Maintenance of the Stability of Labor Relations during the Period of Prevention and Control of Epidemic Situations issued by various localities, the wages and benefits of suspected patients and close contacts shall be paid by their companies during the period of isolation and medical observation after the exclusion of patients or carriers of pathogens. For workers who have not returned to work in time due to the epidemic, the enterprise may give priority to arranging them to use annual leave or other welfare holidays the Company gives. That is, it can be according to different circumstances either treated as normal attendance, or considered to be arranged as annual leave, as long as the no resumption of work is not for the sake of subjective reason, the employee cannot be treated as absenteeism. However, the employer may require employees to provide proof of isolation and traffic restriction, for example, hospital medical certificate, written information of community / neighborhood / village committee, restricted notice issued by the government, etc. In the face of this situation, the enterprise is recommended to be tolerant to employees and do not easily punish or dismiss the employees, and should first actively understand the epidemic situation in the place where the employees are located and keep in touch with the employees, and try to provide the conditions for the employees to work remotely.

17

During the period of prevention of the new coronavirus pneumonia epidemic, if the enterprise arranges special circumstances to require employees to work, but employees refuses to work, can it be treated as absenteeism?

Cases need to be differentiated.

Under the following special circumstances, the enterprise may deal with it as absenteeism:(1) where a natural disaster, accident or other reason seriously threaten the safety and health of the people and state property and require urgent treatment;(2) where the failure of production equipment, transportation lines and public facilities affects the production and public interest and requires timely urgent repair;(3) where the maintenance and repair of equipment must be carried out during the shutdown period of the statutory holidays or public holidays;(4) where emergency tasks of national defense are completed, or other emergency production tasks arranged by the higher level outside the state plan, as well as emergency tasks for the acquisition, transportation and processing of agricultural and sideline products in the peak season of commerce, supply and marketing enterprises; and (5) other circumstances as prescribed by laws and administrative regulations.

If the above situation do not exist, the enterprise cannot treat it as absenteeism.

18

Should employers approve applicants for child care at home?

At present, there are no relevant policies in Jiangsu, Zhejiang, and Shanghai, and companies may not approve them. However, from a humanistic perspective, employees can be approved to take annual leave, recuperation or leave, or negotiate with employees. Employees can work at home through flexible working methods such as telephone and Internet complete work tasks.

19

How to deal with the expiration of the labor contract when the employee takes care of children at home because of the epidemic?

It needs to be decided case by case.

If an employee can return to work due to isolation according to law, and needs to take care of his/her child at home, but if during this period his/her labor contract expires, the labor contract shall be postponed until the expiration of government isolation measures or the end of emergency measures.

Article 1 of the Circular of the Ministry of Human Resource and Social Affairs on Proper Handling of Labor Relations in the Period of Prevention and Control of Pneumonia Epidemic of novel Coronavirus Infection clearly stipulates that Pneumonia patients with new coronavirus infection, suspected patients, close contacts who are not able to work as normal in the period of isolation and treatment, or during the period of medical observation, as well as in the period of isolation measures or other emergency measures taken by the government, the enterprise shall pay remuneration to the workers during this period and shall not terminate the labor contract with the workers in accordance with Articles 40 and 41 of the Labor Contract Law. During this period, if the labor contract expires, it will be postponed to the end of the employee's medical period, the medical observation period, the quarantine period, or the emergency measures taken by the government. That is to say, the labor contract shall be extended until the expiry of the medical period of the employee, the expiry of the medical observation period, the expiration of the quarantine period or the end of emergency measures adopted by the government.

If an employee meets the conditions for returning to work but needs to take care of children due to the objective needs, if the company agrees with the employees to take annual leave, shift leave, or negotiate with the company to work at home, the labor contract cannot be postponed if it expires.

20

Can the labor contract be terminated if an employee has a violation of discipline during the period of child care at home?

Yes

Although according to the Circular of the Ministry of Human Resource and Social Affairs on Proper Handling of Labor Relations During the Period of Prevention and Control of Pneumonia Epidemic of a New Type of Coronary Virus Infection, the company staff and workers who cannot provide normal work due to the imposition of quarantine measures or other emergency measures by the government during the period of isolation treatment, suspected patients and close contacts of a new type of coronavirus infection during the period of medical observation, the company shall pay

remunerations to employees for their work during this period and shall not terminate the labor contract with employees based on Articles 40 and 41 of the Labor Contract Law.

However, as mentioned in the document, with employees who are pneumonia patients with new coronavirus infection, suspected patients, close contacts during the period of their isolation treatment or medical observation, as well as employees who are unable to provide normal labor due to the implementation of isolation measures or other emergency measures by the government, the enterprise shall not terminate the labor contract with the staff and workers based on Articles 40 and 41 of the Labor Contract Law, but it does not say that the company cannot terminate the labor contract with the employees in accordance with the provisions of Article 39 of the Labor Contract Law

Employees working from home only change the work place. If they violate the discipline, which complies with the Article 39 of the Labor Contract Law, the enterprise can terminate the labor contract with them.

21

After the end of the holiday, how to deal with the staff who refuses to return to work?

Case needs to be differentiated.

Even if in the end of the Spring Festival holiday, according to regulations employees should return to work, but due to the epidemic, staff cannot return to work in time, company can arrange for employees to work at home, or work in the form of network office. In the current situation of epidemic prevention and control, enterprises are not advised to deal it with disciplinary violations, like treat it as absent from work or refusal to accept work arrangements.

If the employee meets the conditions for returning to work, and he still doesn't return to work after the persuasion by the employer, the employee has no legitimate reason to refuse the employer's resumption arrangement, the employer may impose corresponding punishment according to the rules and regulations of the employer. In case of serious violation of the rules and regulations of the unit, the employer shall terminate the labor contract in accordance with Article 39 of the Labor Contract Law of the People's Republic of China. However, the employer should handle it carefully, pay attention to the effectiveness of the rules and regulations, and retain relevant evidence.

22

For salary adjustment, rotational duty and leave, shortening working hours to the need of work, what matters need to be paid attention to when company negotiate with staff?

Due to the work need, when adjusting the salary, rotating duty and leaves, and shortening the working hours, the enterprise shall promptly disclose to the employees the situation of production and operation of the company, and explain the difficult situation of the enterprise, and seek the understanding and support from the employees.

The employer should ensure the legality of the negotiation procedure, if because of the epidemic situation, it is not convenient to make face-to-face communication, try to use teleconference, video

conference, effective email, WeChat, SMS, EMS mail delivery to inform employees of related matters, and pay attention to collect employee feedback information, save relevant evidence, and guard against legal risks.

23

If the employer who has difficulty in production and operation due to the impact of the epidemic situation cannot reach an agreement with the employees on reducing wages, rotating shifts or shortening working hours, can the employer terminate the labor contract?

Yes. However, it shall be handled in accordance with the provisions of Article 40 of the Labor Contract Law. Article 40 of the "Labor Contract Law" stipulates that major changes in the objective conditions upon which a labor contract is concluded make it impossible to perform the labor contract, and after negotiation between the employer and the employee, both fail to reach an agreement on changing the content of the labor contract, the employer may terminate the labor contract after notifying the laborer in writing 30 days in advance or paying the laborer an additional month's wages.

24

If a group-type company has multiple branches, which city/province has the policies and regulations applicable to labor contract management?

For a group-type company with multiple branches, the branch that has obtained a business license or registration certificate in accordance with the law is also an independent employer, and the local regulations on the place of registration of the branch shall apply. If the registration place of the employer is inconsistent with the place where the labor contract is performed, due to the different labor policy regulations related to epidemic prevention and control issued by various places, the minimum wage standards, labor protection, labor conditions, occupational hazard protection, and the matters regarding the average monthly salary standard in the previous year shall in principle be subject to the relevant provisions of the place of performance of the labor contract, unless the standard of the place of registration of the employer is higher than the standard of the place of performance of the labor contract, and the employer and the employee have agreement to follow the relevant regulation of the place where the employer is registered.

3: Salary

25

How do Employer pay salary to the employees who are back to Shanghai and are in quarantine?

According to salary during normal working hours.

According to the Circular of the Ministry of Human and Social Affairs on Proper Handling of Labor Relations During the Period of Prevention and Control of Pneumonia Epidemic of a New Type of Coronary Virus Infection, the company staff and workers who cannot provide normal work due to the imposition of quarantine measures or other emergency measures by the government during the period of isolation treatment, suspected patients and close contacts of a new type of coronavirus infection during the period of medical observation, the company shall pay remunerations to employees for their work during this period and shall not terminate the labor contract with employees based on Articles 40 and 41 of the Labor Contract Law.

26

During 3-day extension Spring Festival holiday and the delay government (from Feb. 3 to Feb.9), should employers pay wages to employees?

Yes.

According to Article 51 of the Labor Law, the employer shall pay wages according to law during statutory holidays, marriage and funeral leave and during their participation in social activities according to law. On January 26,2020, Article 1 of the Circular of the General Office of the State Council on Extending the Spring Festival Holidays in 2020(No.1 for State-run Institutions [2020]) stipulates that the Spring Festival Holidays in 2020 shall be extended till February 2(Sunday on the ninth day of the first lunar month). The Spring Festival holiday in 2020 is extended from January 31 to February 2,2020, which is not a statutory holiday, but a rest day, and the employer shall pay the wages of the employees' rest days.

On January 27, 2020, the Shanghai Municipal People's Government issued the "Notice on Delaying the Resumption of Work and School Opening of Shanghai's Enterprises", which clearly stipulates that various enterprises in the Shanghai area should resume work no later than 24:00 on February 9. According to the second part of the Shanghai Municipal Human Resources and Social Security Bureau's "Authorized Answers from the Municipal Human Resources and Social Security Bureau," the delayed resumption of work is due to the need for epidemic prevention and control, so these days are rest days. For the employees taking rest, the enterprise shall pay wages according to the standard agreed in the labor contract; for enterprise employees who undertake security and other tasks to work, they shall be compensated for overtime as rest days or paid overtime wages in accordance with regulations. Generally speaking, the overtime salary is twice the salary.

27

During the extension of the Spring Festival holiday in 2020, how does the employer pay the wages of the workers who work normally?

As mentioned in Article 26 above, the extended period of the Spring Festival holiday is a rest day. If the company needs to arrange staff work for production needs, it should be overtime work. If the employer is able to arrange compensatory leave, the employer may arrange compensatory leave without paying overtime pay. If the employer does not arrange compensatory leave, for the employee who work in the standard working hour system, the employer shall pay the salary at not less than 200% of his salary. For the employees who work in comprehensive time working system,

if they exceed the working hours, the employer shall pay wages not less than 150% of their wages. For employees who work in flexible working hour system, employers do not need to pay overtime wages, but it is recommended that appropriate humane care needs to be given.

28

How does the employer pay employee salary if the enterprise stop work, stop production during the period of postponement of work resumption?

At the same time, Article 2 of the Circular of the Ministry of Human Resource and Social Affairs on Properly Handling the Problems of Labor Relations During the Period of Prevention and Control of Pneumonia Epidemic of the New Type of Coronary Virus Infection stipulates that if an enterprise has difficulty in its production and operation as a result of the epidemic situation, it may, through consultation with its staff and workers, adopt the methods of adjusting its salary, rotational rotation and shortening its working hours to stabilize its work position as far as possible without laying off staff or laying off fewer employees. Qualified enterprises may enjoy stable post subsidies according to regulations. If the enterprise stops work and stops production in a wage payment cycle, the enterprise shall pay the salary according to the standard stipulated in the labor contract. More than a wage payment cycle, if workers provide normal labor, the enterprise to pay employees wages must not be lower than the local minimum wage. Where workers and staff fail to provide normal labour, the enterprise shall issue living subsidies, and the standard of living expenses shall be implemented in accordance with the measures prescribed by the provinces, autonomous regions and municipalities.

29

An employee being diagnosed with the pneumonia of novel coronavirus infection fails to provide normal labor, how should employer pay labor remuneration during medical treatment?

The employer shall pay remuneration for labour as normal.

According to Article 1 of the Circular of the Ministry of Human Resource and Social Affairs on Proper Handling of Labor Relations in the Period of Prevention and Control of Pneumonia Epidemic of a New Type of Coronary Virus Infection, the enterprise staff and workers who are unable to provide normal work due to the implementation of quarantine measures or other emergency measures taken by the government during the period of isolation and treatment, suspected patients and close contacts of the new type of coronavirus infection, shall be paid remuneration for their work during this period and company shall not terminate the labor contract with the employees in accordance with Articles 40 and 41 of the Labor Contract Law. During this period, if the labor contract expires, it shall be postponed to the end of the medical treatment period for the staff and workers, or to the end of the medical observation period, or to the end of the period of isolation or to the end of emergency measures adopted by the government.

Article 41 of the Law of the People's Republic of China on the Prevention and Control of Infectious Diseases stipulates that during the period of isolation, the people's government that has

implemented the measures of isolation shall provide a living guarantee for the persons subjected to the isolation.

30

How should the employer pay the remuneration of labor during the period of isolation for 14 days without providing normal labor after the employee returns from other cities?

The employer shall pay remuneration for labour according to the labor contract.

According to Article 1 of the Circular of the Ministry of Human Resource and Social Affairs on Proper Handling of Labor Relations in the Period of Prevention and Control of Pneumonia Epidemic of a New Type of Coronary Virus Infection, the enterprise staff and workers who are unable to provide normal work due to the implementation of quarantine measures or other emergency measures taken by the government during the period of isolation and treatment, suspected patients and close contacts of the new type of coronavirus infection, shall be paid remuneration for their work during this period and company shall not terminate the labor contract with the employees in accordance with Articles 40 and 41 of the Labor Contract Law. During this period, if the labor contract expires, it shall be postponed to the end of the medical treatment period for the staff and workers, or to the end of the medical observation period, or to the end of the period of isolation or to the end of emergency measures adopted by the government.

Article 41 of the Law of the People's Republic of China on the Prevention and Control of Infectious Diseases stipulates that during the period of isolation, the people's government that has implemented the measures of isolation shall provide a living guarantee for the persons subjected to the isolation.

31

Can the employer adjust the employee's salary?

Labor remuneration cannot be unilaterally adjusted, but it can be negotiated with employees.

Article 35 of the Labor Contract Law stipulates that the employer and the laborer may change the contents of the labor contract through negotiation. The modification of the labour contract shall be in written form.

At the same time, Article 2 of the Circular of the Ministry of Human Resource and Social Affairs on Properly Handling the Problems of Labor Relations During the Period of Prevention and Control of Pneumonia Epidemic of the New Type of Coronary Virus Infection stipulates that if an enterprise has difficulty in its production and operation as a result of the epidemic situation, it may, through consultation with its staff and workers, adopt the methods of adjusting its salary, rotational rotation and shortening its working hours to stabilize its work position as far as possible without laying off staff or laying off fewer employees. Qualified enterprises may enjoy stable post subsidies according to regulations.

Therefore, employers can negotiate with workers to adjust salary, but cannot pay less or not for the reason of the impact of the epidemic.

32

Shall employees bear the employee's personal social security and housing fund when the employers pay sick leave salary or the wait-for-assignment salary?

Regardless of the payment of sick leave pay or wait-for-assignment wage, if the labor relationship between the employer and the employee legally exists, the employer shall pay social security and housing fund for the employee. However, if the sick leave pay or wait-for-assignment pay after being deducted from the employee's personal social security and housing fund is insufficient for the local minimum wage standard, whether the employer should make up for it depends on local regulations and requires local analysis.

Article 3 of the “Minimum Wage Regulations” issued by the Ministry of Labor stipulates that the minimum wage refers to the minimum labor remuneration payable by the company to employees under the premise that normal labor is provided during legal working hours; Article 6 clearly states that To determine and adjust the monthly minimum wage standards, reference should be made to the minimum living expenses of local employees and their dependents, the consumer price index of urban residents, social insurance premiums paid by individual employees and housing provident funds, average wages of employees, economic development level, employment status, etc. factor. Therefore, the minimum wage standard includes social insurance contributions paid by individuals. In other words, after the employer withholds and pays the social insurance premiums in accordance with the law, the actual wages received by the employees may be lower than the local minimum wage standard.

However, in order to strengthen the protection of workers in Shanghai, it is clear in local regulations that the minimum wage does not include social insurance premiums and housing provident funds paid by individuals. Therefore, whether the minimum wage includes the personal social insurance premiums shall be determined in associating with local regulations.

33

Can the employer make a performance appraisal when employee work from home during the epidemic?

Yes.

It can be decided by the employer at its own discretion, and it shall follow the rules and regulations of the company announced to employees through democratic procedures. For example, work arrangements and work reports can be carried out by means of DingTalk, e-mail, WeChat, etc., and the corresponding performance assessment is performed in association with the provisions of the system. The performance evaluation of employees should also take into account the actual situation, and it should not be performed in strict accordance with the standard of normal

attendance to provide labor. While strictly implementing the rules and regulations, objective facts should also be taken into account, and the scale should be given corresponding easing.

34

If the company delays in payment of wages due to the prevention and control of the epidemic, does it constitute a situation in which labor remuneration is not paid in a timely manner?

No.

Although the Interim Provisions on Wage Payments clearly stipulates that they must be paid at least monthly, and should be paid in advance if a holiday or rest day is encountered, this is in the case of expected holidays and rest days. The requirement to postpone the resumption of work and the need to prevent and control the epidemic are not situations that can be expected before the Spring Festival. Therefore, it is not possible to require the unit to issue in advance. In this case, due to the failure to resume work, the inability to pay wages during the postponement period is "force majeure" and cannot be attributed to the unit. It should not be a legal situation in which wages are not paid in a timely manner. Of course, the unit should reimburse employees in a timely manner after resuming work.

35

How can wages be paid during the time when workers who perform business tasks are unable to return to work due to epidemic prevention and control?

Pay wages as agreed in the labor contract. If an employee during the business trip is unable to return to work in time to provide work due to objective reasons such as epidemic prevention and control, the extended return time shall be recognized as the working time of the employee, and the employer shall pay the employee's wages in accordance with the labor contract.

4: Medical period and work injury

36

Is the pneumonia patient diagnosed as a novel coronavirus infected person regarded as suffering from a kind of work-related injury?

No.

In accordance with the provisions of Articles 14 and 15 of the Regulations on Industrial Injury Insurance, the circumstances deemed to be industrial injury or the same as industrial injury include:(1) injuries caused by accidents during working hours and in the workplace;(2) injured when carrying out preparatory or closing work related to work in the workplace before and after working hours. (3) accidental injuries suffered by violence caused by accidents resulting from the performance of work duties during working hours and in the workplace; (4) suffering from

occupational diseases; (5) In case of injury due to work or unknown whereabouts of the accident during the period of work out; (6) injured by a non-own-responsibility traffic accident or an urban rail transit, passenger ferry or train accident on the way to or from work; (7) injured in the course of working hours and in his/her duty, or dead of a sudden illness or death within 48 hours after a rescue; (8) harmed in activities to safeguard the interests of the state and the public, such as emergency rescue and disaster relief; (9) The staff and workers who had served in the army and had been disabled as a result of war or on duty have obtained a certificate of the revolutionary disabled and disabled army personnel, and have suffered a recurrence of the old injuries after arriving at the employer; (10) Other circumstances in which the laws and administrative regulations stipulate that work-related injuries should be considered. The company's employee who is diagnosed of novel coronavirus during the quarantine period, is not the case in line with the above regulations, therefore, it is not a work injury.

37

Is it considered as an employee work-related injury when he /she is sent to work in an epidemic area and infected or died of a novel coronavirus pneumonia?

The case needs to be differentiated.

According to the Ministry of Human Resources and Social Security, the Ministry of Finance, and the National Health and Health Commission's Notice on Safeguard Issues Related to Workers and Related Workers stipulates that in the prevention and treatment of new coronavirus pneumonia, medical staff and related workers who have contracted new corona virus pneumonia or died due to infection of new corona pneumonia due to the performance of their work duties shall be deemed to have been injured at work and shall enjoy the insurance benefits of work injuries in accordance with the law.

It is unclear yet whether an employee that has been assigned to an epidemic area to engage in non-coronavirus pneumonia prevention and treatment work, and if he/she is infected with or died of coronavirus pneumonia. In principle, it cannot be regarded as a work injury, except in the following cases:

(1) According to Article 15 (2) of the Work Injury Insurance Regulations, employees who are injured in activities such as rescue and disaster relief to protect national and public interests are deemed to be injured at work, and are entitled to work injury insurance in accordance with the relevant provisions of the Work Injury Insurance Regulations;

If non-medical personnel and related personnel are infected with the new coronavirus pneumonia in the workplace, at working hours, and during work, and are still dead within 48 hours after being rescued, the case can be submitted as work injury according to Article 15 of the Work Injury Insurance Regulations. However, in the end, whether it can be determined as a work injury should be subject to the conclusions of the human resources and social security department.

38

After the statutory holiday, if an employer has an accident when he/she works at home to the request of the employer, is it a work injury?

Principally it is work-related injury.

In accordance with the provisions of Articles 14 and 15 of the Regulations on Industrial Injury Insurance, the circumstances deemed to be industrial injury or the same as industrial injury include: (1) injuries caused by accidents during working hours and in the workplace; (2) injured when carrying out preparatory or closing work related to work in the workplace before and after working hours. (3) accidental injuries suffered by violence caused by accidents resulting from the performance of work duties during working hours and in the workplace; (4) suffering from occupational diseases; (5) In case of injury due to work or unknown whereabouts of the accident during the period of work out; (6) injured by a non-own-responsibility traffic accident or an urban rail transit, passenger ferry or train accident on the way to or from work; (7) injured in the course of working hours and in his/her duty, or dead of a sudden illness or death within 48 hours after a rescue; (8) harmed in activities to safeguard the interests of the state and the public, such as emergency rescue and disaster relief; (9) The staff and workers who had served in the army and had been disabled as a result of war or on duty have obtained a certificate of the revolutionary disabled and disabled army personnel, and have suffered a recurrence of the old injuries after arriving at the employer; (10) Other circumstances in which the laws and administrative regulations stipulate that work-related injuries should be considered. But the employee shall provide evidences to prove that the injury associates with the work.

39

Is it a work-related injury if an employee gets infected by coronavirus pneumonia during the time when the employer assigns him/her to Hubei on a business trip?

Cases needs to be differentiated.

If the employer assigns laborers to Hubei Province to engage in the prevention and treatment of new coronavirus pneumonia and the employees are contracted with the novel coronavirus pneumonia, according to the Ministry of Human Resources and Social Security, the Ministry of Finance, and the National Health and Health Commission's Notice on Safeguard Issues Related to Workers and Related Workers stipulates that in the prevention and treatment of new coronavirus pneumonia, medical staff and related workers who have contracted new corona virus pneumonia or died due to infection of new corona pneumonia due to the performance of their work duties shall be deemed to have been injured at work and shall enjoy the insurance benefits of work injuries in accordance with the law.

It is unclear yet whether an employee has been assigned to an epidemic area to engage in non-coronavirus pneumonia prevention and treatment work, and if he/she is infected with or died of coronavirus pneumonia. In principle, it cannot be regarded as a work injury, except in the following cases:

(1) According to Article 15 (2) of the Work Injury Insurance Regulations, employees who are injured in activities such as rescue and disaster relief to protect national and public interests are deemed to be injured at work, and are entitled to work injury insurance in accordance with the relevant provisions of the Work Injury Insurance Regulations;

If non-medical personnel and related personnel are infected with the new coronavirus pneumonia in the workplace, at working hours, and during work, and are still dead within 48 hours after being

rescued, the case can be submitted as work injury according to Article 15 of the Work Injury Insurance Regulations. However, in the end, whether it can be determined as a work injury should be subject to the conclusions of the human resources and social security department.

40

If the employer fails to pay the work injury insurance for the employee according to law, if the employee is infected with the new coronavirus pneumonia or died of the infection due to the new coronavirus pneumonia during the participation in the prevention and treatment of the new coronavirus pneumonia, will he enjoy the work injury insurance treatment according to law?

Yes.

According to the "Notice on Protection of New Pneumonia Related to Infectious Persons Due to Duty Performance " issued by the Ministry of Human Resources and Social Affairs, the Ministry of Finance, and the Health and Health Commission, for the employee has no work-related insurance, the employer shall pay according to the legal standard, and any expenses occurred to the Finance Subsidy department, the same level Finance Subsidy department shall subsidize.

41

What treatment does a company employee have for pneumonia diagnosed with a new coronavirus infection during quarantine?

The enterprise shall pay salary in accordance with normal attendance.

Article 1 of the Circular of the Ministry of Human Resource and Social Affairs on Proper Handling of Labor Relations in the Period of Prevention and Control of Pneumonia Epidemic of novel Coronavirus Infection clearly stipulates that Pneumonia patients with new coronavirus infection, suspected patients, close contacts who are not able to work as normal in the period of isolation and treatment, or during the period of medical observation, as well as in the period of isolation measures or other emergency measures taken by the government, the enterprise shall pay remuneration to the workers during this period and shall not terminate the labor contract with the workers in accordance with Articles 40 and 41 of the Labor Contract Law. During this period, if the labor contract expires, it will be postponed to the end of the employee's medical period, the medical observation period, the quarantine period, or the emergency measures taken by the government.

Regulations of the Shanghai Human Resources and Social Security Bureau on the Implementation of Human Resources and Social Security Support and Safeguard Measures in Response to the Epidemic Situation of New Coronavirus Infection Pneumonia stipulates that for the company staff and workers who cannot provide normal work due to the imposition of quarantine measures or other emergency measures by the government during the period of isolation treatment, suspected patients and close contacts of a new type of coronavirus infection during the period of medical observation, the company shall pay remunerations to employees as normal attendance of work during this period and shall not terminate the labor contract with employees based on Articles 40 and 41 of the Labor Contract Law. During this period, if the labor contract expires, it will be

postponed to the end of the employee's medical period, the medical observation period, the quarantine period, or the emergency measures taken by the government.

42

The company's employee is diagnosed as infected by a case of new coronavirus during the quarantine period. The medical treatment ended during the medical period and he/she could not engage in the original work. How to deal with it?

The company shall arrange other work.

Article 6 of the "Provisions on Medical Period of Workers' Illness or Non-work-related Injuries" stipulates that employees who have been non-work-related disabled and have been diagnosed by a doctor or medical institution with a difficult-to-treat disease end their medical treatment during the medical period and will not engage in the original work, nor engage in other work that the employer arranges, the labor appraisal committee shall perform labor appraisal with reference to the appraisal standards for the degree of injury caused by work injury and occupational disease. Those who are identified as Levels 1 to 4 shall withdraw from their employment positions, terminate their labor relations, deal with retirement and quit procedures, and enjoy the benefits of retirement and quit. If they are identified as Levels 5 to 10, the company shall not terminate their labor contracts during the medical treatment period.

43

The company's employee is diagnosed with pneumonia from new coronavirus infection during the quarantine period. If the labor contract expires during the medical treatment period, can the company terminate the labor contract?

No.

According to the Circular of the Ministry of Human Resource and Social Affairs and Social Affairs on Proper Handling of Labor Relations During the Period of Prevention and Control of Pneumonia Epidemic of a New Type of Coronary Virus Infection, for the company staff and workers who cannot provide normal work due to the imposition of quarantine measures or other emergency measures by the government during the period of isolation treatment, suspected patients and close contacts of a new type of coronavirus infection during the period of medical observation, the company shall pay remunerations to employees for their work during this period and shall not terminate the labor contract with employees based on Articles 40 and 41 of the Labor Contract Law.

During this period, if the labor contract expires, it will be postponed to the end of the employee's medical period, the medical observation period, the quarantine period, or the emergency measures taken by the government. Article 42 of the Labor Contract Law also stipulates that an employer shall not terminate a labor contract in accordance with the provisions of Articles 40 and 41 of this Law if the employee has one of the following circumstances: (3) Injuries not caused by work within the prescribed medical period.

5: Holiday Management

44

Is the extended holiday of 2020 Spring Festival stipulated by the State Council a rest day or a statutory holiday?

On January 26, 2020, the General Office of the State Council issued the "Notice on the Extension of the Spring Festival Holiday in 2020" (State-owned Invention No. [2020] No. 1), in order to strengthen the prevention and control of pneumonia epidemic of new coronavirus infection and effectively reduce the concentration of personnel, stop the spread of the epidemic, better protect the lives and health of the people, and extend the Spring Festival holiday of 2020 to February 2 (the 9th day of the first month of the lunar calendar, Sunday), and work normally from February 3 (Monday). The extended three days are rest days. If the company arranges employees to go to work on these three days, they can arrange supplementary leave for employees; if they cannot arrange supplementary leave, they should pay no less than 200% of the salary.

The Shanghai Municipal People's Government issued the "Notice on Delaying the Resumption of Work and Schools in Shanghai's Enterprises" on January 27, 2020, which clearly stipulates that various enterprises in the Shanghai area should resume work no later than 24:00 on February 9.

According to the second part of the Shanghai Municipal Human Resources and Social Security Bureau's "Authorized Answers from the Municipal Human Resources and Social Security Bureau," the delayed resumption of work is due to the need for epidemic prevention and control, so these days are rest days. For the employees taking rest, the enterprise shall pay wages according to the standard agreed in the labor contract; for enterprise employees who undertake security and other tasks to work, they shall be compensated for overtime as rest days or paid overtime wages in accordance with regulations. Generally speaking, the overtime salary is twice the salary.

45

Can the company resume the work forcibly during the period of extending the holiday and delaying the work?

No.

Extension of holidays and delays in return to work are urgent measures taken by governments at all levels to respond to the epidemic, unless the industry that doesn't need to delay resumption of work according to law. Most local governments stipulate that the industries that can be resumed without delay are: the industries necessary to ensure urban operation: such as water supply, gas supply, power supply, communication, etc.; the industries necessary for epidemic prevention and control: such as the production and sales of medical devices, drugs, and protective products; industries necessary for the people's life: such as supermarkets, food production and supply; and other related enterprises that are involved in important national economy and people's livelihood.

46

For employees who did not return to work in time due to the epidemic situation, can they be given priority in using annual leave?

Yes

According to the opinions issued by Ministry of Human Resources and Social Security, the All-China Trade Unions, the China Enterprise Confederation, and the National Entrepreneurs Association of China on "Stabilizing Labor Relations and support enterprises to resume work during the Prevention and Control of Novel Coronavirus Infectious Pneumonia", enterprises are encouraged to negotiate with employees to solve the labor problems before the resumption of work.

For those affected by the epidemic, if the employees cannot arrive on time or the enterprise cannot start production, the enterprise should be instructed to actively communicate with the employees. Some enterprises can arrange the employees to work at home to complete work tasks through flexible working methods such as telephone and Internet. Enterprises without telecommuting conditions shall, in consultation with employees, give priority to use various types of leave, including paid annual leave and self-established welfare leave. After the two parties have reached consensus, employees can be arranged to use annual leave or other welfare leave first. Employees are deemed to be on duty during their annual leave and should be paid full. The employer shall retain evidence of employees applying for annual leave or the employer arranging employees to take annual leave, such as annual leave application forms, notices, and vacation cancellation forms.

According to the "Regulations on Paid Annual Vacations for Enterprise Employees", employees who have worked cumulatively for one year and less than 10 years are entitled to 5 days of annual leave; for those who have worked for 10 years and less than 20 years, have annual vacations of 10 days; for those who have worked for over 20 years, have 15 days of annual leave. Employees enjoy the same salary during their annual leave as during normal work.

47

Can the holidays during the delay in return to work be deducted from the annual leave of the employee?

No.

Extension of holidays is an emergency measure adopted by the State Council and local governments for the prevention and control of epidemic situations. It is mandatory in accordance with the Law on Prevention and Control of Infectious Diseases, and employers and employees must obey. Therefore, the leave during the delayed return to work cannot be deducted from annual leave.

48

Employees did not return to work due to the epidemic situation. Can the employer require employees to wait for job assignment at home?

Yes.

If the employee has not returned to work for a longer period of time, the employer can arrange for the employee to wait for the job after negotiation with the employee. According to Article 12 of the "Interim Provisions on Wage Payments" of the former Ministry of Labor, if an employer stops work or production within a wage payment period for reasons other than labor, the employer shall pay the wages of the laborer in accordance with the standards stipulated in the labor contract. For more than one wage payment cycle, if the laborer provides normal labor, the labor remuneration paid to the laborer shall not be lower than the local minimum wage standard; if the laborer does not provide normal labor, it shall be handled in accordance with relevant state regulations. The Notice of the General Office of the Ministry of Human Resources and Social Security on Properly Handling Labor Relations during the Prevention and Control of Pneumonia Epidemic Situation of New Coronavirus Infection (Human Social Agency Mingdian [2020] No. 5) stipulates that enterprises shall stop work and production within a pay period, the enterprise shall pay the wages of employees in accordance with the standards stipulated in the labor contract. For more than one wage payment cycle, if the employee provides normal labor, the wages paid by the enterprise to the employee must not be lower than the local minimum wage standard. If employees do not provide normal labor, the enterprise shall pay living expenses. The living expenses standards shall be implemented in accordance with the methods prescribed by the provinces, autonomous regions and municipalities. Most provinces and cities have stipulated that enterprises should pay basic living expenses at no less than 70% of the local minimum wage.

49

How to deal with the overlapping of wedding and funeral leave and the extended holiday of the State Council, can it be extended?

This matter is determined according to the rules and regulations of the employer. Whether the legal holiday or rest day must be postponed during the wedding and funeral leave is not clearly stipulated by law, and shall be implemented in accordance with the rules and regulations of the employer. If the rules and regulations of the employer also do not provide, the marriage and funeral leave cannot be extended.

In our opinion, vacations such as wedding leave, bereavement leave, family visit leave, maternity leave, and paternity leave should in principle be arranged in one continuous operation. If a public holiday falls during a holiday, no additional holiday days will be added. The measures taken in the epidemic are to respond to emergency incidents, the extended holidays shall be implemented with reference to the relevant regulations as rest days. Therefore, the overlapping of wedding and funeral leave and the extended holiday of the State Council should not be extended.

6: Working Hours and Overtime Working

50

During the Spring Festival, extended holidays, and before the company resumes work, if the company implements an irregular working hour system, can employees claim for overtime pay?

No.

Regulations on overtime pay are not applicable to the irregular working hours system. The employer does not need to pay overtime wages, but it is recommended that employers can give appropriate care and rewards.

51

During the Spring Festival, extended holidays, and before the company resumes work, if the company implements a comprehensive working hours system, can employees claim for overtime pay?

To be determined case by case.

For an enterprise that implements the comprehensive working hour system, the employer shall calculate the working time during the period to the wage calculation period. If it exceeds the regulated working hours, it shall pay overtime wages at not less than 150% of the wages. But if it doesn't exceed the regulated working hours, it is not necessary to pay overtime wages, but it is recommended that employers can give appropriate care and rewards.

52

During the Spring Festival, extended holidays, and before resumption of work, if a company calculates cumulative labor remuneration, can employees claim for overtime wages?

Yes.

The employer shall arrange for compensatory leave for the employees or adjust the unit price per piece at the standard of not less than 200% of the salary.

53

Under the standard working hours system, how to pay overtime work during the Spring Festival (2020.1.31-2.9)?

The overtime during Jan. 31 to Feb. 2 shall be paid.

According to the "Notice of the General Office of the State Council on the Extension of the Spring Festival Holiday in 2020" (State-owned Invention Electric [2020] No. 1), the Spring Festival Holiday in 2020 was extended to February 2 (the ninth day of the lunar month, Sunday) Employees who cannot take time off due to epidemic prevention and control shall be arranged with compensatory leave in accordance with the Labor Law of the People's Republic of China. Wages and salaries for unoccupied leave shall be guaranteed in accordance with relevant policies.

According to the second part of the Shanghai Municipal Human Resources and Social Security Bureau's "Authorized Answers to the Municipal Human Resources and Social Security Bureau", in

order to strengthen the prevention and control of the pneumonia epidemic of new coronavirus infection, effectively reduce the concentration of people and block the spread of the epidemic, To better protect the lives and health of the people, the General Office of the State Council and the Shanghai Municipal People's Government successively issued the corresponding documentary regulations for extending the Spring Festival holiday and delaying the resumption of work for enterprises ... Delayed resumption of work is due to the need for epidemic prevention and control. These days are off days. For rest employees, the enterprise shall pay wages according to the standard agreed in the labor contract; for enterprise employees who undertake security and other tasks to work, they shall be compensated for overtime by supplementary rest days or paid overtime wages in accordance with regulations. General Speaking, it is twice the salary.

54

Under the standard working hour system, enterprises arrange for employees to go to work before the stipulated resumption of work, is it overtime work?

Yes.

According to the second part of the Shanghai Municipal Human Resources and Social Security Bureau's "Authorized Answers to the Municipal Human Resources and Social Security Bureau", in order to strengthen the prevention and control of the pneumonia epidemic of new coronavirus infection, effectively reduce the concentration of people and block the spread of the epidemic, To better protect the lives and health of the people, the General Office of the State Council and the Shanghai Municipal People's Government successively issued the corresponding documentary regulations for extending the Spring Festival holiday and delaying the resumption of work for enterprises ... Delayed resumption of work is due to the need for epidemic prevention and control. These days are off days. For rest employees, the enterprise shall pay wages according to the standard agreed in the labor contract; for enterprise employees who undertake security and other tasks to work, they shall be compensated for overtime by supplementary rest days or paid overtime wages in accordance with regulations. General Speaking, it is twice the salary.

Employers need to be reminded, unless it is necessary to guarantee city operations (water supply, gas supply, power supply, communication and other industries), epidemic prevention and control (medical equipment, drugs, protective products production and sales, etc.), the people's life (supermarket stores, Industries such as food production and supply) and other related industries involving important national economy and people's livelihoods, otherwise it is not recommended to start construction in advance to avoid cross-infection of epidemic, and it will also violate the law.

55

During the epidemic prevention and control, should the overtime work by the employee be in strict accordance with the law?

It depends on the type of company.

Enterprises should provide corresponding conditions to ensure the health of employees who work overtime, however, overtime hours vary according to the type of business. Enterprises that have not undertaken the tasks related to the prevention and control of the epidemic situation must abide

by Article 41 of the Labor Law. For the needs of production and operation, the working hours can be extended after consultation with the labor union and employees, generally not exceeding 1 hour per day; For special reasons that extended working hour is required, the extended working hours should not exceed 3 hours per day under the condition of ensuring the health of the workers, but not more than 36 hours per month. Enterprises that undertake tasks related to epidemic prevention and control and safeguards are advised not to comply with the aforementioned overtime regulations.

56

After the enterprise resumes work, due to the impact of epidemic prevention and control, can the enterprise adjust the working hours system?

Yes, but it must be negotiated and agreed with employees to change the working hour system.

According to regulations, after the company resumes work upon approval, it can apply to the relevant departments for a comprehensive working hour system, etc., according to the company's actual operating situation.

57

If the employee refuses to return to work ahead of time, can the company handle it as a violation of discipline? Can workers refuse the employer's request about returning to work ahead of time?

No.

According to local regulations, it is necessary to ensure the operation of urban and rural areas (water supply, power supply, oil and gas, communications, public transportation, environmental protection, municipal environmental sanitation and other industries), and epidemic prevention and control (medical equipment, drugs, protective supplies production and transportation and other industries) For the masses' life (supermarkets, food production, logistics and other industries) and other related enterprises that are in urgent need of returning to work for important national economy and people's livelihoods, they can require employees to return to work ahead of time. If the employees refuse, the company can deal with violations of regulations in accordance with regulations. Here, it is necessary to remind that various types of enterprises other than the above-mentioned enterprises shall not resume work earlier than the delayed resumption time stipulated by the local government. If an enterprise requires employees to resume work in advance in violation of regulations, employees have the right to refuse and it shall not be disciplinary violation. In addition, the employer must be reminded that due to the severity of the epidemic, cross-infection of personnel should be avoided. The employer must not resume work before the resumption time stipulated by local policies, otherwise it is illegal.

58

If the company arranges employees to work at home during February 3 and February 9, 2020, is it overtime work ?

Yes.

According to the second part of the Shanghai Municipal Human Resources and Social Security Bureau's "Authorized Answers from the Municipal Human Resources and Social Security Bureau," the Shanghai Municipal Government requires that enterprises not resume work ahead of time, and encourages companies to arrange employees to work from home. Employees who work at home according to the requirements of the enterprise shall be considered work overtime on rest days, and the enterprise shall provide compensatory rest or pay overtime wages in accordance with regulations.

59

Can the employer continue to extend the timing for resumption of work on the basis of notifications from the State Council and local governments?

Yes.

If the employer continues to extend the holiday of its employees based on the notice of the State Council and the local government, it is determined by the employer itself. However, the corresponding wages and salaries of workers during the holidays shall be guaranteed in accordance with the law in order to comply with the law.

7: Safety Management

60

Can the employer require employees to accept isolation measures based on safety considerations?

No.

Article 41 of the Law on the Prevention and Control of Infectious Diseases stipulates that local people's governments at or above the county level can implement quarantine measures for people in places where a Class A infectious disease case has occurred or the persons in specific areas within the place, and simultaneously report to the people's government at the next higher level; the people's government at a higher level that has received the report should make a decision immediately on whether to approve it. If the people's government at a higher level makes a decision not to approve, the people's government implementing the isolation measures shall immediately release the isolation measures. Therefore, the isolation measures are implemented by the local people's governments at or above the county level and after being reported to the people's governments at the next higher level for approval. Therefore, the employer is not a state administrative agency and has no right to take measures to isolate employees.

61

For those returning to Shanghai from other cities or provinces, can the employer force employees to isolate themselves?

The matter needs to be dealt case by case.

According to the "Shanghai Office of the Leading Group for Pneumonia Epidemic Prevention and Control Work of New Coronavirus Infection" issued on February 4, 2020: ... 2. Those who come to Shanghai or return to Shanghai from or through Hubei and other key areas should strictly implement the requirements of home isolation or centralized isolation and observation for 14 days from the date of arrival in Shanghai, and consciously report to the community and accept management, if without abnormal situation, back to work after expiration of isolation period.3. Those who come to Shanghai or return to Shanghai from other areas should do their own body temperature test from the day they arrive in Shanghai, fill out the registration form of health status information, and report to the company or community in time if there is anything abnormal. For those who come to Shanghai or return to Shanghai from or through Hubei and other key areas, the employer has the right to require the employees to abide by the aforementioned regulations and live or stay in isolation for 14 days. For people coming to Shanghai from other areas, the company can require employees to stay at home for 14 days. However, in actual operation, the employer needs to pay attention to the measures and methods. During the 14 days of the isolation, the employer can provide home office conditions, arrange remote work, and the employer can consider it according to specific circumstances.

62

During the epidemic prevention period, should the employer bear the obligation of security?

Yes.

Even if it is not during the special epidemic prevention period, the employer should guarantee the safety and security of employees' working environment. In the current special period, in accordance with Article 22 of the "Emergency Response Law", all enterprises should establish and improve safety management systems, regularly check the implementation of various safety precautions of their companies, and eliminate hidden dangers in a timely manner; well know and timely deal with the problems that may cause social security events in the company to prevent the intensification of contradictions and the expansion of the situation; in the event of possible emergencies happened in the company and security precautions, the company shall promptly report the situation to the local people's government or the people's government.

For this, the employer shall assume the following security guarantee obligations: (1) Establish a pre-prevention plan. The employer shall establish an epidemic prevention organization, formulating an epidemic prevention plan, and clarifying the epidemic prevention duties. (2) hold employee information. The employer shall hold information about each employee, and keep smooth touch with each employee. Employers have the right to know the travel information and health status of employees within the necessary limits, such as the places where employees have visited during the Spring Festival, for example, the places where the employee travel, the people they have contacted, and whether they have fever, etc. In the process of communication, attention should be paid to keep confidential. (3) make prevention from epidemic in the workplace. For example, measures such as disinfection of premises and ventilation should be switched on, in order to strengthen epidemic prevention in the workplace. (4) Strengthen personnel's epidemic prevention.

For employees on holiday, it is necessary to establish daily physical condition check and feedback system, and make reports, and perform temperature detection on all personnel entering the workplace. (5) Do safety inspections. The employer shall promptly conduct a comprehensive inspection of its own security precautions. (6) Report in a timely manner. According to the provisions of Article 31 of the Law on the Prevention and Control of Infectious Diseases, any unit or individual shall promptly report to a nearby disease prevention and control institution or medical institution when it discovers an infectious disease patient or a suspected infectious disease patient. (7) Actively cooperate with inspection and evidence collection. According to the provisions of Article 54 of the Law on Prevention and Control of Infectious Diseases, the health administrative department has the right to enter the inspected unit and carry out the on-site investigation and evidence collection about the infectious epidemics, to view or copy relevant data and to collect samples when performing its supervision and inspection duties. The unit under inspection shall cooperate and shall not refuse or obstruct it.

63

Can an employer require employees to disclose or provide information about new coronaviruses infected, suspected, and personal information such as holiday location and return routes?

Yes, and the employees have the obligations to report to the company.

According to the provisions of Article 8 of the Labor Contract Law, the employer has the right to understand directly the basic situation about the laborer related to the labor contract, and the laborer shall truthfully explain. Although this type of information is something after the establishment of a labor contract, it is directly related to the performance of the labor contract and the employer has the right to know about it. According to relevant government requirements, employers can collect information related to epidemic prevention and control from employees, including, but not limited to, addresses, track, and health information. The employer shall not collect information that is not related to the prevention and control of the epidemic, and the collection, processing or disclosure shall comply with the relevant laws and regulations on the protection of personal information. At the same time, now it is at the critical moment of epidemic prevention, according to the "Infectious Disease Prevention Law", "Regulations on Public Health Emergencies" and other relevant regulations, individuals who fail to perform their reporting responsibilities may be liable for administrative or disciplinary punishment. If the disease spreads, and causes damage to others, he/she will bear civil liability; if he/she has illegal behavior against security, he/she will be punished by the public security organization according to law; if it constitutes a crime, he/she will bear criminal responsibility. However, the employer shall keep the personal information of employees confidential and shall not disclose it without authorization.

64

How should workers who pass through the place where the epidemic occurs take prevention measures?

They should be isolated at home for observation.

Enterprise employees who are in Hubei due to business trips, visiting relatives and friends, returning to their hometown, etc., must strictly abide by the measures taken by the local government of Hubei regarding epidemic prevention and control, and must not leave Hubei without authorization. Returned employees who left Hubei within 14 days before arriving in Shanghai or having a history of contact with personnel in Hubei should implement strict medical observation and other measures.

Those who have left the Hubei area or have had contact history with personnel from Hubei area within 14 days before arriving in Shanghai should report the health status to the community (village) in the place of residence or accommodation on the day of arrival, and accept the 14th monitoring medical observation from the date of arrival, monitoring body temperature every morning and evening, must not go out, the community (village) responsible for the monitoring medical observation should provide basic living security for him; report symptoms such as fever, fatigue, dry cough, etc. The community (village) for medical observation should assist in sending them to fever clinics of the nearest medical and health institutions.

Persons arriving from other parts of the country shall obey rules and management by the transportation operators such as aviation, railway, long-distance passenger transport and road entry checkpoints, and consciously accept and cooperate with body temperature testing. For those with abnormal body temperature, the city will immediately arrange for them to go to the fever clinic of the nearest medical and health institution. People with normal body temperature, within 14 days on arrival, should monitor their body temperature and health by themselves morning and evening daily. They should wear masks when going out to strengthen personal protection. When fever, fatigue, dry cough and other symptoms occur, they should immediately go to the nearest health care institution for treatment.

Companies having employees from other regions in the country shall urge them to implement relevant prevention and control measures and equip them with necessary protective equipment. For employees in the medical observation period on the 14th, flexible working hours shall be implemented; shifts to and from work shall be implemented; if conditions permit, employees shall be arranged to work at home or provide a working environment that minimizes personnel contact.

65

During the epidemic prevention and control, do employees need to report to the local health and epidemic prevention department in addition to medical treatment if they are sick and have fever?

Yes.

If an employee has symptoms such as fever, fatigue, and dry cough during work, he should immediately go to a fever clinic of the nearest medical institution and report to the local health and epidemic prevention department. At the same time, the company should also actively strengthen knowledge publicity on infectious diseases and other aspects through WeChat and email to educate employees to actively do well in safety protection.

66

If the company violates the requirements by the State Council, the ministries and local governments regarding delaying in resumption of work, what legal consequences will it bear?

With the approval from the State Council, pneumonia infected with a new type of coronavirus has been included in the Class B infectious diseases specified in the Law of the People's Republic of China on the Prevention and Control of Infectious Diseases, and measures for the prevention and control of Class A infectious diseases have been adopted. If the employer resumes work ahead of time is in violation of regulations:

1.

The public security organization shall impose a warning or a fine according to the Law on the person who is in charge of the company; if the circumstances are serious, he/she shall be detained for more than 5 days and less than 10 days, and may be fined an amount according to the Law.

2.

Anyone causing damage to other person or other person's property shall bear civil liability in accordance with the law.

3.

Those who cause the spread of a class A infectious disease or cause the serious risk for spread of a class A infectious disease, are suspected of constituting a crime against the prevention of infectious diseases.