

The legal opinions of the Employment Contract Law actualized

Bright Jon Attorney-at-law

LAW OF THE PEOPLE'S REPUBLIC OF CHINA ON EMPLOYMENT CONTRACTS be implemented from January 1, 2008. This Law form a austere challenge to the management of Human Resources . If enterprises still operate steadily, it will be at a disadvantage while the labor disputes happening, thereby restricting the autonomy rights of employment, and hard to accomplish a flexible mechanism of competition, and impacting the optimizing scheme, and declining the competition of enterprises. In order to balance the benefits between enterprises and employee, and avoid labor disputes, please think over following suggestion.

1. First, the standpoints of Human Resources have to transform, and any enterprise shall revise labor bylaw according to the Employment Contract Law. Second, enterprises shall commission special department or person(s) to manage human resources, and establish Committee of Human Resource to coordinate relations between investors and staff.

2. The enterprises shall revise bylaw in democratic process lawfully. For example, the system of checking, safe production, encouragement and chasten, position responsibility, and so on. The bylaw of enterprises shall be stipulated through legal process: discussed by the employee representative or all the employees; employees may be put forward a proposal and comments.

3. We suggest that fixed-term employment contract of 3 years would be sign up with new employee. Besides surveying some necessary qualification of subject, the enterprise should also definite the condition of employment and train new employee to study the bylaw .The placement of Employees shall generally be practiced for temporary, auxiliary or substitute job positions.

4. According to requirement of production, enterprises may sign up different fixed contract with employees. Rights and obligations between enterprises and employees also shall be ensured.

5. From the point of view of cooperation between employees and enterprises, we shall consummate management and implementation, and prorate the long contract and fixed contract.