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# 中国动态： 双语版亚洲雇佣法：季评

2013-2014

第七期：2014年第三季度

# Asia Employment Law: Quarterly Review

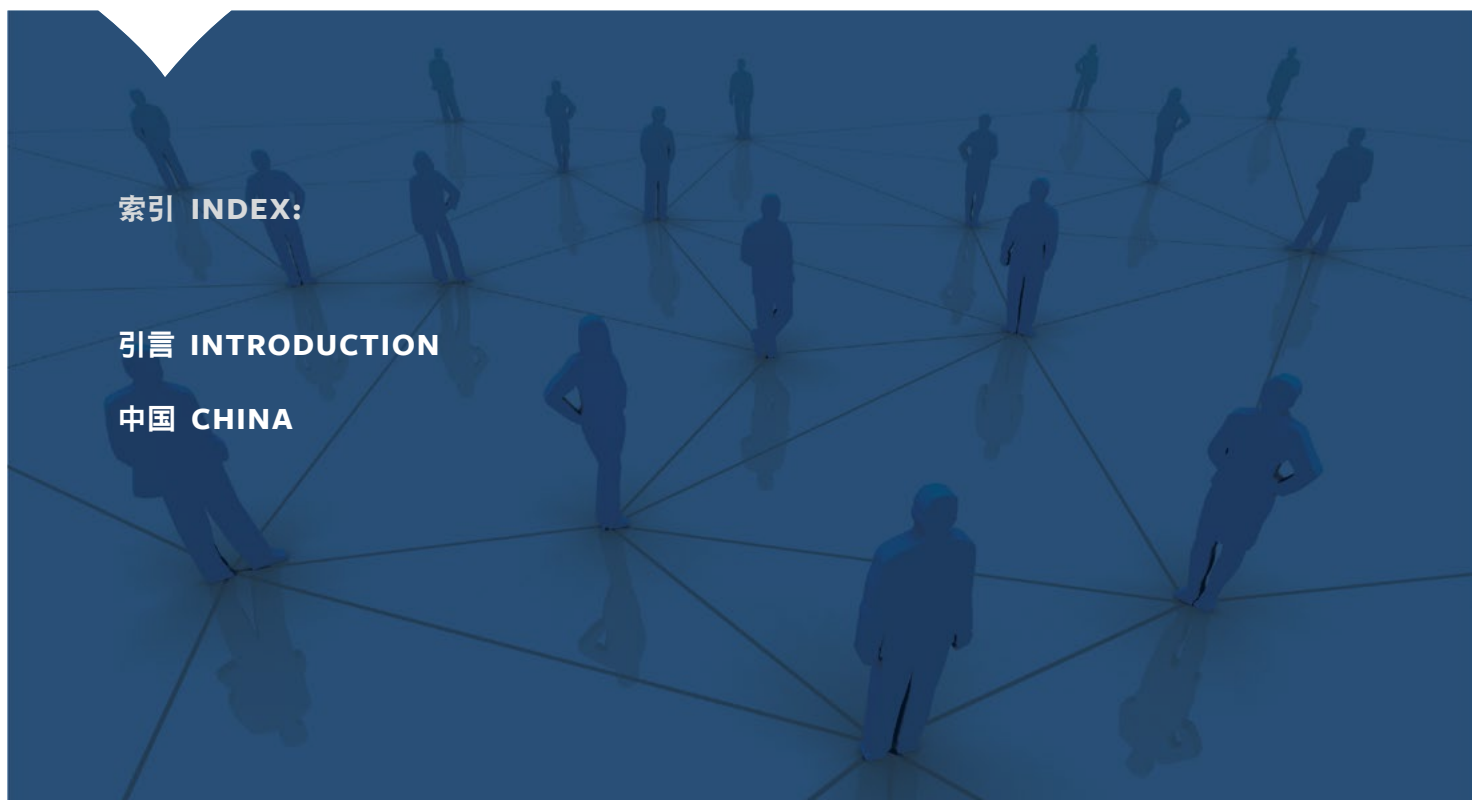
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ISSUE 7: THIRD QUARTER 2014

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引言 INTRODUCTION

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亚洲法律顾问与人力资源顾问的工作往往涉及多个司法辖区。准确把握雇佣相关法律发展情况既是重中之重又充满挑战。

为协助阁下获取最新法律动态，孖士打律师行发布电子期刊**亚洲雇佣法：季评**，内容涵盖亚洲15个司法辖区，并将每季更新。

在第七期中，我们将回顾并评点2014第三季雇佣法发展情况，同时强调2014年内立法、谘询、政策及判例法方面的预期重大变革。

孖士打与亚洲地区15家律师行长期开展跨境合作，与对方律师建立了密切的工作关系，本刊正是这一努力的结果。欲获悉撰稿律师及律师行名单，请浏览[连络人](#)页面。

我们衷心希望本刊对阁下有所助益。

Asia's legal and human resources advisors are often required to function across multiple jurisdictions. Staying on top of employment-related legal developments is important but can be challenging.

To help keep you up to date, Mayer Brown JSM produces the **Asia Employment Law: Quarterly Review**, an e-publication covering 15 jurisdictions in Asia. It is updated every quarter.

In this seventh edition, we flag and provide comment on anticipated employment law developments during the third quarter of 2014 and highlight some of the major legislative, consultative, policy and case law changes expected during the rest of the year.

This publication is a result of ongoing cross-border collaboration between 15 law firms across Asia with whose lawyers Mayer Brown JSM has had the pleasure of working with closely for many years. For a list of contributing lawyers and law firms, please see the [contacts page](#).

We hope you find this edition useful.

顺颂商祺

With best regards,



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2014

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2013 edition**重要：**  
可能需要  
采取行动**Important:**  
action likely  
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关注发展动态**Good to know:**  
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developments**注意变更：**  
无需采取行动**Note changes:**  
no action  
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人力资源和社会保障部于2014年1月24日正式公布了《劳务派遣暂行规定》（“《暂行规定》”），该规定将于2014年3月1日起正式实施。作为《劳动合同法（修正案）》的重要配套法规之一，《暂行规定》进一步角色化劳务派遣作为一种辅助性用工方式对主流用工模式的补充，强调了劳务派遣用工比例的上限，明细了将劳务派遣工退回劳务派遣单位的法定情形和限制条件，并确认了劳务派遣用工比例法定限制的过渡期限。

[更多...](#)**Interim Provisions on Labour Dispatch take effect**

Wording: PRC Ministry of Human Resources and Social Security (MOHRSS) issued on 24 January 2014 the Interim Provisions on Labour Dispatch (“Interim Provisions”), which will become effective as of 1 March 2014. As one of the supporting regulations to the Amendments to the PRC Labour Contract Law, it further characterises the labour dispatch arrangement as an auxiliary mode to mainstream employment arrangements, specifies the utilisation limit of labour dispatch arrangements, elaborates on the statutory circumstances and restrictions for returning a labour dispatch staff back to the labour dispatch company, and fixes the duration of the transitional period for compliance with the statutory utilisation limit of labour dispatch arrangements.

[More...](#)**北京出台关于劳动争议案件法律适用问题研讨会会议纪要（二）**

北京市高级人民法院和北京市劳动争议仲裁委员联合发布《关于劳动争议案件适用法律问题研讨会会议纪要（二）》（“会议纪要”）。尽管会议纪要并非具有法律约束力的官方文件，但北京地区的法院和劳动争议仲裁委员会在司法实践中将遵照执行。会议纪要进一步明确了雇主们面临的一些具有争议性的雇佣法律实践问题，例如无固定期限劳动合同的签订和未及时签订书面劳动合同导致的双倍工资罚则等。

[更多...](#)**Beijing High People’s Court issues new guiding opinion on employment disputes**

In May 2014 the Beijing High People’s Court and the Beijing Municipal Employment Dispute Arbitration Committee jointly issued the Meeting Minutes (II) on the Application of Law in Employment Disputes. Although the meeting minutes are not officially binding, it is likely that the lower courts and arbitration panels in Beijing will follow the conclusions of the meeting minutes. The meeting minutes clarify some controversial employment issues often faced by employers, such as open-term employment contracts and double wage penalties.

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## 上海出台劳务派遣用工单位调整用工方案备案办法

上海市人力资源和社会保障局于2014年7月7日公布了《上海市劳务派遣用工单位调整用工方案备案办法》，明确要求上海市范围内的在2014年3月1日前使用被派遣劳动者数量超过本单位用工总量10%的用工单位，必须于2014年10月31日前向其所在地的区（县）人力资源和社会保障局办理备案手续，具体说明2年内调整降低比例的时间进度安排。

[更多...](#)

## Labour dispatch implementing rules issued in Shanghai

Shanghai-based companies needing to reduce their reliance on dispatched workers have until 31 October 2014 to formulate and submit reduction plans. Guiding principles have also been issued to distinguish between human resourcing outsourcing and labour dispatch. These new provisions were issued by the Shanghai labour authority on 7 July 2014.

[More...](#)

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**重要：**  
可能需要  
采取行动

**Important:**  
action likely  
required

**不可不知：**  
关注发展动态

**Good to know:**  
follow  
developments

**注意变更：**  
无需采取行动

**Note changes:**  
no action  
required

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