

MAYER • BROWN

JSM

孖士打律師行

# 中国动态： 双语版亚洲雇佣法：季评

2014-2015

第九期：2015年第三季度

# Asia Employment Law: Quarterly Review

2014-2015

ISSUE 9: THIRD QUARTER 2015

索引 INDEX:

引言 INTRODUCTION

中国 CHINA



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。

在第九期中, 我们将回顾并评点2015年第一至第三季雇佣法发展情况, 同时列出一些2015年立法、咨询、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.

In this ninth edition, we flag and provide comment on anticipated employment law developments during the first to third quarter of 2015 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,



杨瑞锷 Andy Yeo

合伙人 Partner

+86 21 6032 0266

andy.yeo@mayerbrownjsm.com

MAYER • BROWN  
JSM

孖士打律师行

点击浏览  
2013 期刊  
Click here  
to view  
2013 edition

**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

回顾  
**Looking  
Back**

展望  
**Looking  
Forward**

回顾  
LOOKING BACK

中国  
12月16日  
2014

CHINA  
16  
DEC  
2014

## 国务院办公厅关于2015年部分节假日安排的通知

国务院办公厅经国务院批准,就2015年元旦、春节、清明节、劳动节、端午节、中秋节和国庆节放假调休日期的具体安排于2014年12月16日发布了通知。

[更多...](#)

## Notice on the Schedule of the Public Holidays for 2015

The State Council approved the schedule of the public holidays for 2015, and the Notice on the Schedule of the Public Holidays for 2015 was issued on 16 December 2014.

[More...](#)

中国  
12月25日  
2014

CHINA  
25  
DEC  
2014

## 关于修改〈就业服务与就业管理规定〉的决定

人社部部务会讨论通过了《人力资源社会保障部关于修改〈就业服务与就业管理规定〉的决定》。修改后的《规定》自2015年2月1日起施行。该《规定》较以前有部分内容的修改,颇引人关注。第六十三条放宽了失业登记条件,修改为:“在法定劳动年龄内,有劳动能力,有就业要求,处于无业状态的城镇常住人员,可以到常住地的公共就业服务机构进行失业登记。”删除了“其中,没有就业经历的城镇户籍人员,在户籍所在地登记;农村进城务工人员和其他非本地户籍人员在常住地稳定就业满6个月的,失业后可以在常住地登记”。

[更多...](#)

## Opinion on Fostering Human Resource Outsourcing Services by MHRSS, NDRC and MOF

Wording: The Opinion on Fostering Human Resource Outsourcing Services was jointly issued by the Ministry of Human Resources and Social Security, National Development and Reform Commission, and the Ministry of Finance on 25 December 2014, the Opinion offers incentives for companies to use professional outsourcing services in non-core businesses.

[More...](#)

中国  
12月31日  
2014

CHINA  
31  
DEC  
2014

## 关于《企业裁减人员规定(征求意见稿)》公开征求意见的通知

国务院法制办于2014年12月31日公布《企业裁减人员规定(征求意见稿)》,并向社会征求意见。该意见稿规定,对于不裁员或少裁员的企业,还可以享受国家补贴。征求意见稿规定,企业出现破产重整;生产经营发生严重困难;转产、重大技术革新或者经营方式调整等情况可以裁员。裁减20人以上或者裁减不足20人但占企业职工总数10%以上的人员的,适用这一规定。

[更多...](#)

The Ministry of Human Resources and Social Security (MOHRSS) issued on 31 December 2014 a draft regulation on enterprise mass layoff, viz. the Provisions on Enterprise Mass Layoff (Draft for Comments) (the "Draft Provisions"). Public comments are invited to be submitted by 31 January 2015. The Draft Provisions provide the detailed procedures and requirements to implement a layoff plan as well as the employer's obligations if the number of the employees who are terminated by mutual consent exceeds 20.

[More...](#)

中国  
1月1日  
2015

## 关于印发劳务派遣用工参加社会保险有关问题暂行规定的通知

天津市人力社保局、市财政局联合印发《劳务派遣用工参加社会保险有关问题暂行规定》,自2015年1月1日起,被派遣劳动者社会保险费直接由用工单位代缴。用工单位负责代劳务派遣单位,为本单位使用的被派遣劳动者办理参保登记手续。劳务派遣单位应缴纳的社会保险费及其被派遣劳动者的个人缴费部分,用工单位不再拨付到劳务派遣单位,直接缴纳至社会保险经办机构。参加社会保险的被派遣劳动者,按照国家和天津有关规定享受相应的社会保险待遇,相关手续仍由劳务派遣单位负责办理。

[更多...](#)

点击浏览  
2013 期刊

Click here  
to view  
2013 edition

**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

回顾

Looking  
Back

展望

Looking  
Forward

回顾 LOOKING BACK

CHINA

1  
JAN

2015

## Notice on Tentative Rules for the Social Insurance Contribution of the Labour Dispatch Employees

Tianjin Labour Bureau and Tian Jin Finance Bureau jointly issued a Notice on Tentative Rules for the Social Insurance Contribution of the Labour Dispatch Employees. According to the Notice, host companies now required to directly pay social insurance contributions for labor dispatch workers instead of through dispatch agencies.

[More...](#)

中国

1月1日

2015

## 外国人入境完成短期工作任务的相关办理程序(试行)

人社部、外交部、公安部及文化部日前联合发布通知印发《外国人入境完成短期工作任务的相关办理程序(试行)》(《程序》),自2015年1月1日起施行。《程序》明确外国人入境完成短期工作任务指因到境内合作方完成某项技术、科研、管理、指导等工作等六类事由入境,且在境内停留不超过90日。短期工作人员应根据《程序》的要求申请入境工作许可和工作证明,并申请工作签证。

[更多...](#)

CHINA

1  
JAN

2015

Tentative Procedural Rules For Foreign Nationals Working in China for A Short Period was issued by the Ministry of Human Resources and Social Security and other departments jointly effective from 1 January 2015. According to the Rules, foreign nationals working in China less than 90 days on projects at affiliated branches, subsidiaries, and representative offices may enter China on business visas, and foreign nationals working at non-affiliates must obtain work visas.

[More...](#)

中国

1月8日

2015

## 关于对《上海市集体合同条例修正案(草案)》公开征求意见的公告

2015年1月8日,上海公布了《上海市集体合同条例修正案(草案)》并向社会公开征求意见。草案补充明确了工资集体协商的内容和参考因素,强化了上级工会在集体协商中的作用,明确了集体协商过程中双方的禁止行为及其法律责任,并就集体合同签订、履行、终止等各环节的争议解决机制寻求意见及建议。

[更多...](#)

CHINA

8  
JAN

2015

## Draft Amendment on Shanghai Collective Contract Regulations Sought Public Comments

Shanghai Municipal People's Congress solicits comments on amendments to Collective Contract Regulations in Shanghai and the draft amendments target disputes and negotiation and termination of collective contracts. Public comments are invited to be submitted by 23 January 2015.

[More...](#)

中国

1月28日

2015

## 2015年深圳最低工资标准 提高至2030元

1月28日下午,深圳市政府五届一百二十五次常务会议审议并原则通过了2015年深圳市最低工资标准调整有关方案,自今年3月1日起,深圳全日制就业劳动者月最低工资标准提高至2030元,非全日制就业劳动者小时最低工资标准提高至18.5元。

[更多...](#)

CHINA

28  
JAN

2015

## Shenzhen Raises Minimum Wage Rate to RMB2030 Effective From 1 March 2015

The Shenzhen Municipality Standing Congress approved a proposal that the monthly minimum wage in Shenzhen is increased to CNY2,030, and for a part-time employee, the standard of hourly minimum wage is increased to CNY18.5, effective from 1 March 2015.

[More...](#)

2014

中国  
CHINA

点击浏览  
2013 期刊

Click here  
to view  
2013 edition

**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

回顾  
Looking  
Back

展望  
Looking  
Forward

回顾  
LOOKING BACK

## 关于修改《就业服务与就业管理规定》的决定

人社部部务会讨论通过了《人力资源社会保障部关于修改〈就业服务与就业管理规定〉的决定》。修改后的《规定》自2015年2月1日起施行。该《规定》较以前有部分内容的修改, 颇引人关注。第六十三条放宽了失业登记条件, 修改为: “在法定劳动年龄内, 有劳动能力, 有就业要求, 处于无业状态的城镇常住人员, 可以到常住地的公共就业服务机构进行失业登记。” 删除了“其中, 没有就业经历的城镇户籍人员, 在户籍所在地登记; 农村进城务工人员和其他非本地户籍人员在常住地稳定就业满6个月的, 失业后可以在常住地登记”。

[更多...](#)中国  
2月1日  
2015

CHINA

1  
FEB

2015

## Regulation on Employment Service and Employment Management

The Regulation on Employment Service and Employment Management was revised by the Ministry of Human Resources and Social Security effective from 1 February 2015. The threshold requirement for unemployment registration has been reduced, and the unemployed individual with urban *hukou* may register their unemployment status at the service agent located in the district where their residing place locates.

[More...](#)

## 人力资源和社会保障部、财政部决定下调失业保险、工伤保险和生育保险费率

人力资源和社会保障部、财政部陆续联合发布了《关于调整失业保险费率有关问题的通知》、《关于调整工伤保险费率政策的通知》和《关于适当降低生育保险费率的通知》, 进一步减轻企业负担。自2015年3月1日起, 失业保险费率由3%降至2%。自2015年10月1日起, 工伤保险费率按各行业一类至八类工伤风险类别对应的全国工伤保险行业基准费率, 分别控制在在该行业用人单位职工工资总额的0.2%、0.4%、0.7%、0.9%、1.1%、1.3%、1.6%、1.9%左右。自2015年10月1日起, 生育保险基金累计结余超过9个月的统筹地区应将生育保险基金费率调整到用人单位职工工资总额的0.5%以内。

[更多...](#)[更多...](#)[更多...](#)中国  
2月27日  
2015

CHINA

27  
FEB

2015

## Rates of Unemployment Insurance, Work-Related Injury Insurance and Maternity Insurance Reduced

The Ministry of Human Resources and Social Security and the Ministry of Finance jointly released several Circulars to reduce the rates of unemployment insurance, work-related injury insurance and maternity insurance respectively to alleviate the burden on enterprises. From 1 March 2015, the unemployment insurance rate will be reduced from 3% to 2%. From 1 October 2015, the rate of the work-related injury insurance will be maintained at the benchmark rate of the national work injury insurance industry corresponding to Type 1 through Type 8 work injury risks of the industries at approximately 0.2%, 0.4%, 0.7%, 0.9%, 1.1%, 1.3%, 1.6% and 1.9%. From 1 October 2015, the rate of the maternity insurance should be adjusted to within 0.5% in the cities where the maternity insurance fund accumulates surplus for over nine months.

[More...](#)[More...](#)[More...](#)

## 安监局发布用人单位职业病危害防治规定

国家安全监管总局发布《用人单位职业病危害防治八条规定》, 重点围绕责任制、工作场所、防护设施、防护用品、警示告知、定期检测、培训教育、健康监护等8个方面对所有产生职业病危害的用人单位提出了明确要求。《规定》强调, 用人单位必须定期进行职业病危害检测; 必须对劳动者进行职业卫生培训, 严禁不培训或培训不合格上岗; 必须组织劳动者职业健康检查并建立监护档案, 严禁不体检不建档。

[更多...](#)中国  
3月24日  
2015

2014

中国  
CHINA

点击浏览  
2013 期刊

Click here  
to view  
2013 edition

**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

回顾

Looking  
Back

展望

Looking  
Forward回顾  
LOOKING BACK

CHINA

24  
MAR

2015

## SAWS Issues Provisions on Employers' Occupational Hazard Prevention and Control

The State Administration of Work Safety (SAWS) issued the Eight Provisions on Occupational Hazard Prevention and Control by Employers (hereinafter referred to as the Provisions). The Provisions specifies requirements in the following eight aspects: accountability, workplace, protective facilities, protective devices, warning notices, regular tests, training and health supervision. The Provisions stresses that employers must provide their employees protective equipment that meet the relevant requirements. They must also conduct occupational health training for their employees; employees are prohibited from working if they are not trained or are deemed unqualified after the training. Employers must also organise occupational health inspections for their employees and establish health surveillance records; they are strictly prohibited from failing to organise health inspections or establish health records.

[More...](#)

中国

5月13日

2015

## 国务院关于中国人民抗日战争暨世界反法西斯战争胜利70周年纪念日调休放假的通知

国务院发布关于中国人民抗日战争暨世界反法西斯战争胜利70周年纪念日调休放假的通知。2015年是中国人民抗日战争暨世界反法西斯战争胜利70周年。为使全国人民广泛参与中央及各地区各部门举行的纪念活动，2015年9月3日全国放假1天。

[更多...](#)

CHINA

13  
MAY

2015

The Notice on Designating An Statutory Holiday for Commemorating the 70<sup>th</sup> Anniversary of the victory in the Chinese People's War of Resistance Against Japanese Aggression issued

The State Council has designated 3 September as an additional statutory holiday in 2015. This date commemorates the 70th anniversary of the victory in the Chinese people's war of resistance against Japanese aggression. This holiday is applicable to all employees and only being legislated for 2015.

[More...](#)

中国

6月

2015

## 广东省工资支付条例征求意见

广东省人力资源和社会保障厅发布了《关于修改〈广东省工资支付条例〉的决定（征求意见稿）》（下称《意见稿》），现征求社会各界意见，截止日期为2015年7月30日。《意见稿》明确，用人单位应当按照约定的日期支付劳动者工资，其中按月支付工资的约定时间不得迟于第二个月10号。

[更多...](#)

CHINA

JUN

2015

## Proposed Changes on Salary Payment Regulations of Guangdong Province Seeking Public Comments

Guangdong Provincial Department of Human Resources & Social Security issued the Decision on Revising Salary Payment Regulations of Guangdong Province (Request for Proposal) (Hereinafter the "Draft") to seek opinions on the Draft by 30 July 2015. The Draft clarifies that all employees should pay salary to employees on the agreed date. If it is agreed that the salary be paid on a monthly basis, the salary payment date shall not be later than the 10<sup>th</sup> day of the following month.

[More...](#)

中国

6月18日

2015

## 上海集体合同条例修改通过，于2015年10月1日起施行

上海市人大常委会会议表决通过了修改后的《上海市集体合同条例》（下称《条例》），《条例》自2015年10月1日起施行。《条例》明确，将工资涨幅、加班待遇等问题纳入工资集体协商，并明确企业若无正当理由拒绝或者拖延集体协商的，市和区、县总工会可以发出整改通知书，要求企业改正。

[更多...](#)

2014

中国  
CHINA回顾  
LOOKING BACK

CHINA

18  
JUN

2015

## The Revised Regulation on Collective Agreement of Shanghai Adopted

The meeting of the Standing Committee of Shanghai People's Congress adopted the revised the Regulations on Collective Agreement of Shanghai (hereinafter the Regulations) by vote, which shall become effective as of 1 October 2015. The Regulations clarifies that pay increase and benefits for overtime work fall within the scope of collective bargain over pay and that in the event that an employer rejects or delays collective bargain without just reasons, the trade union of the city, district and county may issue a correction notice requiring the employer to take corrective actions.

[More...](#)

中国

7月1日

2015

## 国务院关于修改《中国公民往来台湾地区管理办法》的决定

国务院总理李克强签署第661号国务院令, 公布《国务院关于修改〈中国公民往来台湾地区管理办法〉的决定》(以下简称《决定》)。《决定》自2015年7月1日起施行。此后, 台湾居民可以凭有效台胞证, 无需办理签注, 即可经开放口岸来往大陆并在大陆停留、居留。

[更多...](#)

CHINA

1  
JUL

2015

## Measures Governing Chinese Citizens Travelling to and From the Region of Taiwan Revised

The State Council revised the Administrative Measures governing Chinese Citizens Travelling to and From the Region of Taiwan effective from 1 July 2015, and the entry permit requirements for Taiwan residents are removed.

[More...](#)点击浏览  
2013 期刊Click here  
to view  
2013 edition**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

回顾

Looking  
Back

展望

Looking  
Forward撰稿 CONTRIBUTED BY: **MAYER • BROWN  
JSM**

孖士打律师行

根据中华人民共和国司法部的规定, 本行不能从事中国法律业务。根据目前中国的法律法规, 本行及其他注册地在中国之外的司法管辖区的国际律师行不能就中国法律提供正式的法律意见。本文所载观点是基于本行此前处理中国有关事宜及开展调查研究时获取的对中国法律法规的认识与了解。有鉴于此, 本文内容并不构成(也不应被视为构成)关于中国法律法规的意见或建议。

We are not admitted by the PRC Ministry of Justice to practise PRC law. Under current PRC regulations, our firm as with any other international law firm with home jurisdiction outside the PRC, is not permitted to render formal legal opinion on matters of PRC law. The views set out in this document are based on our knowledge and understanding of the PRC laws and regulations obtained from our past experience in handling PRC matters and by conducting our own research. As such, this report does not constitute (and should not be construed as constituting) an opinion or advice on the laws and regulations of the PRC.

联络名单  
CONTACT LIST

## 中国 CHINA

MAYER • BROWN  
JSM  
孖士打律师行

**杨瑞银**  
孖士打律师行上海代表处  
上海市南京西路1266号  
恒隆广场2座2305室  
邮政编码 200040 中国  
电话: +86 21 6032 0266  
传真: +852 2103 5437  
电邮: andy.yeo@mayerbrownjism.com

**Andy Yeo**  
JSM SHANGHAI REPRESENTATIVE OFFICE  
Suite 2305, Tower II, Plaza 66  
1266 Nan Jing Road West  
Shanghai 200040, China  
T: +86 21 6032 0266  
F: +852 2103 5437  
E: andy.yeo@mayerbrownjism.com

孖士打律师行是全球性法律服务机构Mayer Brown的其中一员。我们为多家全球最大的公司提供服务, 当中包括许多《财富》杂志100强企业、英国富时100指数公司、德国法兰克福DAX指数公司和香港恒生指数公司, 世界最大的银行中过半数为我们的客户。本行提供专业法律服务的领域包括银行及金融、公司法及证券、诉讼及争议解决、反垄断及竞争法、雇佣及福利、环境保护、金融服务监管及执行、政府关系及全球贸易、知识产权、房地产、税务、重组、破产及清算以及财富管理等多个领域。

请浏览[www.mayerbrownjism.com](http://www.mayerbrownjism.com), 获取更多有关各办事处的详细资料。

本文就所关注法律问题及其发展情况提供的相关信息及意见专供本行的客户和朋友阅读使用。本文旨在就相关主题事项作一般性介绍, 不应视作就具体情形提供法律意见或其他具体意见。在就本文所述事项采取任何行动前, 请征询相关法律意见。

Mayer Brown是一个由各家不同法律执业机构所组成的全球性法律服务机构(「Mayer Brown Practices」)。Mayer Brown Practices包括: Mayer Brown LLP和Mayer Brown Europe-Brussels LLP, 两家均为美国伊利诺伊州成立的有限责任公司; Mayer Brown International LLP, 一家于英格兰及威尔士注册成立的有限责任公司(经律师监管局授权并受其监管, 并于英格兰及威尔士注册, 注册号为OC 303359); Mayer Brown, 一家于法国成立的私人执业股份公司(SELAS); Mayer Brown Mexico, S.C., 一家根据墨西哥哥斯达戈州法律成立的合伙; Mayer Brown JSM, 一家香港的合伙和其在亚洲的相联机构; 及Tauli & Chequer Advogados, 与Mayer Brown联合经营的一家巴西的合伙。Mayer Brown附属的Mayer Brown Consulting (Singapore) Pte. Ltd.及其子公司是非法律服务机构, 负责提供海关及贸易咨询顾问服务。

「Mayer Brown」和「Mayer Brown」标识是个别Mayer Brown Practices在其各自的司法管辖区的商标。

版权所有 © 2015 The Mayer Brown Practices. 保留一切权利。

Mayer Brown JSM is part of Mayer Brown, a global legal services organisation, advising many of the world's largest companies, including a significant portion of the Fortune 100, FTSE 100, DAX and Hang Seng Index companies and more than half of the world's largest banks. Our legal services include banking and finance; corporate and securities; litigation and dispute resolution; antitrust and competition; employment and benefits; environmental; financial services regulatory and enforcement; government and global trade; intellectual property; real estate; tax; restructuring, bankruptcy and insolvency; and wealth management.

Please visit [www.mayerbrownjism.com](http://www.mayerbrownjism.com) for comprehensive contact information for all our offices.

This publication provides information and comments on legal issues and developments of interest to our clients and friends. The foregoing is intended to provide a general guide to the subject matter and is not intended to provide legal advice or be a substitute for specific advice concerning individual situations. Readers should seek legal advice before taking any action with respect to the matters discussed herein.

Mayer Brown is a global legal services provider comprising legal practices that are separate entities (the "Mayer Brown Practices"). The Mayer Brown Practices are: Mayer Brown LLP and Mayer Brown Europe-Brussels LLP, both limited liability partnerships established in Illinois USA; Mayer Brown International LLP, a limited liability partnership incorporated in England and Wales (authorized and regulated by the Solicitors Regulation Authority and registered in England and Wales number OC 303359); Mayer Brown, a SELAS established in France; Mayer Brown Mexico, S.C., a sociedad civil formed under the laws of the State of Durango, Mexico; Mayer Brown JSM, a Hong Kong partnership and its associated legal practices in Asia; and Tauli & Chequer Advogados, a Brazilian law partnership with which Mayer Brown is associated. Mayer Brown Consulting (Singapore) Pte. Ltd and its subsidiary, which are affiliated with Mayer Brown, provide customs and trade advisory and consultancy services, not legal services.

"Mayer Brown" and the Mayer Brown logo are the trademarks of the Mayer Brown Practices in their respective jurisdictions.

© 2015 The Mayer Brown Practices. All rights reserved.