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孖士打

中国动态： 双语版亚洲雇佣法：季评

2017-2018

第二十一期：2018年第三季度

Asia Employment Law: Quarterly Review

2017-2018

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引言 INTRODUCTION



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(Mayer Brown)发布电子期刊**亚洲雇佣法: 季评**, 内容涵盖亚洲14个司法辖区, 并将每季更新。

在第二十一期中, 我们将回顾并评点2018年第三季雇佣法发展情况, 同时列出一些2018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14家律师事务所长期开展跨境合作, 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事务所名单, 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 produces the **Asia Employment Law: Quarterly Review**, an e-publication covering 14 jurisdictions in Asia.

In this twenty-first edition, we flag and provide comment on anticipated employment law developments during the third quarter of 2018 and highlight some of the major legislative, consultative, policy and case law changes to look out for in 2018.

This publication is a result of ongoing cross-border collaboration between 14 law firms across Asia with whose lawyers Mayer Brown 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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2018

中国
CHINA

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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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住房城乡建设部、财政部、人民银行关于改进住房公积金缴存机制进一步降低企业成本的通知

住房城乡建设部、财政部、人民银行于2018年4月28日发布该通知，自印发之日施行。通知提出，延长阶段性适当降低企业住房公积金缴存比例政策的期限，切实规范住房公积金缴存基数上限，扩大住房公积金缴存比例浮动区间，提高降低住房公积金缴存比例和缓缴的审批效率。根据《通知》，各地区2016年出台的阶段性适当降低企业住房公积金缴存比例政策到期后，继续延长执行期至2020年4月30日。《通知》明确，缴存住房公积金的月工资基数，不得高于职工工作地所在设区城市统计部门公布的上一年度职工月平均工资的3倍。《通知》规定，住房公积金缴存比例下限为5%，上限由各地区按照《住房公积金管理条例》规定的程序确定，最高不得超过12%。

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Circular of the Ministry of Housing and Urban-rural Development, the Ministry of Finance and the People's Bank of China on Optimizing the Housing Provident Fund Payment Mechanism to Further Curtail Corporate Costs

The Ministry of Housing and Urban-rural Development, the Ministry of Finance and the People's Bank of China have jointly issued the Circular on optimizing the housing provident fund payment mechanism to further curtail corporate costs on 28 April 2018 which came into force as of the promulgation date. The Circular states that the validity of the phased policy, under which the ratio of housing provident fund payments made by enterprises is reduced to a proper extent, will be extended, adding that efforts shall be made to practically standardize the upper limit of the base on which the housing provident fund is contributed, widen the floating range of ratios of housing provident fund payments, and improve efficiency in assessing and approving applications for curtailing the rate of housing provident fund payments or delaying such payments. According to the Circular, the phased policy introduced in all regions in 2016, whereby enterprises are enabled to make contributions to the housing provident fund at an appropriately lower rate, will be extended to 30 April 2020, upon the expiry of its previous validity. Moreover, the Circular explicitly states that the monthly salary base on which the housing provident fund is paid, shall not exceed three times of the employees' average monthly salary announced by the department of statistics of the city with districts where these employees work. Furthermore, the Circular stipulates that the housing provident fund payment shall be made at a rate of no less than five percent, and the maximum rate shall be determined by each region under procedures set out in the Administrative Regulations for the Housing Provident Fund and shall be capped at 12 percent.

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人社部关于废止《台湾香港澳门居民在内地就业管理规定》的决定、《关于香港澳门台湾居民在内地（大陆）就业有关事项的通知》

人力资源社会保障部于2018年8月23日发布关于废止《台湾香港澳门居民在内地就业管理规定》的决定，并于同日印发《关于香港澳门台湾居民在内地（大陆）就业有关事项的通知》（下称《通知》）。《通知》明确，2018年7月28日起，港澳台人员在内地（大陆）就业不再需要办理《台港澳人员就业证》。8月23日起，各地不再受理《台港澳人员就业证》申请；对此前已受理申请但尚未发放证件的，及时告知用人单位无需再申请办理。根据《通知》，2018年12月31日前，处于有效期内的《台港澳人员就业证》仍可同时作为港澳台人员在内地（大陆）就业证明材料；2019年1月1日起终止使用；可以工商营业执照、劳动合同（聘用合同）、工资支付凭证或社会保险缴费记录等作为就业证明材料。

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Decision on Abolishing the Administrative Provisions on the Employment of Taiwan, Hong Kong and Macao Residents in the Chinese Mainland and Circular on Matters Concerning the Employment of Hong Kong, Macao and Taiwan Residents in the Chinese Mainland

The Ministry of Human Resources and Social Security (“MOHRSS”) issued the Decision on Abolishing the Administrative Provisions on the Employment of Taiwan, Hong Kong and Macao Residents in the Chinese Mainland and the Circular on Matters Concerning the Employment of Hong Kong, Macao and Taiwan Residents in the Chinese Mainland (the “Circular”) on 23 August 2018. According to the Circular, beginning from 28 July 2018, residents from Hong Kong, Macao and Taiwan are no longer required to obtain the Employment Permits for Taiwan, Hong Kong and Macao Residents if they are employed in the Chinese Mainland. From 23 August 2018, all regions do not accept applications for Employment Permits for Taiwan, Hong Kong and Macao Residents any longer; where applications filed for this purpose have been accepted but the permits have not been issued yet, the employers concerned shall be notified in time that there is no need to apply for permits anymore. Also, according to the Circular, before 31 December 2018, the Employment Permits for Taiwan, Hong Kong and Macao Residents within the validity period may still be used as the proof of employment for Hong Kong, Macao and Taiwan residents in the Chinese Mainland; the government will stop using these permits from 1 January 2019, and thereafter, the business licenses issued by administrations for industry and commerce, labour contracts (employment contracts), vouchers of salary payments or records of social insurance contributions may be used as the proof to attest employment.

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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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