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# 中国动态： 双语版亚洲雇佣法：季评

2020-2021

第三十一期：2021年第一季度

## Asia Employment Law: Quarterly Review

2020-2021

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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15个司法辖区，并将每季更新。

在第三十一期中，我们将回顾并评点2021年第一季度雇佣法发展情况，同时列出一些2021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 15 jurisdictions in Asia.

In this thirty-first edition, we flag and provide comment on anticipated employment law developments during the first quarter of 2021 and highlight some of the major legislative, consultative, policy and case law changes to look out for in 2021.

This publication is a result of ongoing cross-border collaboration between 15 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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2021

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回顾 LOOKING BACK

## 最高法出台审理劳动争议案件司法解释

日前, 最高人民法院发布《关于审理劳动争议案件适用法律问题的解释(一)》(下称《解释》), 自2021年1月1日起施行。

《解释》共五十四条, 对劳动争议的纠纷范围、管辖、起诉与受理、仲裁等事项予以明确。其中, 《解释》规定, 劳动者以用人单位的工资欠条为证据直接提起诉讼, 诉讼请求不涉及劳动关系其他争议的, 视为拖欠劳动报酬争议, 人民法院按照普通民事纠纷受理。同时, 劳动合同期满后, 劳动者仍在原用人单位工作, 原用人单位未表示异议的, 视为双方同意以原条件继续履行劳动合同。一方提出终止劳动关系的, 人民法院应予支持。《解释》还提出, 劳动合同被确认为无效, 劳动者已付出劳动的, 用人单位应当按照规定向劳动者支付劳动报酬和经济补偿。

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## SPC Issues Judicial Interpretation (I) on Trial of Labor Dispute Cases

The Supreme People's Court ("SPC") has recently issued the Interpretation on Issues concerning the Application of Law in the Trial of Labor Dispute Cases (I) (the "Interpretation"), with effect from January 1, 2021. The Interpretation consists of 54 articles in total, specifying the scope, jurisdiction, prosecution and acceptance, and arbitration of labor disputes. Among others, the Interpretation stipulates that where an employee directly institutes a lawsuit on the strength of a slip on wage default issued by the employer as evidence, and the claims do not involve any other dispute over labor relationship, it shall be regarded as a dispute over the default on labor remunerations and shall be accepted by court as a general civil dispute; where, after the expiration of a labor contract, the employee still work for the original employer and the original employer does not express any objection, it shall be deemed that the parties agree to continue the performance of the labor contract in accordance with the original terms and conditions; if a party proposes to terminate the labor relationship, the court shall support it. The Interpretation also points out that where a labor contract is confirmed as invalid but the employee has already provided labor services, the employer shall pay the labor remuneration and financial compensation to the employee in accordance with the relevant provisions.

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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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请浏览mayerbrown.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。

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