

China Labor Outsourcing Law Amended

July 1, 2013 Effective Date

JULY 1, 2013

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The July 1, 2013 effective date of the amendments that were enacted to China's Labor Contract Law (the "Amendments") on December 28, 2012 has arrived and passed. As we alerted you in our [February 2013 China Bulletin](#), under the Amendments, employers will be restricted in the use of labor dispatch services.

In our [February 2013 China Bulletin](#), we said, "Employers that currently use outsourced workers...also need to ensure that their staffing arrangements comply with new implementing rules that are likely to be issued between now and July 1, 2013." On June 20, 2013 the Ministry of Human Resources and Social Security released the **Implementing Measures for the Administrative Permission of Labor Dispatching** (the "Measures"), which also have a July 1, 2013 effective date.

The Amendments and the Measures laid out a number of rules, procedures and penalties applicable to labor dispatch companies such as FESCO, CIIC and China Star, but provided little, if any, guidance to the employers that are served by labor dispatch companies. The fact that the Amendments and the Measures both became effective on July 1, 2013, suggests that Chinese governmental authorities are serious about this effective date even though little guidance has been provided to employers since the Amendments were approved on December 28, 2012.

Many employers have already complied with the Amendments. Many other employers that may be required to do so, have not. For those employers that have continued to use dispatched employees by renewing or entering into new dispatch or service agreements with labor dispatch companies, special attention should be given to one provision of the Measures that may, indeed, be providing some general guidance to employers (as well as to labor dispatch companies) -- Article 34 of the Measures, which states that after July 1, 2013, employment contracts and dispatching agreements executed during the period from December 28, 2012 to June 30, 2013 must be implemented in accordance with the Amendments - thus reinforcing the reality of the July 1, 2013 effective date and the restrictions that now govern labor outsourcing.

This means that even labor dispatch contracts which were signed between December 28, 2012 and July 1, 2013 -- whether new or renewed -- will be valid and legally enforceable only if: (i) they meet the criteria described in the Amendments for provisional, auxiliary or substitutive positions; and (ii) the number of dispatched workers does not exceed a certain proportion (the ratio has not been officially announced yet, but according to rumors that have circulated since last December it most likely will be no more than 10% of a company's total employees).

In order to better understand the importance of the Amendments and timely complying with them, we suggest that you consider revisiting our *February 2013 China Bulletin*.

Additional Information

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