Employment Promotion Law of the People's Republic of China

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Order of the President [2007] No. 70
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The Employment Promotion Law of the People's Republic of China was adopted at the 29th session of the Standing Committee of the 10th National People's Congress on August 30, 2007, and is hereby issued. This Law shall come into effect as of January 1, 2008.

President: Hu Jintao

Attachment: **The Employment Promotion Law of the People's Republic of China**
(Passed at the 29th session of the Standing Committee of the 10th National People's Congress on 30 August, 2007)

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Chapter I General Provisions

Article 1 This Law has been formulated with a view to promoting employment, promoting the balance between economic development and the expansion of employment opportunities, and

promoting social harmony and stability.

Article 2 The state shall highlight the prominent role played by the expansion of employment in economic and social development, implement proactive employment policies, and emphasize independent job-seeking by workers, employment market forces and the promotion of employment by the government in order to expand employment through multiple channels.

Article 3 Workers shall be entitled by law to enjoy the right to equal employment and to seek their own employment.
No worker seeking employment shall suffer discrimination on the grounds of ethnicity, race, gender or religious belief.

Article 4 The people's governments at and above the county level shall make the expansion of employment an important target of economic and social development policy, incorporate it into the plan for national economic and social development, and formulate annual, medium-term and long-term plans for the promotion of employment.

Article 5 The people's governments at and above the county level shall create a favorable environment for the expansion of employment through measures such as economic development plans and adjustments to the industrial structure, regulating the human resources market, improving employment services, strengthening occupational education and training, and providing employment assistance, etc.

Article 6 The State Council shall establish a coordinated system for the nationwide promotion of employment, conduct research into significant employment-related issues, and coordinate and take forward the nationwide promotion of employment. The State Council Administrative Department of Labor shall be specifically responsible for the nationwide promotion of employment.
The people's governments of the various provinces, autonomous regions and municipalities directly under the Central Government shall establish a coordinated system for the promotion of employment based on employment promotion needs in order to coordinate and resolve the major employment promotion issues in their respective administrative regions.
The relevant departments of the people's governments at and above the county level shall endeavor to promote employment in accordance with their respective duties.

Article 7 The state shall advocate that workers foster a proper awareness of employment and enhance their employability and entrepreneurial skills, and encourage them to set up their own businesses or seek self-employment.
The people's governments at all levels and the relevant departments shall streamline their procedures and raise their efficiency for the convenience of workers who seek to start up their own businesses or become self-employed.

Article 8 Employment units are entitled by law to make recruitment and employment decisions at their own discretion.
Employment units shall safeguard the legitimate rights and interests of workers in accordance with

this Law and other laws and regulations.

Article 9 Trade unions, the communist youth leagues, women's federations, handicapped persons' federations and other social organizations shall assist the people's governments in the promotion of employment and the protection of workers' labor rights in accordance with the law.

Article 10 The people's governments at all levels and the relevant departments shall give commendations and awards to institutions and individuals who make outstanding contributions to the promotion of employment.

Chapter II Policy Support

Article 11 The people's governments at and above the county level shall prioritize the expansion of employment and shall plan as a whole and coordinate the relevant industrial and employment policies.

Article 12 The state shall encourage all types of enterprises to create additional job opportunities by establishing businesses or expanding operations within the scope of their permitted activities as prescribed in laws and regulations.
The state shall encourage the development of labor-intensive industries and service industries and shall support small and medium-sized enterprises (hereinafter referred to as “SMEs”) in order to create additional job opportunities through multiple channels and means.
The state shall encourage, support and lead the economic development of the non-public sector in order to create additional jobs and broaden employment opportunities.

Article 13 The State shall develop domestic and international trade and international economic cooperation in an effort to widen employment channels.

Article 14 In arranging governmental investment and deciding on major construction projects, the people's governments at and above the county level shall drive employment in investment and major construction projects so as to create additional job opportunities.

Article 15 The state shall implement employment promotion-oriented fiscal policies aimed at improving the employment environment and expanding employment by increasing capital input.
In the light of the local employment situation and employment targets, the people's governments at and above the county level shall allocate special employment funds from their financial budgets for the purpose of promoting employment.
Special employment funds shall be used to subsidize job referrals, occupational training, public welfare positions, occupational skills testing, specific employment policies, social insurance, etc., to serve as guarantee funds for small loans and interest subsidies for small secured loans for less profitable projects, and to support public employment services. Implementation procedures for the use and administration of special employment funds shall be formulated by the Finance Department and Administrative Department of Labor under the State Council.

Article 16 The state shall establish a sound unemployment insurance system to secure the basic living needs of the unemployed in accordance with the law and promote their employment.

Article 17 The state shall encourage enterprises to increase the number of job opportunities and support the employment of unemployed persons and handicapped persons, and shall provide tax incentives to the following types of enterprises and individuals in accordance with the law:
1. Enterprises that satisfy the requirements relating to the absorption of eligible unemployed persons who meet the conditions prescribed by the state;
2. SMEs founded by unemployed persons;
3. Enterprises that reach the required ratio for the employment of handicapped persons or employ a large number of handicapped persons;
4. Unemployed persons that engage in individual business operations and meet the conditions prescribed by the state;
5. Handicapped persons that engage in individual business operations; and
6. Other enterprises and individuals that are entitled to tax incentives as specified by the State Council.

Article 18 The relevant authorities shall give preferential treatment to those types of persons described in Items (4) and (5) of Article 17 hereof by providing them with business premises and exempting them from administrative fees.

Article 19 The state shall implement financial policies that are beneficial to furthering the promotion of employment with a view to increasing SME funding sources, encourage financial institutions to improve their financial services to enhance credit support for SMEs, and offer small-scale credit support to entrepreneurs for a limited period of time.

Article 20 The state shall implement comprehensive employment policies in both urban and rural areas aimed at guiding the orderly migration of surplus rural labor to areas of employment by establishing a sound and equitable employment system for both urban and rural workers.
The people's governments at and above the county level shall push ahead with the construction of small cities and towns and accelerate the economic development of county areas to guide the migration of surplus rural labor to local areas of employment; in formulating plans for small cities and towns, the people's governments at and above the county level shall treat the migration of local surplus rural labor as an important part of their plans.
The people's governments at and above the county level shall guide the orderly migration of surplus rural labor to urban areas for employment; the people's governments in the source and destination regions of the rural labor migration shall cooperate with each other to improve the environment and conditions for rural workers who seek employment in urban areas.

Article 21 The state shall support regional economic development, encourage regional collaboration, and organize and coordinate the balanced growth of employment across different regions.
The state shall support economic development and the expansion of employment in the ethnic minority areas.

Article 22 The people's governments at all levels shall organize and coordinate the employment of newly-arrived workers in the cities and towns, the employment of surplus rural workers who have migrated elsewhere and the employment of unemployed persons.

Article 23 The people's governments at all levels shall take measures to gradually improve and implement labor and social insurance policies applicable to the flexible employment of part-time staff and provide assistance and services for persons in flexible employment.

Article 24 The local people's governments at all levels and the relevant departments shall reinforce their guidance for unemployed persons engaged in individual business operations and provide them with services such as policy consultation, vocational training and business start-up services .

Chapter III Fair Employment

Article 25 The people's governments at all levels shall create a fair employment environment to eliminate discriminatory employment practices and shall formulate policies and adopt measures in support and aid of persons who encounter difficulties in seeking employment.

Article 26 Employment units, in recruiting new employees, and employment agencies, in arranging job placements, shall provide workers with equal employment opportunities and equitable conditions of employment, and shall avoid discriminatory employment practices.

Article 27 The state shall safeguard the equality of women with men in their enjoyment of labor rights.
With the exception of certain types of work or positions designated by the state as unsuitable for women, no employment unit, when recruiting new employees, shall refuse to recruit women by reason of gender or impose higher employment criteria for women.

No employment unit, when recruiting a female employee, shall include a clause in the employment contract imposing marriage or childbirth restrictions on the employee.

Article 28 Workers of all ethnic groups shall be entitled to equal labor rights.
Employment units, when recruiting new employees, shall treat ethnic minority workers appropriately in accordance with the law.

Article 29 The state shall safeguard the labor rights of handicapped persons.
The people's governments at all levels shall organize and coordinate the employment of handicapped persons and create favorable employment conditions for such persons.
No employment unit, when recruiting employees, shall discriminate against handicapped persons.

Article 30 No employment unit, when recruiting employees, shall refuse to employ a job candidate on the basis that he/she is a carrier of any infectious pathogen. However, no suspected carrier of

any infectious pathogen the likely existence of which has been proven by a medical examination shall be permitted to enter into any type of employment prone to facilitate the spread of infectious diseases and therefore forbidden by any law, administrative regulations or the Public Health Administrative Department of the State Council before he/she is cured or eliminates the suspicion that he/she carries the infectious pathogen in question.

Article 31 Rural workers who move to urban areas to seek employment shall enjoy equal labor rights to urban workers and shall not be subjected to discriminatory restrictions.

Chapter IV Employment Services and Administration

Article 32 The people's governments at and above the county level shall foster and refine a unified, open, competitive and orderly human resources market to provide employment services for workers.

Article 33 The people's governments at and above the county level shall encourage all sectors of society to provide employment services in accordance with the law, strengthen their guidance for and supervision of public employment services and employment services, and gradually improve the employment service system covering both urban and rural areas.

Article 34 The people's governments at and above the county level shall strengthen the framework of the human resources market information network and related facilities, establish a sound human resources market information service system, and refine the market information publication system.

Article 35 The people's governments at and above the county level shall establish a sound public employment service system, set up a public employment service institution and provide workers with the following services free of charge:

1. Consultation services on employment policies and regulations;
2. Publication of information on occupational supply and demand, prevailing market salary levels and occupational training;
3. Occupational guidance and referrals;
4. Employment assistance for persons who encounter difficulties in seeking employment;
5. Employment and unemployment registration, etc.; and
6. Other public employment services.

Public employment service institutions shall consistently improve the quality and efficiency of their services and shall refrain from engaging in business activities.

Public employment service expenses shall be included in the financial budget for the same administrative level.

Article 36 The local people's governments at and above the county level shall, in accordance with applicable provisions, grant subsidies to employment agencies that provide non-profit-making employment services.

The state shall encourage all sectors of the community to offer donations and financial aid to non-profit-making employment services.

Article 37 The local people's governments at all levels and the relevant departments are prohibited from founding, or co-founding with a third party, any profit-making employment agency.
The local people's governments at all levels, the relevant departments and public employment service institutions are prohibited from charging workers for job fairs they organize.

Article 38 The people's governments at and above the county level and the relevant departments shall strengthen the administration of employment agencies and encourage them to improve the quality of their services so as to facilitate the performance of their employment promotion functions.

Article 39 Job placement activities shall be carried out in accordance with the principles of lawfulness, good faith, fairness and openness.
Any employment unit that recruits a new employee through an employment agency shall offer truthful information about the requirements of the position to the employment agency. No organization or individual shall infringe the legitimate rights and interests of workers through job placement activities.

Article 40 Any employment agency that seeks to become established shall:
1. Have clear and specific articles of association and administrative systems;
2. Have fixed business premises, office facilities and operating capital sufficient for its business operations;
3. Have sufficient full-time employees with appropriate professional qualifications; and
4. Meet any other criteria as required by laws and regulations.
Any employment agency that seeks to become established shall obtain an administrative license in accordance with the law. Licensed employment agencies shall register with the administration for industry and commerce.
Any institution that has not obtained a license and registered in accordance with the law shall be prohibited from engaging in job placement activities.
Where state provisions provide otherwise in respect of foreign-funded employment agencies or employment agencies that offer overseas employment services to workers, such provisions shall prevail.

Article 41 No employment agency shall act in any of the following ways:
1. Provide false employment information;
2. Provide recruitment services to any employment unit that is not legally licensed and certified;
3. Forge, alter or transfer its employment service license;
4. Retain any worker's resident identity card or other documentation or collect a deposit from any worker; or
5. Otherwise act in violation of relevant laws or regulations.

Article 42 The people's governments at and above the county level shall establish an

early-warning system for unemployment, and implement preventive, regulatory and control measures for possible large-scale unemployment.

Article 43 The state shall establish a labor force statistics survey system and an employment and unemployment registration system to gather statistics on labor force resources and employment and unemployment conditions, and shall publicize the survey results.
Employment units and individuals shall truthfully provide the information required when responding to labor force surveys run by or when going through employment and unemployment registration procedures required by the statistics department or the administrative department of labor.

Chapter V Occupational Education and Training

Article 44 The state shall, in accordance with the law, develop occupational education programs, encourage the delivery of occupational training, promote the enhancement of workers' vocational skills and strengthen their employability and entrepreneurship.

Article 45 The people's governments at and above the county level shall formulate and implement an occupational capacity development program in accordance with economic and social developmental and market needs.

Article 46 The people's governments at and above the county level shall strengthen their coordination, encouragement and support for all types of vocational schools, vocational training institutions and employment units to carry out pre-employment training, employment training, re-employment training and entrepreneurship training, and encourage workers to attend various types of training programs.

Article 47 The local people's governments at and above the county level and the relevant departments shall encourage and guide enterprises to strengthen vocational education and training in accordance with market demand and the orientation of industrial development.
Vocational schools, vocational training institutions and enterprises shall liaise closely to combine production and educational goals and serve economic development by training practical talents and skilled workers.
Enterprises shall, in accordance with the relevant regulations of the state, set up employee education funds to deliver vocational skills training and continuing education to their workers.

Article 48 The state shall take measures to establish a sound labor preparation system, under which the local people's governments at and above the county level shall provide a certain period of vocational education and training for junior and senior high school graduates who are in need of employment so as to enable them to obtain appropriate vocational qualifications or acquire certain vocational skills.

Article 49 The local people's governments at all levels shall encourage and support the delivery of vocational training to help unemployed persons to improve their vocational skills and enhance

their employability and entrepreneurship. Unemployed persons who attend vocational training programs shall be entitled to government training subsidies in accordance with the relevant provisions.

Article 50 The local people's governments at all levels shall take effective measures to organize and guide rural workers who move to cities to seek employment to receive skills training, and encourage all types of training institutions to provide skills training to such workers and enhance their employability and entrepreneurship.

Article 51 The state shall implement a vocational qualification certificate system for workers who engage in special types of work relating to public security, personal health, and the safety of life and property. The specific provisions shall be formulated by the State Council.

Chapter VI Employment Assistance

Article 52 The people's governments at all levels shall establish a sound employment assistance system to give priority support and critical assistance to persons who encounter difficulties in seeking employment by means of tax reductions and exemptions, discount rate loans, social insurance subsidies, employment subsidies and through placements in public welfare positions, etc.

The term “persons who encounter difficulties in seeking employment” refers to those persons who find it difficult to secure employment for reasons such as unfavorable physical limitations, skill levels, family status or loss of land, and those persons who remain unemployed for a certain period of time. The specific definition of the term “persons who encounter difficulties in seeking employment” shall be formulated by the people's governments of the various provinces, autonomous regions and municipalities directly under the Central Government based on the actual circumstances in their respective administrative regions.

Article 53 Public welfare positions created with government investment shall first be filled by persons who have encountered difficulties in seeking employment and satisfy the requirements of the positions. Persons appointed to work in public welfare positions shall be given employment subsidies in accordance with state provisions.

Article 54 The local people's governments at all levels shall strengthen grassroots employment assistance services and give priority assistance to persons who have encountered difficulties in seeking employment by offering assistance with targeted employment services and public welfare positions.
The local people's governments at all levels shall encourage and support all sectors of society in providing skills training, job information and other services to persons who encounter difficulties in seeking employment.

Article 55 The people's governments at all levels shall take special support measures to promote the employment of handicapped persons.

Employment units shall employ handicapped persons in accordance with state provisions, the specific measures for which shall be formulated by the State Council.

Article 56 The local people's governments at and above the county level shall create various forms of employment, broaden the scope of public welfare positions, and create more job opportunities to ensure that each urban family with employment needs has at least one family member in employment.

Any urban resident family in which all family members of legal working age are unemployed shall apply to the public employment service institution in the road or community in which the family resides for employment assistance. Where the public employment service institution concerned is satisfied that the family meets the relevant criteria, it shall provide at least one family member with an appropriate position.

Article 57 The state shall encourage resource-rich cities and independent mining regions to develop industries catering to market demand so as to facilitate the employment of migrant workers.

The people's governments at higher levels shall give necessary support and assistance to areas with a concentration of people who have encountered difficulties in seeking employment due to reasons such as the depletion of resources or economic restructuring.

Chapter VII Supervision and Examination

Article 58 The people's governments at all levels and the relevant departments shall establish a system to allocate responsibility for targets related to the promotion of employment (“the target responsibility system”). The people's governments at and above the county level shall examine and supervise their relevant subordinate departments and the people's governments at lower levels in accordance with the requirements of the target responsibility system for the promotion of employment.

Article 59 Auditing bodies and finance departments shall be responsible for supervising and examining the management and use of special employment funds in accordance with the law.

Article 60 The administrative department of labor shall be responsible for supervising and examining the implementation of this Law, establishing a reporting system to receive reports on any violation of this Law, and verifying and dealing with such cases in a timely manner.

Chapter VIII Legal Liability

Article 61 Where the administrative department of labor or any other relevant department or any staff member thereof, in violation of the provisions of this Law, is guilty of any abuse of power or dereliction of duty or engages in malpractice for personal gain, the supervisors and any other person directly responsible shall be subject to administrative penalties in accordance with the law.

Article 62 In the event of any employment discrimination in violation of the provisions of this

Law, the relevant worker(s) shall be entitled to initiate legal proceedings in the peoples' court.

Article 63 Where a local people's government at any level, a relevant department or a public employment service institution, in violation of the provisions of this Law, establishes and runs a profit-making employment agency that engages in employment services and charges workers, the superior competent authority shall order it to take remedial action within a prescribed period of time and refund illegal charges obtained to the relevant workers, and shall penalize the supervisors and any other person directly responsible in accordance with the law.

Article 64 Any unlicensed and unregistered entity that, in violation of the provisions of this Law, engages in unauthorized employment services, shall be closed down by the administrative department of labor or another competent department in accordance with the law. Any illegal gains shall be confiscated and a fine of between RMB 10,000 and RMB 50,000 shall be imposed.

Article 65 Any employment agency that, in violation of the provisions of this Law, provides false employment information, provides employment services to any unlicensed employment unit, or forges, alters or transfers its employment service license, shall be ordered by the administrative department of labor or another competent department to take remedial action. Any illegal gains shall be confiscated and a fine of between RMB 10,000 and RMB 50,000 shall be imposed. Where the circumstances are serious, its employment service license shall be revoked.

Article 66 Any employment agency that, in violation of the provisions of this Law, retains a worker's resident identity card or other documentation, shall be ordered by the administrative department of labor to return the item(s) to the worker concerned within a prescribed period of time and penalized in accordance with the provisions of applicable laws.
Any employment agency that, in violation of the provisions of this Law, collects deposits from workers, shall be ordered by the administrative department of labor to refund the deposits to the workers concerned within a prescribed period of time and given a standard fine of between RMB 500 and RMB 2,000 for every worker from whom a deposit has been collected.

Article 67 Any enterprise that fails to provide for employee education funds in accordance with state provisions or misappropriates employee education funds in violation of the provisions of this Law shall be ordered by the administrative department of labor to take remedial action and penalized in accordance with the law.

Article 68 Any person who, in violation of the provisions of this Law, infringes a worker's legitimate rights and interests and causes the loss of property or any other damage shall bear civil liability in accordance with the law; where the violation constitutes a crime, criminal liability shall be pursued in accordance with the law.

Chapter IX Supplementary Provisions

Article 69 This Law shall come into effect as of January 1, 2008.