



China Employment Law ALERT

Chinese Employers Now Subject to New Grading System

The Chinese Ministry of Human Resources and Social Security (MHRSS) has launched a new nationwide grading system to evaluate employers' employment law compliance. This system has been put in place via the Measures for the Grading of Enterprises' Employment Law Compliance (the "Grading Measures") and is effective January 1, 2017.

Prior to 2017, 24 Chinese provinces and cities each had individual schemes to evaluate employment law compliance. These schemes varied widely and were not compatible with counterpart government schemes, e.g., those administered by the State Tax Bureau (taxpayer credit evaluation system), the Administration of Industry and Commerce (business credit evaluation system) and the People's Bank of China (enterprise credit evaluation system).

The Grading Measures will standardize the disparate evaluation systems and may become a key determinant of an employer's compliance status.

Grading Scope and Criteria

Employers will now receive an annual grade (A, B or C) for employment law compliance in any given year based on (i) the local authority's routine and random inspection, (ii) review of employment records and (iii) investigations of filed complaints.

The criteria for assessing compliance include reviews of:

- the availability of internal employment policies and regulations within the employer;
- proper enrollment and participation in statutory social security insurance programs;
- compliance with key employment laws and regulations, especially regarding salary payment;
- female employee protection; and
- working hours.

Employers with perfect compliance during the year will receive an "A". Employers that have been disciplined for "non-serious" violations (as enumerated in the Grading Measures) by the local labor authority will receive a "B". Employers with "serious" violations will receive a "C".

Impact on Employers

Grade A employers will be subject to fewer routine checks by the local authority in the following calendar year, while Grade C employers will be monitored more closely, meaning more frequent routine and random inspections.

A different regulation provides that a labor authority may publish on its website the serious violations leading to a designation of Grade C. This could of course adversely impact the reputation and good standing of the employer.

Recommendations for Employers

It is recommended that all enterprises conduct a self-evaluation of their employment law compliance, especially the key issues highlighted by the Grading Measures, and remediate any problems as soon as possible.

Detailed implementation rules and launch schedules for the Grading Measures are not yet available. We will keep an eye on further developments.

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