# Interim Provisions on Labor Dispatch of the People’s Republic of China

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## Chapter I — General Provisions

Article 1 — These Provisions are formulated in accordance with the Labor Contract Law of the People’s Republic of China and the Regulation on the Implementation of the Labor Contract Law for the purposes of standardizing labor dispatch and safeguarding the lawful rights and interests of workers.

Article 2 — These Provisions shall apply to the provision of labor dispatch services by labor dispatch service providers and the acceptance of labor dispatch services by host entities within the territory of the People’s Republic of China.

Article 3 — Labor dispatch service providers and host entities shall protect the lawful rights and interests of dispatched workers.

## Chapter II — Employment Scope and Proportion of Dispatched Workers




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Article 4 — Labor dispatch shall apply only to temporary, auxiliary or substitute positions. “Temporary positions” refer to positions that exists for no more than six months. “Auxiliary positions” refer to non-core business positions that provide services to the main business positions. “Substitute positions” refer to positions where workers on the employer’s payroll are unable to work for a certain period due to full-time study, vacation or other reasons and can be replaced by other workers.

Article 5 — The number of dispatched workers used by a host entity shall not exceed 10 percent of its total workforce. The proportion of dispatched workers shall be strictly controlled by the human resources and social security administrative department.

Article 6 — Employers shall not dismantle the positions of their own employees and provide them in the form of labor dispatch services through dispatched workers.

## Chapter III — Conclusion and Performance of Labor Contracts and Labor Dispatch Agreements

Article 7 — Labor dispatch service providers shall enter into written labor contracts with dispatched workers in accordance with the law and shall lawfully pay labor remuneration and social insurance fees for dispatched workers.

Article 8 — Labor dispatch service providers and host entities shall enter into labor dispatch agreements. Labor dispatch agreements shall specify the following matters:

1. The work positions and locations of dispatched workers; 2. The number of dispatched personnel and dispatch period; 3. The amount and method of payment of labor remuneration; 4. The amount and method of payment of social insurance fees; 5. Liability for breach of the labor dispatch agreement.

Article 9 — Host entities shall fulfill the following obligations toward dispatched workers:

1. Implementing State labor standards and providing corresponding working conditions and labor protection; 2. Informing dispatched workers of their work requirements and labor remuneration; 3. Paying overtime pay and performance bonuses and providing welfare benefits appropriate to the positions; 4. Providing necessary on-the-job training for dispatched workers in their positions; 5. Implementing a normal wage adjustment mechanism for dispatched workers who are continuously employed; 6. The host entity shall not reassign dispatched workers to other employing units.

Article 10 — Dispatched workers shall enjoy the rights to equal pay for equal work and the right to be organized in accordance with the law.

Article 11 — Where a dispatched worker suffers a work-related injury, the labor dispatch service provider shall assume the work-related injury insurance liability in accordance with the law, and the host entity shall provide necessary assistance.

## Chapter IV — Participation of Dispatched Workers in Trade Unions

Article 12 — Dispatched workers shall have the right to join the trade union of the labor dispatch service provider or the trade union of the host entity. Dispatched workers shall not be restricted by any organization or individual from joining a trade union.

Article 13 — Trade unions shall safeguard the lawful rights and interests of dispatched workers in accordance with the law and shall supervise employers’ compliance with labor laws and regulations.

## Chapter V — Legal Liability

Article 14 — Where a host entity uses dispatched workers in violation of the provisions on the scope of positions and the proportion of dispatched workers, the human resources and social security administrative



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department shall order it to make corrections within a specified time limit and may impose a fine.

Article 15 — Where a labor dispatch service provider violates the provisions of the Labor Contract Law by failing to obtain an administrative license without authorization, the human resources and social security administrative department shall order it to cease its illegal activities, confiscate its illegal gains and impose a fine.

Article 16 — Where a labor dispatch service provider or host entity violates the relevant provisions and causes damage to a dispatched worker, it shall bear joint and several liability for compensation in accordance with the law.

## Chapter VI — Supplementary Provisions

Article 17 — Foreign embassies, consulates and representative offices of international organizations in China employing dispatched workers shall not be subject to the restriction on the proportion of dispatched workers.

Article 18 — The human resources and social security administrative departments of provinces, autonomous regions and municipalities directly under the Central Government may formulate specific implementation measures in accordance with these Provisions.

Article 19 — These Provisions shall come into force on March 1, 2014.

This translation is provided for informational purposes only. For legal matters, please consult the original Chinese text or seek professional legal advice. For assistance with labor dispatch compliance, workforce management and HR strategies in China, please contact Dan Young Business Consultancy.