

Judicial Interpretations of the Supreme People's Court on Labor Law and Labor Contract Law (I-IV)

Dan Young Business Consultancy — www.danyoungcpa.com

Unofficial English translation prepared for reference only. The official Chinese text prevails.

Judicial Interpretations I-IV: Issued by the Supreme People's Court of the People's Republic of China between 2001 and 2013.

Interpretation I — Application of Law in Labor Dispute Cases (2001)

Adopted at the 1165th Meeting of the Adjudication Committee of the Supreme People's Court on March 22, 2001, effective as of April 30, 2001.

Scope of Acceptance

Article 1 — A people's court shall accept a lawsuit filed by a worker and an employer arising from a labor dispute, provided that the dispute arises from a labor relationship as defined in the Labor Law.

Article 2 — Where a dispute arises during the performance of a labor contract and a party files a lawsuit with a people's court, the people's court shall clearly specify the cause of action and accept the case.

Statute of Limitations and Arbitration

Article 3 — The people's court shall handle the statute of limitations for labor dispute arbitration in accordance with the relevant laws and regulations on the statute of limitations.

Article 4 — Where a people's court accepts a labor dispute case, the parties may present new evidence during the litigation proceedings, and the people's court shall conduct a comprehensive examination.

Article 5 — Where a labor dispute arbitration committee refuses to accept a case without justifiable reasons or fails to make an award within the statutory time limit, the parties concerned may file a lawsuit with the people's court, and the people's court shall accept the case.

Application of Law

Article 6 — Where a people's court hears a labor dispute case, if the rules and regulations formulated by the employer do not violate the mandatory provisions of State laws and administrative regulations and have been publicized to the workers, they may serve as the basis for the people's court to hear the labor dispute case.

Article 7 — Where an employer unilaterally modifies a labor contract or reduces the treatment of workers without statutory or agreed grounds, the workers may request the employer to perform the labor contract or compensate for losses, and the people's court shall support such request.

Article 8 — Where an employer and a worker have agreed on liquidated damages in the labor contract, the people's court may adjust the liquidated damages based on the actual losses, fairness and reasonableness.

Enforcement

Article 9 — Where an arbitration award or mediation statement that has entered into legal effect is enforced by a people's court, either party may apply for enforcement.

Interpretation II — Application of Law in Labor Dispute Cases (2006)

Adopted at the 1393rd Meeting of the Adjudication Committee of the Supreme People's Court on July 10, 2006, effective as of October 1, 2006.

Acceptance of Cases

Article 1 — The people's court shall accept the following types of disputes filed as labor dispute cases:

1. Disputes between workers and employers over the fulfillment of labor contracts; 2. Disputes between workers and employers over wages, medical expenses, work-related injury benefits, economic compensation or damages; 3. Disputes between workers and employers over social insurance; 4. Other labor disputes accepted by the people's court as prescribed by laws and regulations.

Article 2 — The people's court shall accept a dispute between a worker and an employer over whether to rescind a labor contract, economic compensation or damages.

Evidence

Article 3 — Where a worker claims overtime pay, he shall provide basic evidence; where the employer possesses evidence and fails to provide it, the employer shall bear adverse consequences.

Article 4 — In a labor dispute case, the people's court shall, based on the principle of the burden of proof being on the party making the claim, allocate the burden of proof between the worker and the employer.

Compensation and Damages

Article 5 — Where an employer rescinds a labor contract without statutory grounds, and the worker requests continued performance of the labor contract, the people's court shall support such request. Where the worker does not request continued performance but requests compensation, the people's court shall support such request.

Article 6 — Where an employer owes wages or fails to pay economic compensation, and the worker requests additional economic compensation, the people's court shall order payment.

Interpretation III — Application of Law in Labor Dispute Cases (2010)

Adopted at the 1489th Meeting of the Adjudication Committee of the Supreme People's Court on July 12, 2010, effective as of September 14, 2010.

Scope of Acceptance

Article 1 — The people's court shall accept the following types of disputes filed by workers:

1. Disputes between workers and employers over social insurance; 2. Disputes over whether the employer has paid work-related injury insurance premiums in accordance with the law; 3. Disputes between workers and employers over the payment of housing provident funds.

Burden of Proof

Article 2 — In disputes over the payment of labor remuneration, where the employer and the worker disagree on whether wages have been paid, the employer shall bear the burden of proof.

Article 3 — In disputes arising from the employer's decision to dismiss, discharge, rescind a labor contract, reduce labor remuneration, or calculate the worker's working years, the employer shall bear the burden of proof.

Finality of Awards

Article 4 — Where a worker applies for arbitration for recovery of labor remuneration, work-related injury medical expenses, economic compensation or damages, and the amount is not more than the local monthly

minimum wage standard over 12 months, the arbitration award shall be final.

Article 5 — Where a worker is dissatisfied with a final award, he may file a lawsuit with a people's court. Where the employer is dissatisfied, it may apply to the intermediate people's court for revocation of the award.

Article 6 — Where a people's court hears a case involving a labor dispute, it may conduct mediation first, unless the parties refuse mediation.

Interpretation IV — Application of Law in Labor Dispute Cases (2013)

Adopted at the 1566th Meeting of the Adjudication Committee of the Supreme People's Court on January 14, 2013, effective as of February 1, 2013.

Formation and Change of Labor Relations

Article 1 — Where a people's court hears a labor dispute case, and the worker claims the existence of a labor relationship but the employer denies it, the people's court shall determine the existence of a labor relationship based on the actual relationship between the parties.

Article 2 — Where an employer concludes a non-fixed-term labor contract with a worker, and either party changes the term of the labor contract to a fixed term, the people's court shall determine the term of the labor contract based on the actual performance.

Rescission and Termination of Labor Contracts

Article 3 — Where a worker unilaterally rescinds a labor contract on the grounds that the employer fails to pay labor remuneration in full and on time or fails to pay social insurance fees, the people's court shall examine whether the grounds for rescission exist.

Article 4 — Where an employer rescinds a labor contract in violation of the Labor Contract Law and the worker requests payment of compensation, the people's court shall support the request.

Article 5 — After an employer rescinds a labor contract, and the worker requests the employer to go through the formalities for the transfer of archives and social insurance relations, the people's court shall support such request.

Non-Competition

Article 6 — Where an employer and a worker have agreed on non-competition restrictions, and the worker breaches the non-competition obligations, the people's court shall order the worker to pay liquidated damages in accordance with the agreement.

Article 7 — During the non-competition period after rescission or termination of the labor contract, the employer shall pay economic compensation to the worker on a monthly basis. Where the employer fails to pay for three months, the worker may request rescission of the non-competition agreement.

These translations are provided for informational purposes only. For legal matters, please consult the original Chinese texts or seek professional legal advice. For assistance with labor dispute litigation and compliance in China, please contact Dan Young Business Consultancy.