

Provisions on the Reduction of Personnel by Enterprises for Economic Reasons of the People's Republic of China

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

Promulgated by Document No. 447 of the Ministry of Labor on November 14, 1994, effective as of January 1, 1995.

Article 1 — Purpose — These Provisions are formulated in accordance with the Labor Law of the People's Republic of China and other relevant laws and regulations for the purposes of regulating the behavior of employers in reducing personnel and protecting the lawful rights and interests of workers.

Article 2 — Conditions for Economic Layoffs — Where an employer is on the verge of bankruptcy and undergoing statutory consolidation, or is in serious difficulties in production and operation, and genuinely needs to reduce personnel, it may reduce personnel after explaining the situation to the trade union or all employees 30 days in advance, listening to their opinions, and reporting the reduction of personnel plan to the labor administrative department.

Article 3 — Prohibition of Layoffs Under Certain Circumstances — An employer shall not reduce the following persons when reducing personnel:

1. Workers who have suffered work-related injuries or contracted occupational diseases and have lost or partially lost their work capacity; 2. Workers who are in the period of medical treatment for illness or non-work-related injury; 3. Female employees who are pregnant, on maternity leave or in the breastfeeding period; 4. Other circumstances prescribed by laws and administrative regulations.

Article 4 — Procedures for Economic Layoffs — An employer shall follow the following procedures when reducing personnel for economic reasons:

1. Explaining the situation to the trade union or all employees 30 days in advance and providing the relevant information on production and operation; 2. Proposing a plan for the reduction of personnel, including the list of persons to be laid off, the time of layoffs, the implementation steps, and the economic compensation measures; 3. Seeking the opinions of the trade union or all employees on the reduction of personnel plan, and modifying and improving the plan; 4. Reporting the reduction of personnel plan and the opinions of the trade union or all employees to the local labor administrative department, and listening to the opinions of the labor administrative department; 5. The employer formally announces the reduction of personnel plan and goes through the formalities for rescinding labor contracts with the laid-off workers, paying economic compensation to the laid-off workers and issuing certificates of rescission of labor contracts.

Article 5 — Priority Retention of Workers — When reducing personnel, an employer shall give priority to retaining the following persons:

1. Workers who have concluded relatively long-term fixed-term labor contracts with the employer; 2. Workers who have concluded non-fixed-term labor contracts with the employer; 3. Workers whose family members have no other employed persons and who have elderly or minor dependents to support.

Article 6 — Priority Re-Employment — Where an employer hires workers within six months after reducing personnel, it shall notify the laid-off workers and, under equal conditions, give priority to the laid-off workers in recruitment.

Article 7 — Economic Compensation — An employer shall pay economic compensation to laid-off workers in accordance with the provisions of the State. The economic compensation shall be calculated based on the number of years the worker has worked with the employer, at the rate of one month's wage for each full year

of work.

Article 8 — Supplementary Provisions — These Provisions shall come into force on January 1, 1995.

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