## Table of Contents

Editor				v			
About	the Tran	slator	okshop.com	vii			
Transla	ator's Pre	eface		xv			
Ackno	wledgme	nt	Shor	xix			
Снарте	r 1						
		Labor I	Law System in Crina	1			
§1.01		Birth and Development of the Labor Law in China					
	[A]		duction	1			
	[B]		Formation Stage of China's Labor Legislation	4			
	[C]		Stereotyped Stage of China's Labor Legislation	6			
	[D]		The Contention Stage of China's Labor Legislation				
§1.02	Standard Employment Relationships in China						
	[A]	Over	view of the Standard Employment Relationships in				
		China	1	11			
	[B]	Conc	lusion of Employment Contracts	13			
		[1]	Overview	13			
		[2]	Contents of Employment Contracts	14			
		[3]	Forms of Employment Contracts	15			
		[4]	Terms of Employment Contracts	16			
		[5]	The System of Invalid Employment Contracts	17			
	[C]		Performance and Change of Employment Contracts				
		[1]	Overview	18			
		[2]	Performance of Employment Contracts	19			
		[3]	Change of Employment Contracts	20			
			[a] Circumstances of Contractual Change	20			
			[b] Forms of Changing Employment Contracts	21			
	[D]	Term	ination and Dissolution of Employment Contracts	21			

		[1]	Overv	iew	21	
		[2]	Termi	nation of Employment Contracts	22	
			[a]	Imposing the Restrictions on the Termination		
			L-3	of Employment Contracts upon Expiration	22	
			[b]	Removing Provisions on the Termination of		
			[6]	Employment Contracts as Agreed by the		
				Parties	23	
			[c]	Adding Provisions on the Termination of	20	
			[C]	Employment Contracts Based on Statutory		
				Grounds	23	
		[2]	Diagol		24	
		[3]		ution of Employment Contracts	24	
			[a]	Dissolution of Employment Contracts	2.4	
			51.3	Through Negotiations	24	
			[b]	Unilateral Dissolution of Employment		
				Contracts by the Employer	25	
				[i] Dissolution of Employment Contracts		
				with Workers at Fault by the Employer	25	
				[ii] Non-fault Related Dissolution of		
				Employment Contracts by the Employer	26	
			[c]	Resignation of Workers	27	
				[i] Rasic Workers' Resignation System	27	
				[ii] Workers' Passive Resignation System	28	
			<b>A</b>	Restricted Resignation System	29	
		[4]	Ecoric	nic Compensation System	30	
§1.03	Nonstandard Employment Relationships				32	
	[A]	Overview				
	[B]	Labor	Dispatching			
	P	[1]	27	oying Entities in the Labor Dispatching	33	
	•	[2]		s of the Employment in the Labor Dispatching	34	
	$-\infty$	[3]		ent of the Employment in the Labor Dispatching	35	
		[4]		dures for the Employment in the Labor		
		[ +]		tching	37	
	[C]	Dart T		ployment	38	
	[C]	[1]		oyers in the Part-Time Employment in China	38	
		[2]			39	
				s of the Part-Time Employment		
		[3]		ent of the Part-Time Employment	40	
201 2 0		[4]		dures for the Part-Time Employment	41	
§1.04	Legal Remedies				42	
	[A]		luction		42	
	[B]			sputes Handling Process	43	
		[1]	Medi		44	
			[a]	Labor Dispute Mediation Organizations	44	

		[i]	Establishment and Composition of an Enterprise's Labor Dispute Mediation	
			Committee	44
		[ii]	Nature and Characteristics of the	44
		լոյ	Enterprise's Labor Dispute Mediation	
			Committee	4 [
		[;;;]		45
		[iii]	Functions and Responsibilities of the	
			Enterprise's Labor Dispute Mediation	4.5
	(P)	Davisa	Committee	45
	[b]		ciples of Mediating Labor Disputes	46
		[i]	Principle of the Parties' Voluntariness	46
		[ii]	Principle of the Parties' Equality in	
		FILLS	Application of Law	46
		[iii]	Principle of Democratic Consultation	47
		[iv]	Principle of Respecting the Parties'	
			Right to Apply for the Arbitration and	
2002			Litigation	47
[2]		ration	<b>.</b>	47
	[a]	Insti	tutions and Participants of Labor Dispute	
		Arbi	tration	47
		[i]	Establishment of Labor Dispute	
			Arbitration Commissions	47
		[ii]	Composition of Labor Dispute	
			Arbitration Commissions	47
	,4	[iii]	Labor Dispute Arbitration Tribunal	48
	4	[iv]	Labor Dispute Arbitrators	49
<u> </u>	4	[v]	Participants of the Labor Dispute	
x2.	1		Arbitration	49
~·,	[b]	Juris	diction of Labor Dispute Arbitration	50
XXX	14 <del>-</del> 00-00-00	[i]	Territorial Jurisdiction	50
		[ii]	Jurisdiction by Levels	50
<b>Y</b>		[iii]	Referral Jurisdiction	50
		[iv]	Designated Jurisdiction	51
	[c]		ial Provisions	51
		[i]	Finality and Binding Force of the	51
		LAJ	Arbitration Award	51
		[ii]	Advance Execution	52
[3]	Litiga		ria vallee Excellion	52
[-1	[a]		e of Labor Dispute Litigation	52
	[b]		diction over Cases of Labor Dispute	54
	[D]		ation	53
Lahor	Inspect	8.7	ation	
[1]			ne Labor Inspection in China	54
[1]				54
	[a]	Labo	or Inspection Organs	54

.6 .7 .7 .8 .9

[C]

		[b]	Objects of Labor Inspection	55
			Other Subjects	55
			[i] Other Government Departments	55
			[ii] Trade Unions	56
			[iii] Workers	56
	[2]		of Labor Inspection	56
	F	[a]	Situation on the Employers' Formulation of the	
		[~]	Rules and Regulations Directly Involving the	
			Interests of Workers and the Implementation	57
		[b]	Situation on the Employer's Conclusion and	
		[-]	Dissolution of Employment Contracts with	
			Workers	57
		[c]	Situation on the Compliance of Labor	
		[0]	Dispatching Service Providers and Accepting	
			Entities with Relevant Regulations	58
		[d]	Situation on the Employers' Compliance	
		[0]	with the National Provisions Regarding the	
			Workers' Working Hours, Rest, and Leave	59
		[e]	Situation on the Employers' Payment for	
		[0]	Remuneration as Agreed in the Employment	
			Contracts and Compliance with the Minimum	
			Wage Standards	59
		[f]	Situation on the Employer's Participation in	
		A.	the Social Insurance and the Payment of Social	
		~	Insurance Premiums	59
		[9]	Other Labor Inspection Issues as Prescribed	
		7	by Relevant Laws and Regulations	60
	MIT 1374	Legal	Liability	60
	1	[a]	Order to Make Corrections	60
	~·/,	[b]	Warning	62
	XXX	[c]	Fine	63
4	Mr.	[d]	Compensatory Payment	64
	<b>Y</b>	լայ	Compensatory 1 ay	
CHAPTER	2			
Setablish	nment and Identi	fication	n of Employment Relationships	67
150001151 1	Personal Subord	ination	: Basis of Determining Employment	
L	Relationships			
	liangsu Koning (	Comfor	Home System Integration Co., Ltd. v. Ma	
	Lina on the Disp	nite ove	r Employment Relationship	67
2	Determination o	n the E	mployment Relationship Involving a Milkman	
<del>ac</del> £	Ruan Xiangping	v. Nan	jing Weigang Dairy Distribution Co., Ltd. on	
	the Dispute over	Emplo	yment Relationship	80
		F,	to an investigation of the property of the pro	

3	Determination on Factual Employment Relationships	
	Wu Jiming v. Chongqing Tubang Furniture Factory on the Dispute	
	over the Confirmation of Employment Relationship	92
4	Disposition of Open-Ended Employment Contracts Generated from	
	Numbers of Signing the Contract	
	Xu XX v. Shanghai Intier Jiaoyun Automotive Parts Co., Ltd. on	
	Employment Contract Dispute	104
5	Liability for Contracting Fault in an Employment Contract	
50	Zhang Hongping v. Adams Apparel Shanghai Co., Ltd. on the	
	Employment Contract Dispute	118
6	Legal Issues on the Employment of Foreigners in China	
	Wang Fuming v. Saint-Gobain (China) Investment Limited on the	
	Employment Contract Dispute	130
7	On the Application of Compensation for Emotional Distress Damages	150
	in the Field of Employment Discrimination	
	Chen Xbin v. BiaoX Automotive Company on the Disvite over the	
	Infringement upon Rights to Privacy, Personal Dignus and Equal	
	Employment Employment	140
	2.1.2.13	110
Снарт	TER 3	
Perfo	rmance and Change of Employment Contracts	155
8	Determination on the Effect of Agreed-upon Fixed-Amount Monthly	
	Wages	
	Liu Aihua v. Wanfeng Lide Haraware Factory of Baoan District	
	(Shenzhen) and Lide Hardware Products Factory Limited (Hong Kong)	
	on Overtime Pay Dispute	155
9	Determination of Medical Treatment Period for Special Diseases	155
	Liang Jieshu v. Narjing Yuefu Catering Management Co., Ltd on	
	Labor Dispute	172
10	Analysis of the Paid Annual Leave System from the Perspective of	1.2
	Judicial Practice	
	Sun Manwen vs. Shanghai Dianshanhu New City Development Co.,	
	Ltd on Converted Wage Payment of Annual Leave	193
11	Unilateral Change of Employment Contracts	173
	Zhou Hongmei v. Baixue Refrigerator Accessories Co., Ltd. of	
	Changshu City on Labor Dispute	216
12	Treatment of Employment Contracts after Corporate Dissolution	210
	Arising from Merger or Acquisition	
	Xu Haiqin v. Shanghai Yuansheng Software Technology Co., Ltd.	
	on the Dispute over Continued Performance of the Employment	
	Contract	233
	OU I PE I GEOR	7.77

## Table of Contents

Снарте	R 4					
Dissolu	tion and Termination of Employment Contracts	243				
13	On an Employer's Right to Dissolve an Employment Contract with an Employee Who Violates the Obligation of Good Faith					
	Tang Maolin v. Shanghai Guanlong Valve Machinery Company					
	Limited on the Employment Contract Dispute	243				
14	Dismissal due to Employees' Incompetence for the Work					
	ZTE (Hangzhou) Co., Ltd. v. Wang Peng on the Employment Contract					
	Dispute	256				
15	On the Workers' Notice Period for Terminating Employment Contracts					
	Feng Junwen v. GAW Capital (Shanghai) on the Dispute over Prior					
	Notice of Terminating Employment Contract	267				
16	Determination on the Effects of Employer's Rules and Regulations on					
	Prohibiting Employees from Taking Noncommercial Vehicles to and					
	from the Workplace					
	Zhang Jianming v. Jinglong Technology (Suzhov) Co., Ltd. on the					
	Dispute over Economic Compensation for Illegal Dissolution of					
and the second second	Employment Contract	276				
17	Determination of Damages for Worker Due to Illegal Termination of					
	Employment Contracts					
	Pan Jiangnan v. GCL Solar System integration Technology (Suzhou)					
	Co., Ltd. on the Dispute over Dissolution of Employment Contract	287				
C	- r					
Снарте		207				
	es over Nonstandard Employment Relationships	297				
18	Determination of Part-Time Employment					
	Sun Lan v. Shanghai Centreyou Times Telecommunication	297				
19	Technology Co., Ltd. on Part-time Employment Dispute  Pioreing the Veil of Employment Pelationships of Labor Disputships	297				
19	Piercing the Veil of Employment Relationships of Labor Dispatching					
	Wei Naiwu v Nanjing Long-Distance Bus Passengers Transport					
	Group Co., Ltd. (Jiangsu Province) & Nanjing Yiqun Human Pesources Development Service Co., Ltd. on the Dispute Regarding					
	Validity of the Employment Contract	311				
20	Determination of Employment Relationships on Labor Dispatching	311				
20	Lan Dayong v. Rongfeng Cleaning Company and Wanzhou District					
	People's Hospital on the Employment Dispute	328				
	reopie's Hospital on the Employment Dispute	320				
Bibliog	graphy	341				
Law. R	Regulations, and Official Documents	349				