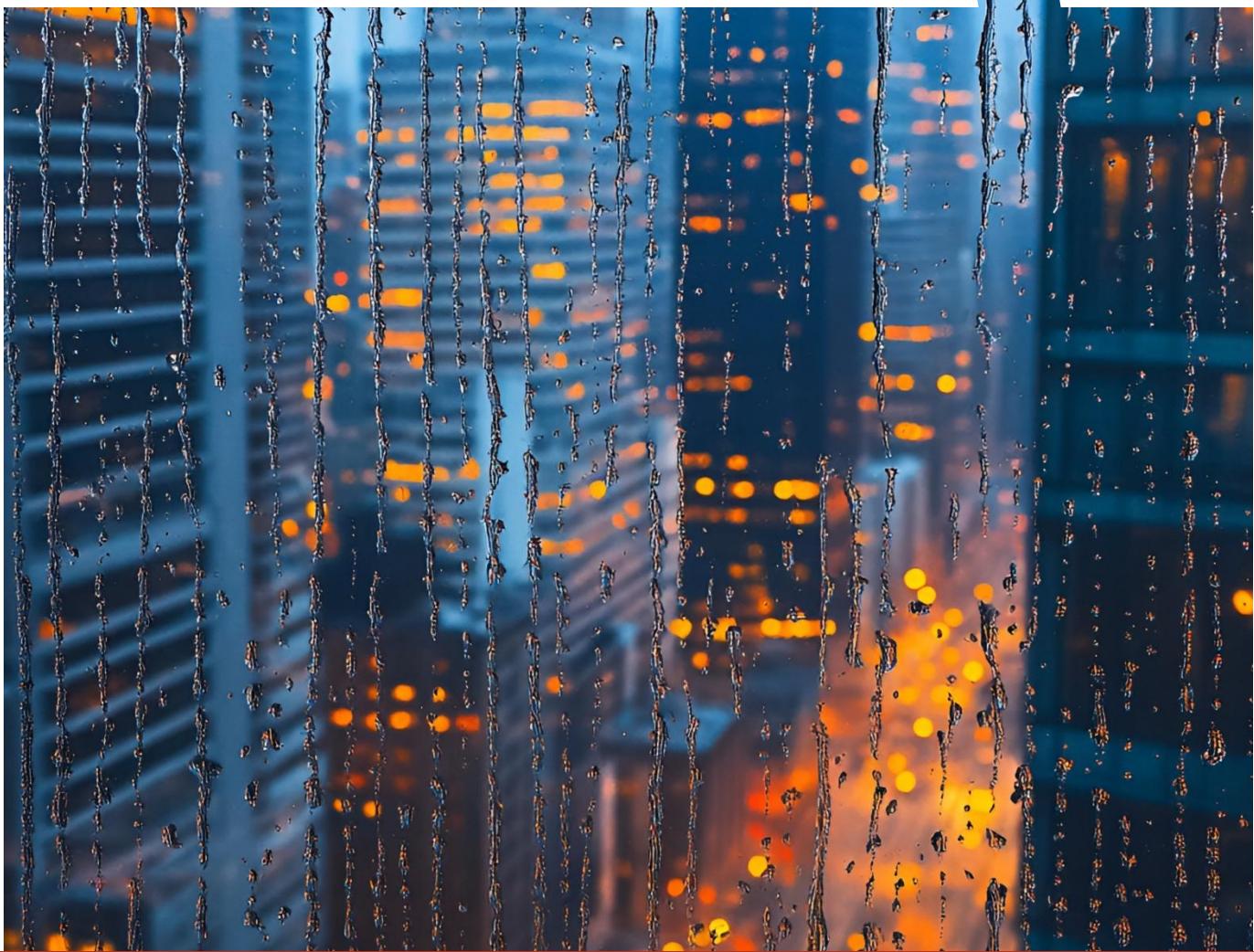




Llinks Corporate Compliance & Legal Alert

October 2025



Shanghai · Beijing · Shenzhen · Hong Kong · London

LLINKS
Law Offices
通力律师事务所

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Spotlight on News

1. The Supreme People's Court released the Interpretation on Several Issues Concerning the Application of the Company Law of the People's Republic of China (Draft for Comments).

To ensure accurate understanding and application of the Company Law of the People's Republic of China and to unify adjudication standards, the Supreme People's Court, based on preliminary in-depth research and initial consultations with experts, scholars, and relevant departments, has drafted the *Interpretation of the Supreme People's Court on Several Issues Concerning the Application of the Company Law of the People's Republic of China (Draft for Comments)* (hereinafter referred to as the "**Draft for Comments**") and released it on September 30, 2025, to solicit broad feedback from all sectors of society. The deadline for submitting comments is October 20, 2025.

Compared with previous judicial interpretations, the Draft for Comments shows a significant increase in the number of provisions. The existing five judicial interpretations of the Company Law comprise a total of 91 articles, while the Draft for Comments alone contains 90 articles. This reflects the growing complexity of issues arising in judicial practice as the market economy becomes more dynamic. Focusing on key issues and gray areas in the current field of company law, the Draft for Comments incorporates consensus views from non-normative judicial documents such as the *Minutes of the National Courts' Civil and Commercial Trial Work Conference* into judicial interpretations, transforming them into adjudication rules with universal applicability. It proposes a series of groundbreaking provisions, including but not limited to mechanisms for the resignation and removal of legal representatives, the system for disregarding corporate personality, the determination of property independence in one-person companies, the acceleration of shareholders' capital contributions, scenarios where shareholding trust agreements are deemed invalid, and the validity of valuation adjustment mechanisms. These provisions demonstrate the legal system's effective response to practical challenges.

Currently, the solicitation of comments on the Draft for Comments has concluded, and it is pending further revision and refinement before official release. The new judicial interpretation of the Company Law will better support the sustained development of the market economy and provide a solid legal foundation for optimizing the business environment.

2. Shanghai amended the Shanghai Municipal Regulations on the Protection of the Rights and Interests of the Elderly, launching paid caregiving leave for employees with a maximum of seven days-off per year.

On September 25, 2025, the 24th Session of the 16th Shanghai Municipal People's Congress Standing Committee voted to adopt the *Decision on Amending the Shanghai Municipal Regulations on the Protection of the Rights and*

Interests of the Elderly (hereinafter referred to as the "**Amending Decision**"). The newly amended regulations will take effect on November 1, 2025.

To alleviate the pressure on working children who serve as caregivers in tending to their ill parents, the newly revised regulations introduce, for the first time, a caregiver leave system for supporters. Specifically: "Employers shall, in accordance with relevant national regulations, safeguard the right of supporters to take home leave. When elderly individuals require care and assistance from supporters due to illness, the employers of such supporters are encouraged to provide support by adjusting work arrangements. During the period when an elderly person is hospitalized for medical treatment, their supporters are entitled to an annual cumulative caregiver leave of no more than five working days. If the supporter is the only child born during the period when the state advocated for one child per couple, they are entitled to an annual cumulative caregiver leave of no more than seven working days. Wages during the caregiver leave period shall be paid based on the wages normally earned for attendance."

This revision marks the first significant amendment to the *Shanghai Municipal Regulations on the Protection of the Rights and Interests of the Elderly* in nearly ten years since its implementation. The establishment of the caregiver leave system provides robust legal protection for employed individuals who are busy with work and lack time to care for their ill parents, effectively alleviating the emotional dilemma faced by only children under the pressure of supporting their parents. The "Amending Decision" tangibly reflects Shanghai's proactive response to the national strategy for addressing population aging and its commitment to tackling the new challenges and demands arising from the intensifying aging population in Shanghai.

3. The National Healthcare Security Administration successively released the second batch of 11 typical cases of individuals defrauding healthcare insurance funds, and the first batch of 5 typical cases of defrauding maternity insurance funds.

The National Healthcare Security Administration, which had previously released the first batch of typical cases involving individuals defrauding healthcare insurance funds, issued the second batch of 11 typical cases on October 9, 2025, to further demonstrate a "zero-tolerance" stance toward fraud. The newly exposed cases include various fraudulent activities such as seeking medical treatment under false identities, reselling medications obtained through insurance, forging medical records, and fabricating invoices. These cases implicated individuals, healthcare institutions, and pharmaceutical sales personnel. All offenders were held criminally liable in accordance with the law, resulting in sentences including fixed-term imprisonment, probation, and fines. They were also ordered to return the defrauded insurance funds, with some facing additional penalties such as suspension of insurance payment eligibility or termination of insurance service agreements.

On October 16, 2025, the National Healthcare Security Administration also released the first batch of 5 typical cases involving maternity insurance fraud. These primarily included falsifying or fabricating insured individuals' information,

establishing fictitious labor relationships to enroll in maternity insurance, failing to declare maternity insurance contribution bases truthfully in accordance with the law, and forging or altering medical records, invoices, or other application materials to fraudulently claim maternity insurance funds. Employers and insured individuals are reminded to participate in maternity insurance through legal channels and to provide truthful, accurate, and complete documentation when applying for maternity allowances and medical expense reimbursements. Otherwise, they may face administrative penalties from healthcare security authorities, and could even be subject to criminal liability, confiscation of illegal gains, and fines.

Legislation Updates

1. The Cyberspace Administration of China and the State Administration for Market Regulation jointly issued the Personal Information Outbound Certification Measures.

On October 17, 2025, the Cyberspace Administration of China and the State Administration for Market Regulation jointly released the *Personal Information Outbound Certification Measures* (hereinafter referred to as the "**Measures**"). The Measures aim to address risks in the cross-border flow of personal information, protect personal information rights, regulate certification activities, and ensure the secure and orderly flow of data, which will officially take effect on January 1, 2026.

The Measures specify detailed provisions regarding the applicable scenarios for personal information outbound certification, application methods, certification requirements, certificate validity periods, obligations of professional certification bodies, and supervision and management requirements. Before applying for certification to provide personal information overseas, personal information processors must fulfill obligations such as informing individuals, obtaining separate consent, and conducting personal information protection impact assessments in accordance with laws and administrative regulations. Personal information processors must apply for personal information outbound certification from professional certification bodies. The certification certificate is valid for three years, and if continued use is required after expiration, an application for recertification must be submitted six months prior to the expiry date.

Regarding the applicable scenarios for personal information outbound certification, the Measures clarify that personal information processors providing personal information overseas through certification must simultaneously meet the following conditions: (1) not being critical information infrastructure operators; (2) having cumulatively provided the personal information of more than 100,000 but fewer than 1 million individuals (excluding sensitive personal information) or the sensitive personal information of fewer than 10,000 individuals overseas since January 1 of the current year; and (3) not including important data in the personal information provided overseas.

Furthermore, the Measures emphasize that state organs, professional certification bodies, and other entities engaged in certification activities, as well as their personnel, must keep confidential any personal privacy, personal information, trade secrets, or confidential business information obtained in the course of their duties in accordance with the law. They must not disclose, illegally provide to others, or illegally use such information. The above provisions reflect the Measures' clear regulation of the confidentiality obligations of supervisory bodies, establishing a distinct legal boundary between public authority and private domains.

2. The Supreme People's Court issued the Provisions on the Jurisdiction of Internet Courts, adding four categories of cases under centralized jurisdiction of internet courts.

On October 11, 2025, the Supreme People's Court issued the *Provisions of the Supreme People's Court on the Jurisdiction of Internet Courts* (Judicial Interpretation No. 14 [2025], hereinafter referred to as the "**Provisions**"), which adjust and refine the scope of cases under the jurisdiction of internet courts. The Provisions took effect on November 1, 2025.

Building upon the jurisdictional scope for internet courts established by the *2018 Provisions of the Supreme People's Court on Several Issues Concerning the Trial of Cases by Internet Courts* (hereinafter referred to as the "**2018 Provisions**"), the new Provisions optimize and refine the types of cases under the jurisdiction of internet courts, taking into account the evolving landscape of cyberspace governance and new requirements for the development of the digital economy.

The Provisions add four categories of internet-related cases to be under the centralized jurisdiction of internet courts. Specifically, the Provisions include "disputes over ownership, infringement, and contracts related to online data," "disputes concerning online personal information protection and privacy rights," "disputes over ownership, infringement, and contracts related to online virtual property," and "disputes arising from online unfair competition" within the jurisdiction of internet courts. Following the implementation of the Provisions, the aforementioned cases, which were previously subject to the jurisdiction of basic-level people's courts, will now be centrally adjudicated by the three internet courts. This aims to effectively explore adjudication rules for these new, cutting-edge, and key internet-related areas, playing a role in standardization, guidance, promotion, and safeguarding.

The Provisions also remove certain cases from the jurisdiction of internet courts. Specifically, the Provisions delete the following case types previously under internet court jurisdiction according to the 2018 Provisions: "disputes over financial loan contracts and small-amount loan contracts where both the signing and performance are conducted entirely online," "disputes over ownership of copyright or related rights in works first published online," "disputes arising from the infringement of copyright or related rights in works published or disseminated online," "product liability disputes arising from defective products purchased via e-commerce platforms that infringe upon personal or property rights," as well as traditional online infringement disputes such as those involving reputation rights, general personality rights, and property rights. This adjustment ensures that internet courts can more promptly and effectively address the judicial needs of the public regarding the protection of rights and interests in emerging internet-related fields.

Case Study

1. Guangzhou Intermediate People's Court Released Typical Cases of Labor Disputes: Conditional salary cuts are legally binding, employers should pay back the salary difference for corresponding period.

- **Facts**

On November 15, 2021, Huang was hired by an e-commerce company as a senior e-commerce manager. The parties executed a written labor contract stipulating his probationary period salary. During the probationary period, the company announced a 15% salary reduction for all positions at Senior Manager level and above, including Huang's, while concurrently committing that "upon the Group's successful listing, it will double the amount of salary reduced during this period! It will only be more, not less! We will never break our promise!" Huang raised no objection to the salary reduction but asserted that it constituted a conditional pay cut.

On May 12, 2022, immediately before the expiration of the probationary period, the company terminated Huang's labor contract on the grounds that his work performance failed to meet the employment criteria. Huang challenged this termination and filed an application with the Guangzhou Labor and Personnel Dispute Arbitration Commission on May 17, 2022, contending that the company had unlawfully terminated the contract. He sought compensation and payment of the salary difference for the period during which the salary reduction was in effect, subsequently proceeding to initiate litigation.

- **Judge's Viewpoint**

The Guangzhou Intermediate People's Court held that wages constitute the material foundation for workers' livelihoods, and employers may not arbitrarily withhold or modify employees' wage standards. In this case, first, the e-commerce company failed to submit evidence proving that Huang failed to meet the employment criteria and must therefore bear the adverse consequences of its inability to provide proof. Consequently, the company's termination of the labor contract was unlawful, and it is liable to pay compensation. Second, the company's notification to Huang of a 15% salary reduction, coupled with its promise to "double the amount of reduced salary upon listing" and that "it will only be more, not less; we will never break our promise," indicates that the so-called salary reduction was not unconditional but was contingent on the company "doubling the reduced amount after listing." Furthermore, the company submitted no written agreement demonstrating that Huang had consented to an unconditional direct salary reduction. Therefore, it cannot be concluded that both parties had reached a mutual agreement on an unconditional 15% salary reduction. Now that the e-commerce company has unlawfully unilaterally terminated the labor relationship with Huang, thereby making it impossible

to fulfill the condition of "doubling the reduced amount after listing," the so-called salary reduction arrangement must be deemed to have been unilaterally terminated by the company. Accordingly, the e-commerce company must pay Huang the salary difference for the corresponding period based on his original wage standard.

2. Shenzhen Intermediate People's Court: Employer are subjected to damages for unlawfully extended probation period and severance payment for wrongful termination.

- **Facts**

In October 2022, Zhang was hired by a company as a model. The parties signed a three-year written labor contract, stipulating a probation period from October 19, 2022, to January 18, 2023. However, prior to the expiration of the original probation period, the company signed an "Extension of Probation Period Agreement" with Zhang, extending the probation period to April 18, 2023. On April 10, 2023, the company notified Zhang that her employment would be terminated on April 13, 2023, citing "failure to meet the requirements during the probation period" as the reason, thereby unilaterally terminating the labor relationship.

In response, Zhang demanded that the company pay compensation for the unlawfully agreed probation period and compensation for the termination of the labor relationship. After negotiations failed, Zhang applied for labor arbitration. The arbitration ruling supported Zhang's claims. The company, dissatisfied with the arbitration result, filed a lawsuit against Zhang, requesting the court to rule that the company is not obligated to pay Zhang compensation for the termination and for the unlawfully agreed probation period.

- **Judge's Viewpoint**

The court held that the probation period is a mutual assessment period agreed upon between the employer and the employee in the labor contract, representing a special phase within the duration of the labor relationship. According to Article 19 of the Labor Contract Law, the agreed probation period must meet the following requirements: only one probation period may be stipulated under the same labor relationship, and the length of the probation period must not exceed the statutory limit.

In this case, the company's agreement with Zhang to extend the probation period after the original term had expired constituted a second probation period arrangement. The company argued that the extension was a lawful adjustment to the original probation period and was reached through mutual consultation. However, establishing a second probation period violates mandatory legal provisions. Pursuant to Article 83 of the Labor Contract Law, the company shall bear legal liability for the unlawfully agreed probation period. Furthermore,

based on the court's aforementioned determination, Zhang's probation period remained effective from October 19, 2022, to January 18, 2023. The company's notification on April 10, 2023, terminating the labor relationship on the grounds that Zhang failed to meet the standards during the probation period, with the dismissal taking effect on April 13, 2023, clearly occurred outside the scope of Zhang's probation period. This termination lacked both factual and legal basis. Therefore, the company unlawfully terminated the labor relationship. The court ultimately ruled that the company must pay Zhang compensation for the unlawfully agreed probation period and compensation for the unlawful termination of the labor relationship.

3. Beijing Third Intermediate People's Court: Female employees are entitled for both subsidy and salary for early return from maternity leave.

- **Facts**

Liu was employed by a technology trading company as a Finance Manager with a contracted monthly salary of 7,000 yuan. During her employment, the company lawfully contributed to her maternity insurance. Approximately one month before giving birth, Liu discussed maternity leave arrangements via WeChat with the company's legal representative, Wang. Both parties confirmed that Liu could work from home after childbirth and would only need to be physically present at the office for half a day if necessary, with any leave to be deferred. Liu gave birth on March 26, 2022. The Beijing Maternity Allowance Benefits Approval Form indicated an approved maternity allowance amount of 26,059.37 yuan.

WeChat records and email screenshots between Liu and Wang from April 14, 2022, to September 19, 2022, show that Wang repeatedly communicated with Liu and assigned work tasks during this period. The company paid Liu her monthly salary throughout the aforementioned period. A dispute subsequently arose between the parties. The company claimed that Liu had received both maternity allowance and salary during her maternity leave, constituting double compensation, and demanded the return of the maternity allowance. Liu argued that she had performed normal work duties during the maternity leave period, that her salary was legitimate compensation for work performed, and that receiving the maternity allowance was her legal right, therefore she should not be required to return it.

- **Judge's Viewpoint**

The Beijing Third Intermediate People's Court held that maternity allowance and salary are distinct in legal nature: maternity allowance falls under the scope of national maternity insurance benefits, while salary during maternity leave constitutes remuneration for work. The two cannot be directly or simply substituted for each other. The maternity leave enjoyed by female employees due to childbirth is a statutory right. A female

employee returning to work early should not be deemed to have waived her right to take maternity leave, nor should she be considered to have forfeited her right to receive salary for the period during which she worked in advance. From the perspective of emphasizing the dual protection of female employees' labor rights and reproductive rights, employers paying corresponding remuneration to female employees who return to work early complies with the relevant provisions of the labor law, aligns with social public order and good customs as well as fairness and justice, and should be encouraged.

In this case, Liu and the company's legal representative, Wang, reached a mutual agreement on working from home and deferring leave during the maternity leave period. During the maternity leave, Wang repeatedly communicated with Liu and assigned work tasks. Furthermore, the company did not arrange for Liu to take compensatory time off after her maternity leave ended. Therefore, the salary paid by the company to Liu during this period was remuneration for the labor she provided and cannot be simply equated with maternity allowance, nor does it constitute double compensation. The court ultimately ruled that Liu was not required to return the maternity allowance to the company.

Introduction of Llinks Corporate Compliance Practice

Llinks provides clients with efficient solutions and pragmatic corporate compliance advice based on clients' business needs. Our services include: providing daily corporate compliance advice and training; designing strategies and plans for mass layoffs and participating in on-site negotiations; assisting in solving personnel replacement in mergers and acquisitions, and providing on-site support and crisis management for strikes and other collective action; representing clients in labor arbitrations and litigations involving terminations of employment contracts, bonus payments, etc.; advising on issues of white-collar crime, anti-corruption and anti-bribery, anti-discrimination, personal information protection, protection of trade secrets and non-competition obligation, equity incentives, and senior-level employee dismissals, etc.

Awards and Honors:

- In 2024 and 2025, Patrick Gu was recommended as a Ranked Lawyer in the Greater China Region Guide by Chambers and Partners.
- In 2023 and 2025, Patrick Gu was recommended for Regulatory and Compliance, Labor and Employment by The Legal 500 Greater China Ranking.
- In 2024, Patrick Gu was recommended for Labor and Employment by The Legal 500 Greater China Ranking.
- In 2023, Patrick Gu was recommended as a Leading Lawyer by The Legal 500.
- In 2023, Llinks Law Offices received the Labor & Employment PRC Firms of the Year award from The Legal 500.
- In 2021, 2020 and 2019, Patrick Gu was consecutively recommended as a Leading Labor Lawyer by China Law & Practice.
- In 2023, 2022, 2021, 2020 and 2019, Patrick Gu was consecutively recommended as a Top-Tier Labor Lawyer by LEGALBAND.
- In 2020, Llinks Law Offices received the Best Law Firm for Client Service (China Awards) from Chambers and Partners.

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