

突发疫情时期企业用工安排及管理方案

Employment Arrangement of Enterprises in the Event of a Virus Outbreak

随着新型冠状病毒感染的肺炎疫情的爆发与发展，国务院和各地政府相继出台了一系列应对的紧急措施。本文根据本所客户近期就疫情对于企业人力资源管理方面提出的常见问题，简要整理了各地相关规定以及企业常见应对方案，谨供企业决策参考。

Due to the outbreak of the Novel Coronavirus (2019-nCoV), the State Council and local governments have successively introduced a series of emergency measures. This article briefly summarizes the relevant local regulations and general solutions based on the common questions recently raised by our clients regarding HR management in case of a virus outbreak.

一、复工安排以及相应工资发放的政策汇总

Summary of government policies of returning to work and payroll arrangements

地区 District	复工安排 Returning to work	工资发放 Payroll	特殊安排 Special arrangement
北京 Beijing	<p>除特定行业(涉及国民经济类·下同)企业外，不得早于2月2日24时，但2月9日24时前，企业可根据情况安排在家办公</p> <p>Apart from specific industries (relating to the national economy and the people livelihood, the same below), the enterprise shall not resume operation before 24:00 February 2nd, but the enterprise may arrange its employees to work from home based on its business needs before 24:00 February 9th</p>	<p>1. 对新型冠状病毒感染的肺炎、疑似病人、密切接触者在 其隔离期间或医学观察期间以及因政府实施隔离措施或采取其他紧急措施导致不能正常提供劳动的企业职工，应当支付职工在此期间的工作报酬；</p> <p>For employees who is unable to work due to the isolation measures for his/her confirmed or suspected infection or were in close contact with the infected patients, the enterprise shall pay salaries to as usual during the period of isolation or medical</p>	<p>1. 在隔离治疗期间不能正常提供劳动的按正常工作情况支付全额工资；</p> <p>The employees who cannot provide normal work during the period of medical isolation shall be paid full salary;</p> <p>2. 疫情防控期间要求职工在家上班的，按照正常工作期间的工资收入支付工资；</p> <p>The employees who work at home as required during the period of epidemic prevention shall be paid full salaries;</p> <p>3. 每户家庭可有一名员工在家看护未成年子女，期间的工资待遇由员工所属用人单位按出勤照发此段期间应当被视为采取紧急措施导致不能提供正常劳动的</p>

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地区 District	复工安排 Returning to work	工资发放 Payroll	特殊安排 Special arrangement
		<p>observation;</p> <p>2. 企业因受疫情影响导致生产经营困难的, 可以通过与职工协商一致采取调整薪酬、轮岗轮休缩短工时等方式稳定工作岗位, 尽量不裁员或者少裁员;</p> <p>Enterprise with difficulties in production and operation due to the virus, it may negotiate with its employees to adjust salaries, to change job positions, or to shorten working hours, etc. so as to avoid or reduce layoffs to the greatest extent;</p>	<p>情形;</p> <p>Each household may arrange for one person to care for of minor children at home, whose salaries and benefits shall be paid as if normal attendance by the enterprise. This period shall be regarded as an emergency situation where the employee cannot provide normal work;</p> <p>4. 对于因疫情未及时返京复工的职工, 企业可以优先考虑安排职工年休假</p> <p>For the employee who fails to return to Beijing for work due to epidemics, can be consulted first with the enterprise on an arrangement for annual leave.</p>
湖北 Hubei	<p>除特定行业企业外, 不得早于 2 月 13 日 24 时</p> <p>Apart from specific industries, do not before 24:00 February 13th</p>	<p>3. 企业停工停产在一个工资支付周期内的, 企业应按劳动合同规定的标准支付职工工资。超过一个工资支付周期的, 若职工提供了正常劳动, 企业支付给职工的工资不得低于当地最低工资标准。职工没有提供正常劳动的, 企业应当发放生活费</p> <p>Where an enterprise</p>	
上海 Shanghai	<p>除特定行业企业外, 不得早于 2 月 9 日 24 时</p> <p>Apart from specific industries, do not before 24:00 February 9th</p>		<p>1. 特定行业不能休假或提前结束休假复工的(包括企业安排在家办公的员工), 应当安排补休或按照不低于工资基数的 200% 支付加班工资;</p> <p>Enterprises resuming operations earlier than the February 10th shall arrange compensatory leave or pay overtime wages at the rate of no less than 200% of the normal wages to the employees</p>

地区 District	复工安排 Returning to work	工资发放 Payroll	特殊安排 Special arrangement
		<p>suspends production or operation for a period less than a wage payment term, the payroll shall be according to the normal standard. Where the suspension exceeds a wage payment term and the employee has provided normal work, the payment to the employee shall be no less than the local minimum wage standard. Where an employee does not provide normal work, the enterprise shall pay living expenses to the employees.</p>	<p>(including employees arranged by the enterprise to work from home);</p> <p>2. 对于因特殊原因确需在2月10日前复工的企业，只有经疫情防控指挥部或园区批准后方可复工，同时应报疫情防控指挥部办公室备案</p> <p>Enterprises that need to return to work before February 10th due to special reasons shall get approval from Epidemic Prevention and Control Center and shall be filed to Epidemic Prevention and Control Command Office.</p>
<p>广东 Guangdong</p>			<p>1. 疫情未及时复工的，可优先安排年休假；</p> <p>If the work is not resumed in time due to the epidemic situation, annual leave can first be arranged;</p> <p>2. 在隔离治疗期间不能正常提供劳动的按正常工作情况支付全额工资</p> <p>Those who are unable to perform normal work during the medical isolation shall be paid full salary</p>
<p>江苏 Jiangsu</p>			<p>南京市要求需提前复工复业的企业应向经营在地疫情防控指挥部作出书面说明并取得其同意后复工复业</p> <p>It is required in Nanjing that enterprises who need to return to</p>

地区 District	复工安排 Returning to work	工资发放 Payroll	特殊安排 Special arrangement
			work in advance should provide written statements to the Epidemic Prevention and Control Center where the enterprise is located and shall obtain the consent before resuming operation.
浙江 Zhejiang			对于因疫情未及时返回企业复工的职工，经与职工协商一致，企业可以优先考虑安排职工带薪年休假 For the employee who fails to return to work due to epidemics, enterprise may arrange annual leave in first priority after consultation with the employee.
吉林 Jilin			
四川 Sichuan	除特定行业企业外，企业根据自身情况自行决定复工时间 Apart from specific industries, the enterprise shall decide on the date for returning to work based on specific situation.		鼓励安排职工在家完成工作 Encourage employees to work from home

备注:

Remarks:

1. **加班工资**的支付标准：加班工资具体的工资标准根据采用的工时制度不同会存在差异。

Overtime wages standard: The specific overtime wages standards are varied depending on the working hours system adopted.

2. **提前结束复工安排**：对于企业安排提前结束休假复工的，上海人社局明确答复属于休息日加班。

Returning to work in advance: The Shanghai Municipal Human Resources and Social Security Bureau has clearly replied that returning to work in advance shall be regarded as overtime work on non-business days.

3. **隔离期间的工资标准**：在隔离治疗期间不能正常提供劳动的，很多省市地方政府已经明确规定按照正常工资标准发放，部分省市如无特殊规定的可以发放病假工资。

Wage standards during the isolation period: Numbers of the local governments have explicitly specified that full salary shall be paid to those who cannot normally work during the medical isolation period. For those enterprises in the provinces where there are no special regulations in terms of this issue, enterprises can pay those employees the sick leave wages.

4. **延迟复工期间安排员工在家办公**：用人单位应视其所在地区规定不同，按照国家和地方规定谨慎操作，上海人社局明确答复应作为休息日加班给予补休或按规定支付加班工资。

Arrange employees to work from home during the delay of resuming operation: The Shanghai Human Resources and Social Security Bureau has clearly replied that working from home shall be considered as overtime work on non-business days and shall arrange compensatory leave or pay overtime wages. Enterprises in other provinces shall also arrange in due care as per applicable regulations.

5. **提前复工的法律责任**：基于《传染病防治法》和《治安管理处罚法》，如企业拒不遵守延迟复工要求的，单位、法定代表人及主要负责人有可能被处以行政处罚，包括但不限于责令停工、罚款甚至行政拘留等。

Legal liability for failure to comply with the requirement of delaying the date of resuming operation: as per the PRC Infectious Diseases Prevention Law and the PRC Law of Punishment for Public Security and Administration, in case the enterprise refuses to comply with the requirement, the enterprise, legal representative and person in charge may be subject to administrative penalties, including but not limited to ordering stoppages, fines and administrative detention.

二、疫情相关劳动关系处理及人员管理

Relevant HR management strategies

在疫情防控的特殊时期，用工单位，尤其是生产型企业等可能发生员工汇聚的用人单位，为最大限度避免感染和传染，应充分尽到防护义务，并应当通过安排灵活用工手段维持企业正常的经营秩序，这也非常考验公司的人力资源管理能力。下表是我们根据目前政策文件以及企业常用管理手段整理的疫情防控期间企业人员管理方案汇总。

During the special period of epidemic prevention, employers, especially for production-oriented enterprises with employees gathering, shall fully perform the obligation of protection in order to avoid infection to the maximum extent, and maintain the normal business order by providing a flexible work arrangement. This is also a challenge for companies' HR management capabilities. The plans for enterprise HR management during the epidemic prevention as per the current policies and documents as well as common management practices by other enterprises are summarized below.

	疫情管理 Epidemic prevention	灵活用工安排 Flexible employment arrangements	劳动关系处理 Labor relations
正常经营期间 Period of normal operation	<p>1. 医学隔离：对新型冠状病毒感染的肺炎患者，在其隔离治疗期间导致不能提供正常劳动的企业职工，企业应当按正常出勤支付工资报酬；</p> <p>Medical isolation: Infected employees that cannot provide normal work during the period of medical treatment shall be paid full salary.</p> <p>2. 隔离观察：企业如果有理由认为本单位人员存在</p>	<p>1. 安排年休假：除非地方性政府明确延迟复工期间属于休息日的，否则企业可以视工作的具体情况并考虑员工本人意愿，统筹安排年休假；</p> <p>Arranging annual leave: Unless it is clearly prescribed by the local government that the delayed period shall be rest period, enterprises may arrange for annual leave after consultation with employees;</p> <p>2. 安排职工远程办公：用人单位可以安排劳动者在家办公，在家全勤办公的情况下，用人单位应当支付正常工作时全勤工资；</p>	<p>1. 对隔离治疗或医学观察期间的企业职工，企业不得依据劳动合同法第40条第41条与职工解除劳动合同，此期间的劳动合同到期的，分别顺延至职工医疗期期满、医学观察期期满、隔离期期满或者政府采取的紧急措施结束；</p> <p>For the employees under the medical isolation, the enterprise shall not terminate the labor contract in accordance with Article 40 and Article 41 of the PRC Labor Contract Law. In case the labor contract expires during these periods, it shall extend till the end of the medical period, the medical observation period, the isolation period or any emergency measures taken by the government;</p> <p>2. 在新型冠状病毒肺炎预</p>

	疫情管理 Epidemic prevention	灵活用工安排 Flexible employment arrangements	劳动关系处理 Labor relations
	<p>感染风险(包括病例密切接触者及可疑暴露者，具体可参见国家卫健委发布了《新型冠状病毒感染的肺炎可疑暴露者和密切接触者管理方案》，在不降低工资报酬的情况下，有权要求员工居家隔离观察；</p> <p>Medical isolation and observation: in case the enterprise have reasons to doubt that its employee is under risk of infection (including but direct contact with patients or suspicious exposures. For details, please refer to "Management Plan for Suspected Exposure and Close Contact Persons of Pneumonia Infected by New Coronavirus" issued by the National Health</p>	<p>Arranging employee to work from home: Enterprises may arrange employees to work from home. In the case of employees working full-time at home, the enterprise shall pay full wages;</p> <p>3. 灵活安排调休：用人单位可根据生产经营需要，分批对员工进行加班及调休安排，避免人员汇聚；</p> <p>Arranging compensatory leave: Enterprises may make flexible arrangement of overtime work and compensatory leave based on the needs of production so as to avoid the gathering of employees.</p> <p>4. 申请综合工时制：受疫情影响的用人单位，可以向人力资源社会保障部门申请执行综合计算工时制度，按照生产经营需要，实行轮岗调休；</p> <p>Apply for comprehensive working hour system: Enterprises affected may apply to the government authority for the implementation of comprehensive</p>	<p>防和救治工作中，医护及相关工作人员因履行工作职责，感染新型冠状病毒肺炎或因感染新型冠状病毒肺炎死亡的，应认定为工伤，依法享受工伤保险待遇。</p> <p>Employees who engage in medical care of Novel Coronavirus patients or related work and are infected with virus or dies of infection when performing his/her duties shall be identified as suffering a work-related injury and be entitled to work-related injury insurance benefits as per applicable laws and regulations.</p>

	疫情管理 Epidemic prevention	灵活用工安排 Flexible employment arrangements	劳动关系处理 Labor relations
	<p>Commission.), enterprise may ask such employee to be isolated at home with full salaries paid;</p> <p>3. 配套制度： 配备必要的防护用品、设施，加强对本单位人员的健康监测；</p> <p>Supporting system: enterprises shall have necessary protective facilities, and shall strengthen the health monitoring of its employees;</p> <p>4. 禁止歧视： 不得歧视新型冠状病毒感染肺炎患者、疑似病人、被隔离人员</p>	<p>working hours system, and may arrange workforce rotation based on the needs of production and operation;</p> <p>5. 合理安排绩效奖金发放： 若公司规章制度规定员工的奖金与该员工或企业的业绩相挂钩，疫情期间如员工确无任何业绩，企业可自主决策绩效奖金发放</p> <p>Reasonable arrangement of performance bonus: If the bonus of an employee is closely related to his/her performance or the company as per the company policies, the company may pay him/her bonus in its sole discretion if this employee does not have any performance during the epidemic period.</p>	
<p>生产经营发生严重困难期间</p> <p>Enterprises with serious difficulties in production and operation</p>	<p>No discrimination: No discrimination against patients, suspected patients, or isolated employees.</p>	<p>停产停工：企业停工停产在一个工资支付周期内的，企业应按劳动合同规定的标准支付职工工资。超过一个工资支付周期的，若职工提供了正常劳动，企业支付给职工的工资不得低于当地最低工资标准。职工没有提供正常劳动的，企业应当发生</p>	<p>1. 尽量不裁或者少裁员；</p> <p>To avoid or reduce layoffs to the best extent.</p> <p>2. 协商解除：与员工协商解除劳动合同；</p> <p>Negotiation for termination: negotiate with the employees to terminate the labor</p>

	疫情管理 Epidemic prevention	灵活用工安排 Flexible employment arrangements	劳动关系处理 Labor relations
		<p>活费。</p> <p>Suspension of production: Where an enterprise suspends production or operation for a period less than a wage payment term, the payroll shall be according to the normal standard. Where the suspension exceeds a wage payment term and the employee has provided normal work, the payment to the employee shall be no less than the local minimum wage standard. Where an employee does not provide normal work, the enterprise shall pay living expenses to the employees.</p>	<p>contract;</p> <p>3. 经济性裁员： 如因疫情导致用人单位生产经营出现严重困难的，用人单位可根据劳动合同法第41条规定实施经济性裁员</p> <p>Economic dismissal: If the enterprise has serious difficulties in production and operation due to the epidemic, the enterprise may go through economic dismissal procedure as per Article 41 of the PRC Labor Contract Law;</p> <p>4. 暂停工资发放应当与职代会及工会协商后方可实施。目前暂无规定疫情属于不可抗力并属于可暂停发放工资的特殊情况。</p> <p>The suspension of payrolls may only be implemented after consultation with the Workers' Congress and the labor union. Currently there is no provision indicating that the epidemic is force majeure and the salary payment may be suspended due to this reason.</p>

疫情当前，唯有积极做好疫情防控，才能尽快恢复正常的经营秩序。此外，在特殊时期，企业也最大限度地承担起了应尽的社会责任，同时也受到了严重影响，部分行业甚至开始遭遇存续危机，在此希望社会能给予其更多的理解，国家层面能够出台更多的政策扶持，共克时艰。

At the moment of the epidemic situation, the normal business order may only be restored as soon as possible by actively preventing and controlling the virus. Enterprises, who have undertaken their social responsibilities to the greatest extent, have been affected severely, and some enterprises in certain industries have even suffered from a survival crisis. Enterprises are eager for more social understanding and more policy support from the national level to overcome difficulties.