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# COVID-19: RESUMPTION OF BUSINESS OPERATIONS & HR MATTERS



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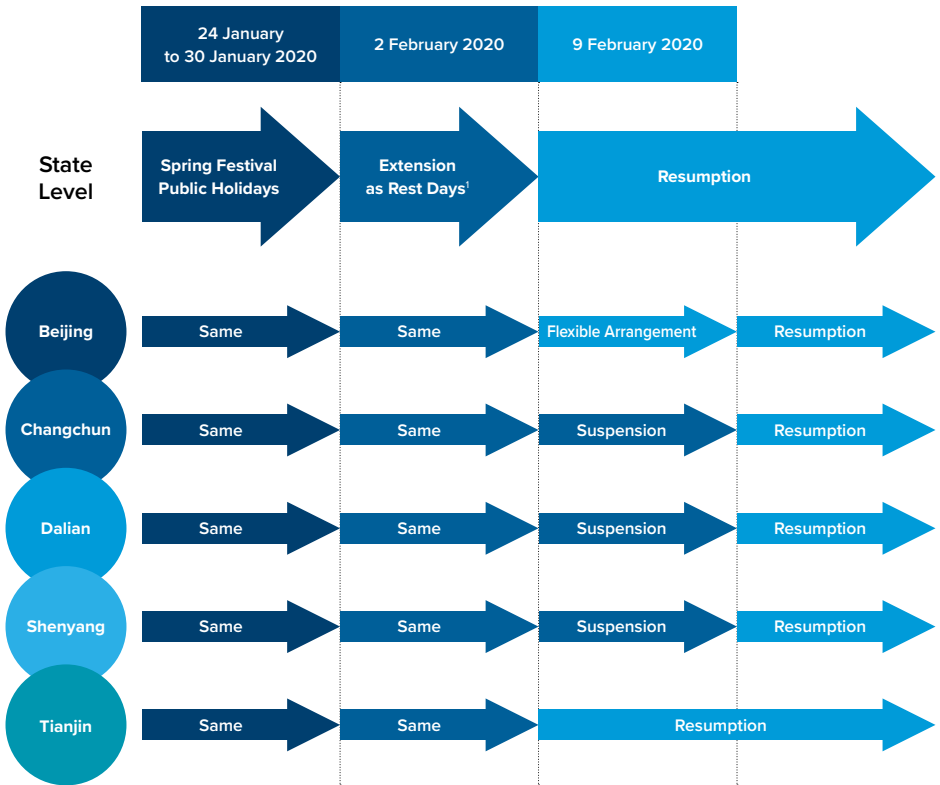
# How & When to Resume Work

## TIMELINES, PERMITS & WORK ARRANGEMENTS

PRC National & Beijing, Changchun, Dalian, Shenyang & Tianjin Policies

### HOW TO RESUME WORK

#### EXTENDED PUBLIC HOLIDAY SCHEME



<sup>1</sup> Notice on Extension of 2020 Spring Festival Holidays: [http://www.gov.cn/zhengce/zhengceku/2020-01/27/content\\_5472508.htm](http://www.gov.cn/zhengce/zhengceku/2020-01/27/content_5472508.htm).

## WHEN TO RESUME WORK

### OBTAIN LOCAL PERMITS / FILE RECORDALS

#### Local Practices

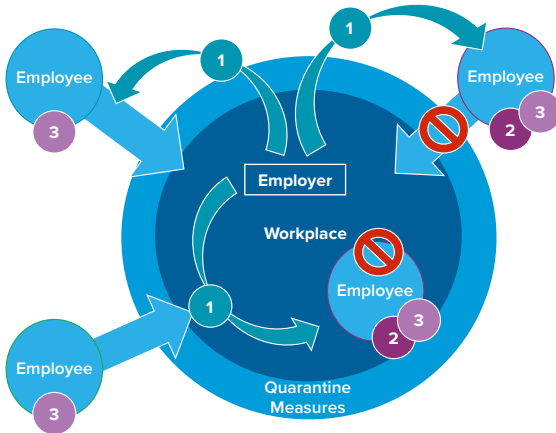
Beijing	No unified resumption RECORDAL procedures prior to business resumption; Resumption RECORDAL for projects in special industries required (e.g. construction projects)
Changchun	Every company is required to file for RECORDAL with competent authority at local level where company is located prior to business resumption
Dalian	Every company is required to conduct online RECORDAL prior to business resumption <sup>2</sup>
Shenyang	Every company is required to file for RECORDAL with competent authority at local level where business is located prior to business resumption
Tianjin	Industrial companies: work resumption RECORDAL through the App "Tianjin Industrial Enterprise Production Resumption Platform" <sup>3</sup> Other companies: RECORDAL process for work resumption under instruction of district level government

<sup>2</sup> Dalian Enterprise Resumption Service Management System: <http://gxj.dl.gov.cn/JXWMAIN/Simplified/Default.aspx>.

<sup>3</sup> Notice regarding the launch of „Tianjin Industrial Enterprise Resumption Service Platform APP: <http://gyxxh.tj.gov.cn/tzgg/71013.htm>.

## HOW TO RESUME WORK

### INSTRUCTION RIGHT / RETURN TO WORKPLACE



**1**

**Instruction right<sup>4</sup>:**

- No mobility restrictions:  
Return to workplace
- Mobility restrictions:  
Home Office (telephone, internet),  
OR if not feasible
- Annual leave (upon consultation  
with employee)

**Overall goal:**

*"Actively mobilize workers & enterprises to help enterprises reduce losses, while taking into account the legitimate rights & interests of both enterprises and workers."*

**2**

**No instruction right to<sup>4</sup>:**

- Request employees subject to governmental measures to return to workplace
- No right to terminate labour contracts of employees that cannot return to their workplace due to governmental measures

**3**

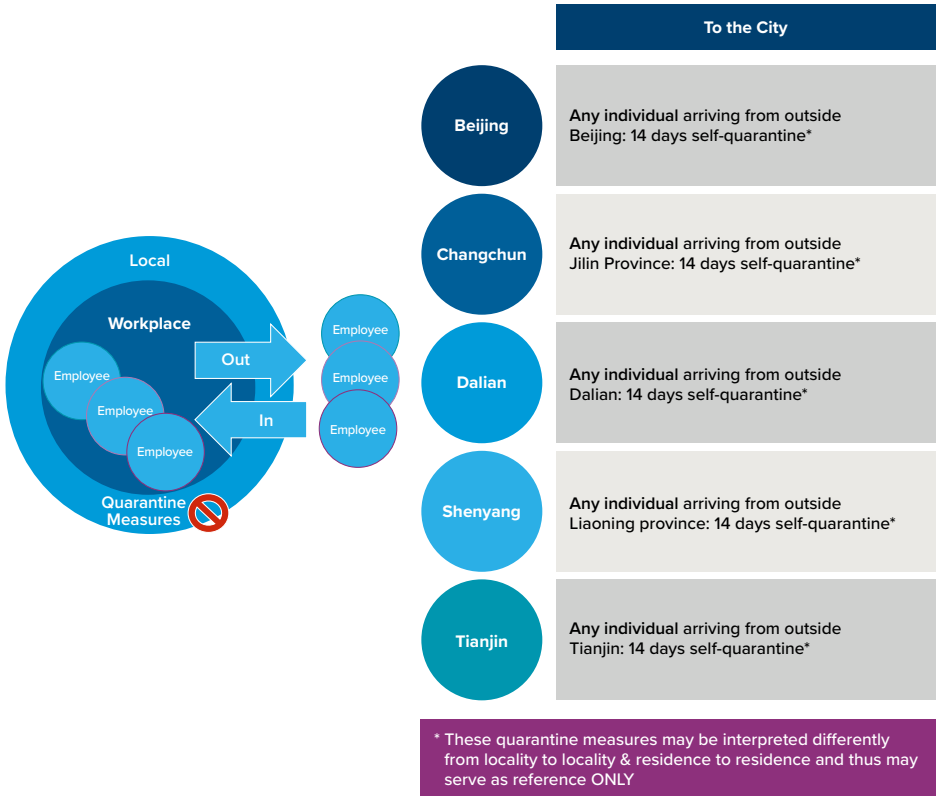
**In all other cases:**

PRC Labour Law & Labour Contract Law apply, i.e. company may impose disciplinary measures or, as the case may be, terminate the labour contract

<sup>4</sup> Opinions on Better Supporting the Stabilization of Employment Relationships and Resumption of Operation and Production of Enterprises during the Period of Prevention and Control of Coronavirus: [http://www.gov.cn/zhengce/zhengceku/2020-02/08/content\\_5476137.htm](http://www.gov.cn/zhengce/zhengceku/2020-02/08/content_5476137.htm).

## HOW TO RESUME WORK

### LOCAL QUARANTINE MEASURES

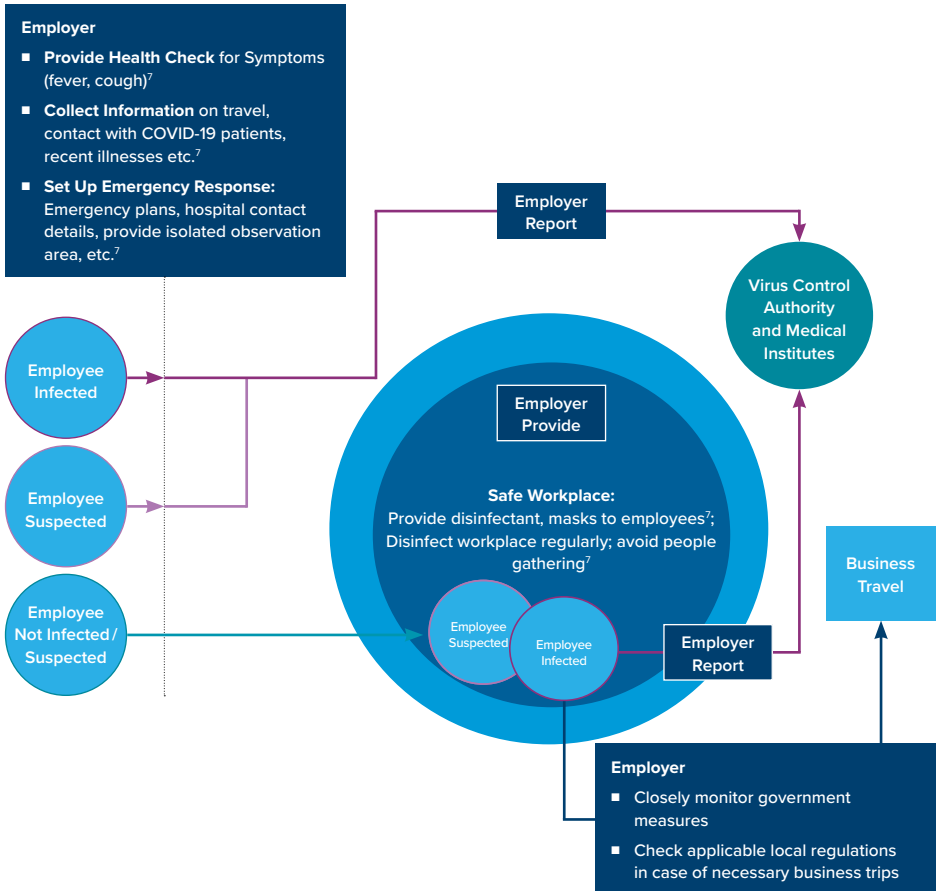


<sup>5</sup> Beijing People's Government Notice on Exceptions for Quarantine Measures: <http://www.beijing.gov.cn/fuwu/bmfw/wsfw/ggts/t1618890.htm>.

<sup>6</sup> Beijing People's Government Press Conference: [http://www.xinhuanet.com//mrdx/2020-03/04/c\\_138841367.htm](http://www.xinhuanet.com//mrdx/2020-03/04/c_138841367.htm).

## HOW TO RESUME WORK

### SAFE WORK ENVIRONMENT & REPORTING OBLIGATIONS



<sup>7</sup> PRC Law on the Prevention and Treatment of Infectious Diseases, PRC Emergency Response Law, PRC Criminal Law; State Council Guidelines on Prevention and Control Measures for Work and Production Resumption of Enterprises and Institutions: [http://www.gov.cn/zhengce/content/2020-02/22/content\\_5482025.htm](http://www.gov.cn/zhengce/content/2020-02/22/content_5482025.htm).

## HOW TO RESUME WORK

### SAFE WORK ENVIRONMENT & REPORTING OBLIGATIONS

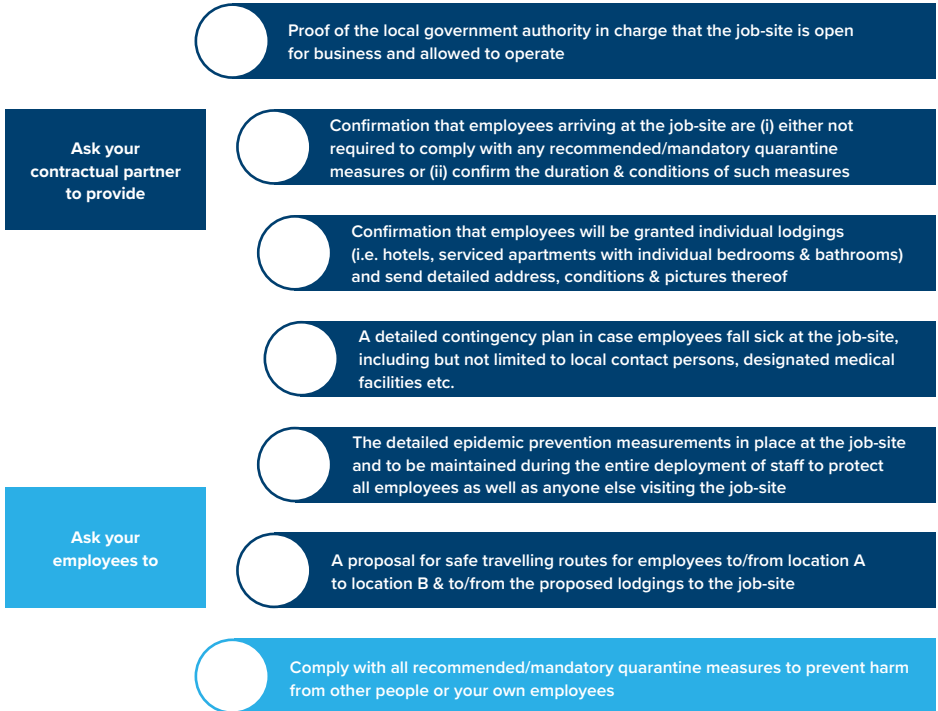
- Collect returning employee's information regarding recent travel itineraries
- Have employees take their temperature prior to entering the workplace
- Have employees report the existence/non-existence of symptoms
- Provide sufficient sanitary items to all employees, e.g. respiratory masks, sanitizer, gloves, etc.
- Disinfect the workplace regularly
- Provide information to employees on emergency health plans, hospitals or information on office occupancy restrictions
- Ensure compliance with reporting obligations to Virus Control Authority/ medical institutes/office management/neighborhood committee, etc.





## HOW TO RESUME WORK

### SAFE BUSINESS TRAVEL ARRANGEMENTS



## HOW TO RESUME WORK

### FLEXIBLE WORK ARRANGEMENTS



<sup>8</sup> Notice on Issues Concerning Properly Handling Labour Relations during the Prevention and Control of the Outbreak of Novel Coronavirus: [http://www.mohrss.gov.cn/Syrlzyhshbzb/dongtaixinwen/buneyiaowen/202001/t20200127\\_357746.html](http://www.mohrss.gov.cn/Syrlzyhshbzb/dongtaixinwen/buneyiaowen/202001/t20200127_357746.html).

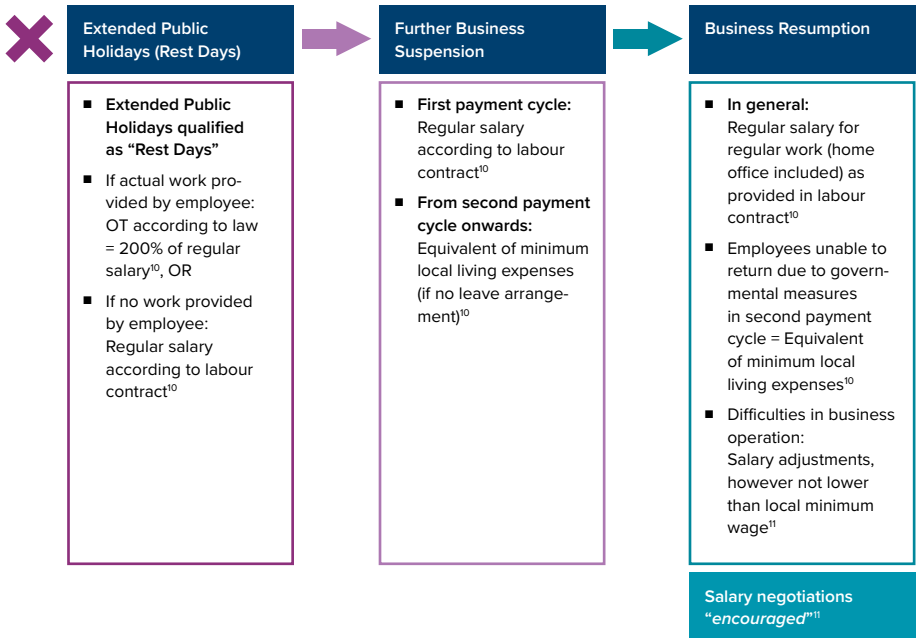
<sup>9</sup> Opinions on Better Supporting the Stabilization of Employment Relationships and Resumption of Operation and Production of Enterprises during the Period of Prevention and Control of Coronavirus: [http://www.gov.cn/zhengce/zhengceku/2020-02/08/content\\_5476137.htm](http://www.gov.cn/zhengce/zhengceku/2020-02/08/content_5476137.htm).

# Most Urgent HR Matters

## REMUNERATION, HOLIDAY CALCULATION & SOCIAL INSURANCE

### REMUNERATION

#### NON-INFECTED / SUSPECTED EMPLOYEES



**Employees subject to quarantine measures: Regular salary according to labour contract**

Companies facing cash-flow issues/cannot timely pay salaries may delay salary payments subject to negotiation with trade unions<sup>11</sup>

<sup>10</sup> Notice on Issues Concerning Properly Handling Labour Relations during the Prevention and Control of the Outbreak of Novel Coronavirus: [http://www.mohrss.gov.cn/SYrlzyhshbzb/dongtaixinwen/buneyaowen/202001/t20200127\\_357746.html](http://www.mohrss.gov.cn/SYrlzyhshbzb/dongtaixinwen/buneyaowen/202001/t20200127_357746.html).

<sup>11</sup> Opinions on Better Supporting the Stabilization of Employment Relationships and Resumption of Operation and Production of Enterprises during the Period of Prevention and Control of Coronavirus: [http://www.gov.cn/zhengce/zhengceku/2020-02/08/content\\_5476137.htm](http://www.gov.cn/zhengce/zhengceku/2020-02/08/content_5476137.htm).

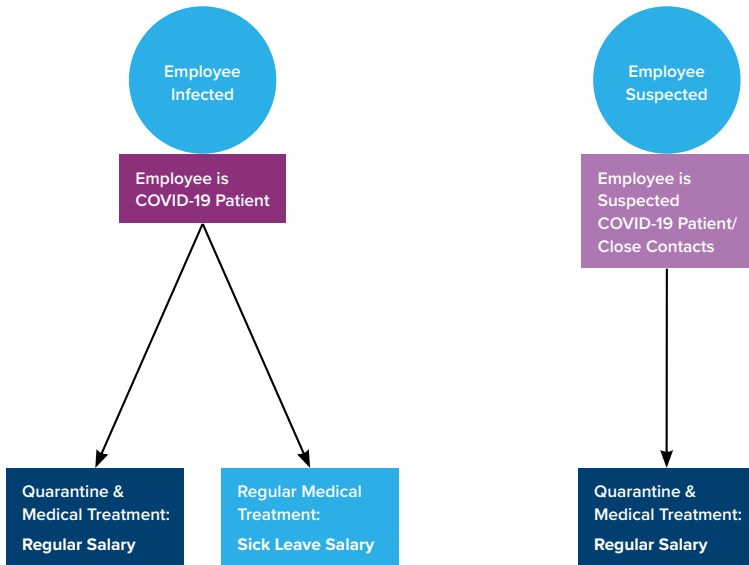
## REMUNERATION

### CALCULATION OF LIVING EXPENSES

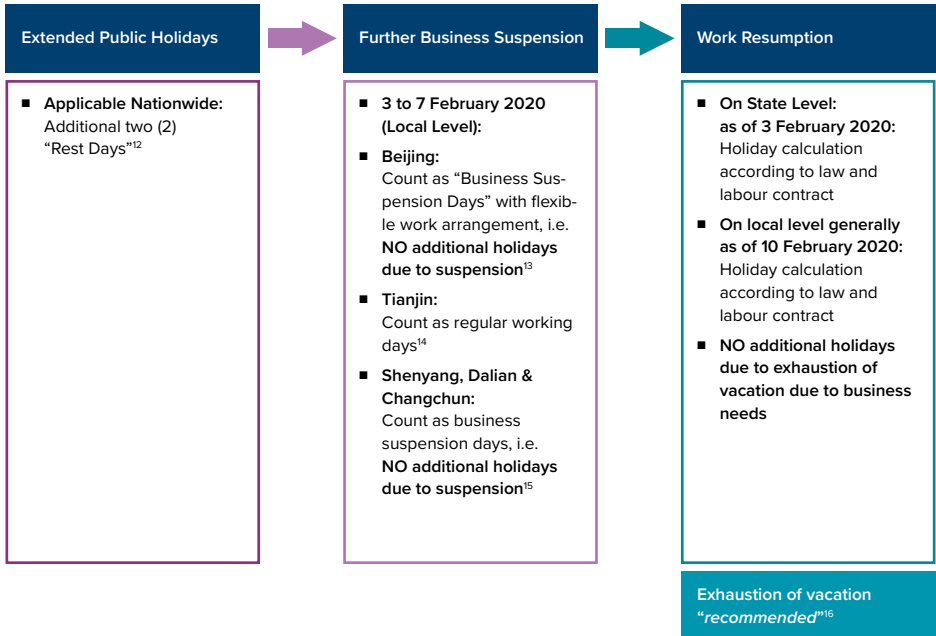
Further Business Suspension		
<ul style="list-style-type: none"><li>■ <b>First payment cycle:</b> Regular salary according to labour contract</li><li>■ <b>From second payment cycle onwards:</b> Equivalent of minimum local living expenses (if no leave arrangement)</li></ul>	Beijing	No less than 70% of local minimum salary
	Changchun	No less than 70% of local minimum salary
	Dalian	No less than 80% of local minimum salary
	Shenyang	No less than 70% of local minimum salary
	Tianjin	No provisions in this regard, subject to agreement with employees

# REMUNERATION

## INFECTED / SUSPECTED EMPLOYEES



## HOLIDAY CALCULATION



<sup>12</sup> Notice on Extension of 2020 Spring Festival Holidays: [http://www.gov.cn/zhengce/zhengceku/2020-01/27/content\\_5472508.htm](http://www.gov.cn/zhengce/zhengceku/2020-01/27/content_5472508.htm).

<sup>13</sup> Beijing Notice: <http://zdb.beijing.gov.cn/bjzdxmb/zcwj/202002/329afe3c01674f3b9ef72077aa00a1ca.shtml>.

<sup>14</sup> Liaoning Notice: [http://www.ln.gov.cn/zfxx/jrln/wzxx2018/202001/t20200131\\_3731012.html](http://www.ln.gov.cn/zfxx/jrln/wzxx2018/202001/t20200131_3731012.html).

<sup>15</sup> Jilin Notice: [http://xxgk.jl.gov.cn/szf/gkml/202002/t20200201\\_6672580.html](http://xxgk.jl.gov.cn/szf/gkml/202002/t20200201_6672580.html).

<sup>16</sup> Opinions on Better Supporting the Stabilization of Employment Relationships and Resumption of Operation and Production of Enterprises during the Period of Prevention and Control of Coronavirus: [http://www.gov.cn/zhengce/zhengceku/2020-02/08/content\\_5476137.htm](http://www.gov.cn/zhengce/zhengceku/2020-02/08/content_5476137.htm).

## SOCIAL INSURANCE

As of 1 February 2020	Pension	Unemployment	Work Related Injury	Medical
<b>State Level<sup>17</sup></b>	SMEs and Hubei province enterprises: EXEMPTION for ≤ 5 months; Large scale enterprises: REDUCTION of 50 % for ≤ 3 months; POSTPONEMENT for ≤ 6 months			50 % REDUCTION for ≤ 5 months
<b>Beijing<sup>18</sup></b>	POSTPONEMENT until end of March 2020, for special industries (e.g. catering, tourism) until end of July 2020			
<b>Changchun</b>	Same as State level			
<b>Dalian<sup>19</sup></b>	REFUND of contributions for February 2020, pending specific rules			
<b>Shenyang<sup>20</sup></b>	REFUND of contributions for February 2020, pending specific rules			Pending specific rules
<b>Tianjin</b>	Same as State level			

<sup>17</sup> Ministry of Human Resources and Social Security Notice: [http://www.mohrss.gov.cn/gkml/shbx/y/bx/202002/t20200221\\_360349.html](http://www.mohrss.gov.cn/gkml/shbx/y/bx/202002/t20200221_360349.html) Guiding opinions of the State Medical Insurance Administration of the Ministry of Finance and the State Administration of Taxation on the periodic reduction of basic medical insurance premiums for employees: <http://www.chinatax.gov.cn/chinatax/n810346/n810825/c101434/c5144758/content.htm>.

<sup>18</sup> Beijing Human Resources and Social Security Bureau Notice: [http://rsj.beijing.gov.cn/xxgk/tzgg/202002/t20200207\\_1626397.html](http://rsj.beijing.gov.cn/xxgk/tzgg/202002/t20200207_1626397.html); [http://rsj.beijing.gov.cn/xxgk/tzgg/202002/t20200214\\_1632156.html](http://rsj.beijing.gov.cn/xxgk/tzgg/202002/t20200214_1632156.html).

<sup>19</sup> Dalian: Notice regarding the suspension of payment of corporate social security premiums in February: [http://dalian.chinatax.gov.cn/art/2020/2/24/art\\_1715\\_113187.html](http://dalian.chinatax.gov.cn/art/2020/2/24/art_1715_113187.html).

<sup>20</sup> Liaoning: Important Advice on Periodic Reduction of Corporate Social Insurance Fees: <http://www.chinatax.gov.cn/chinatax/n810219/n810744/c101584/c101587/c101591/c5145128/content.html>.

## WORK-RELATED ACCIDENT

### Legal Definition<sup>21</sup>

- Work-related accident at the workplace during official working time
- Accident while making work-related preparations or conducting work-related winding-up work at the workplace closely before/after official working time
- Injury due to violence or other unexpected hazards while performing work-related responsibilities at the workplace during the official working time
- Contagion with an occupational disease
- Injury or accident due to work during the out-of-office working period
- Injury in a traffic accident in which the injured person does not assume the main responsibility or in an urban rail transit, passenger ferry or train accident on the way to work from home or back home from work



Infection with COVID-19 at work

Frontline medical and other frontline staff working to contain COVID-19 and getting infected on the job<sup>22</sup>



Other regular staff contracting COVID-19 (regardless whether contracted on the job/during business travel)<sup>22</sup>



<sup>21</sup> PRC Labour Contract Law

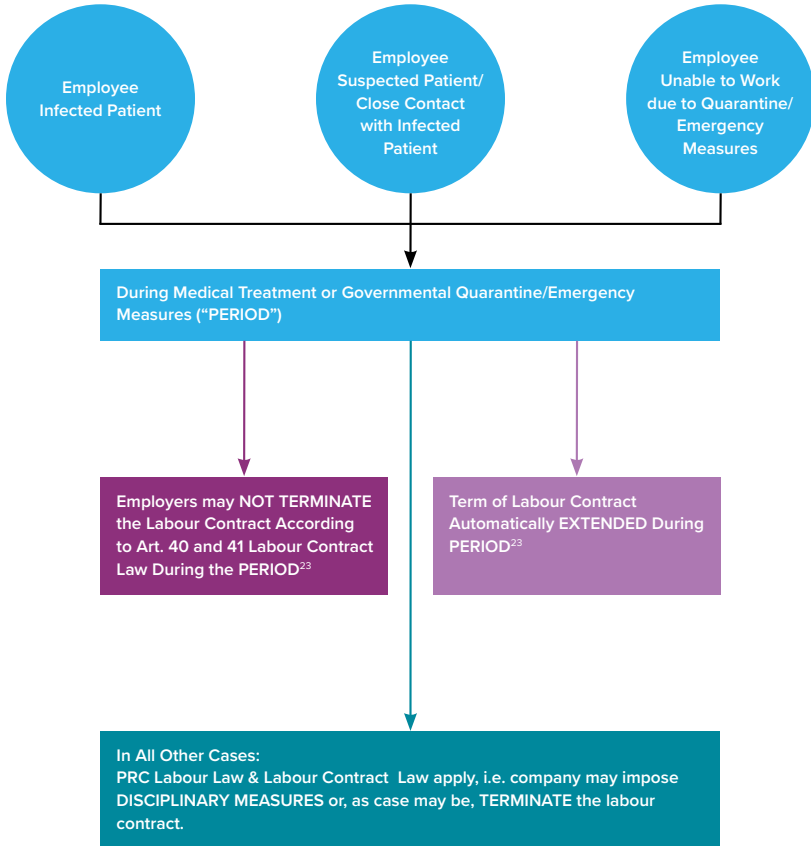
<sup>22</sup> Notice on the protection of medical staff and related staff members infected with COVID-19 due to performance of work duties: <http://www.nhc.gov.cn/renshi/s7759/202001/8ab546a09bbb4bbba2751775e102bf1.shtml>.



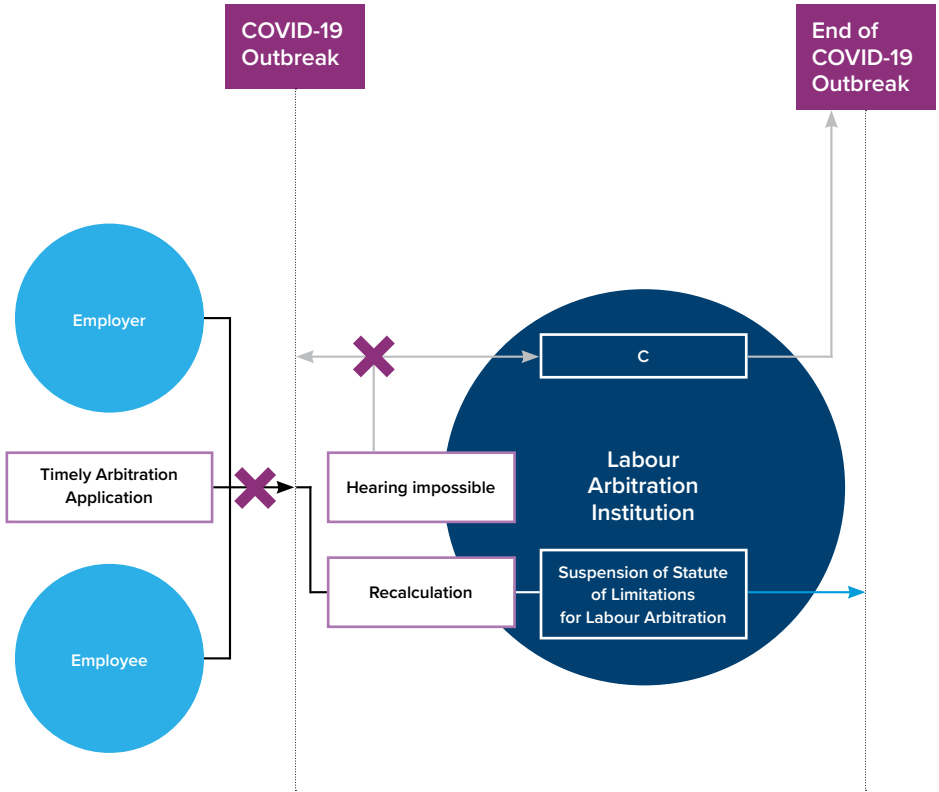
# Impact On Labour Contracts & Arbitration

## EMPLOYMENT TERMINATION

### SCENARIOS/EXTENSION OF EMPLOYMENT



<sup>23</sup> Notice by the General Office of the Ministry of Human Resources and Social Security of Issues Concerning Properly Handling Labour Relations during the Prevention and Control of the Outbreak of Novel Coronavirus Pneumonia: [http://www.mohrss.gov.cn/SYrlzyhshbzb/dongtaixinwen/buneyaowen/202001/t20200127\\_357746.html](http://www.mohrss.gov.cn/SYrlzyhshbzb/dongtaixinwen/buneyaowen/202001/t20200127_357746.html).



<sup>24</sup> Notice by the General Office of the Ministry of Human Resources and Social Security of Issues Concerning Properly Handling Labour Relations during the Prevention and Control of the Outbreak of Novel Coronavirus Pneumonia: [http://www.mohrss.gov.cn/SYrlzyhshbzb/dongtaixinwen/buneyiaowen/202001/t20200127\\_357746.html](http://www.mohrss.gov.cn/SYrlzyhshbzb/dongtaixinwen/buneyiaowen/202001/t20200127_357746.html).

This presentation reflects publicly available laws and regulations until including 4 March 2020.

The PRC Government will likely issue further policies and guidance in light of Covid-19.

We advise you to pay attention to such further governmental action.

### **COVID-19: FURTHER RELEVANT INFORMATION**

Amid the COVID-19 outbreak in the People's Republic of China ("PRC" or "China"), PRC authorities have undertaken resolute measures in order to contain the spread of the COVID-19 epidemic.

Amongst others, various policies on national, provincial and local level to safeguard public health have been issued, complimenting or reinforcing existing statutory PRC labour laws.

These policies provide for mandatory extension of PRC public holidays, mandatory or recommended quarantine measures, restrictions of movement or access to workplaces as well as requirements for enhanced sanitary standards – all having different effects on employment relationships in the PRC.

This Flyer provides an overview of such policies and can be accessed through the following link: [https://www.beiten-burkhardt.com/sites/default/files/downloads/COVID-19%20Outbreak%20in%20China%20Impact%20on%20Employment\\_BEITEN%20BURKHARDT.pdf](https://www.beiten-burkhardt.com/sites/default/files/downloads/COVID-19%20Outbreak%20in%20China%20Impact%20on%20Employment_BEITEN%20BURKHARDT.pdf)



## **COVID-19: FURTHER RELEVANT INFORMATION**

The COVID-19 outbreak in the People's Republic of China ("PRC" or "China") will adversely affect the performance of many domestic as well as international commercial contracts.

The extension of PRC public holidays, flight delays and cancellations, mandatory and recommended quarantine measures as well as other national and international travel bans and restrictions will in many cases limit or eliminate the ability of parties to perform their contractual obligations in part or in full.

As a result, parties may consider to invoke either Force Majeure provisions or claim objective changes of circumstances to limit their civil liabilities and losses.

This Flyer provides an overview of such policies and can be accessed through the following link: [https://www.beiten-burkhardt.com/sites/default/files/downloads/COVID-19%20Outbreak%20in%20China%20-%20Impact%20on%20Commercial%20Contracts\\_BEITEN%20BURKHARDT.pdf](https://www.beiten-burkhardt.com/sites/default/files/downloads/COVID-19%20Outbreak%20in%20China%20-%20Impact%20on%20Commercial%20Contracts_BEITEN%20BURKHARDT.pdf)



## **COVID-19: FURTHER RELEVANT INFORMATION**

A multitude of State- and Local-level policies has been issued to emphasise the PRC government's efforts to tackle the COVID-19 outbreak and to support Foreign Invested Enterprises ("FIEs").

While the State-level measures are mostly of a more general nature and target supply and works directly related to managing the COVID-19 outbreak (e. g. with regard to medical supplies, medical staff, etc.) and have a rather limited direct effect on FIEs, Local-level measures offer more direct and specific preferential treatments / subsidies FIEs may take advantage of in order to soften the impact of the COVID-19 outbreak on their business operations. Mostly, the preferential measures address the economic impact for companies, e. g. by granting companies the right to defer tax filings and tax payments as well as social insurance payments or certain entitlements to refunds or discounts concerning certain social insurance contributions.

This Flyer lists some of the currently known preferential measures and can be accessed through the following link: [https://www.beiten-burkhardt.com/sites/default/files/downloads/COVID-19%20Government%20Support%20Measures\\_BEITEN%20BURKHARDT.pdf](https://www.beiten-burkhardt.com/sites/default/files/downloads/COVID-19%20Government%20Support%20Measures_BEITEN%20BURKHARDT.pdf)





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