



**The Coronavirus Outbreak in China: What shall enterprises pay attention to?**

The shocking outbreak of the coronavirus ("2019-nCoV") and the precautionary measures taken on all sides have been causing considerable effects in China and abroad, not only on the health of those infected, but also on companies, administrations and their employees, whether they are Chinese or expatriates, on their personal and family life, on the education of children, etc. Till February 5, 2020, the officially released number of confirmed infectious patients in China has reached 24,363, and the number of deaths is reported to be 491.

To prevent the spread of virus, PRC governmental authorities have released a series of policies. On January 26, 2020, the PRC State Council announced a notification to extend the Lunar New Year Holidays to February 2, 2020 nationwide. After that, a list of cities and provinces gradually extended the holiday even longer, as well as released different local regulatory policies.

**1. Extension of Chinese New Year**

Employers in China shall abide by the local policies. To be specific, we summarize the following policies in several cities/provinces for your reference.

(1) Wenzhou: Employers cannot resume work earlier than 24:00 on February 17, 2020;

Wenzhou, a major city in Zhejiang Province, which is also one of the most severely infected area, announced the date of resuming normal operation should not before February 17, 2020.

(2) Hubei Province: Employers cannot resume work earlier than 24:00 on February 13, 2020;

Hubei Province, the most severe area of coronavirus, demanded that the date of resuming normal operation shall not before February 13. (Until now, Wuhan, as the most severely infected area, has not released the exact information on whether it will follow the date announced by Hubei Province.)

(3) Other areas: Employers cannot resume work earlier than 24:00 on February 9, 2020.

Most provinces, municipalities and autonomous regions are to resume normal operation as of February 10 (except for enterprises in essential business in the field of ensuring operation of municipalities, epidemic prevention and control, People's daily life, and the national economy and people's livelihoods). We list the following for your reference:

Shanghai	Guangdong Province (e.g. Guangzhou, Shenzhen, Foshan)	Hebei (e.g. Shijiazhuang)
Zhejiang Province (e.g. Hangzhou)	Shandong Province (e.g. Qingdao)	Fujian Province (e.g. Xiamen)
Jiangsu Province (e.g. Suzhou, Nanjing)	Chongqing	Yunnan Province (e.g. Kunming)

**Beijing has a special rule for resume work earlier than February 9**

For essential business in the field of ensuring operation of municipalities, epidemic prevention and control, People's daily life, and the national economy and people's livelihoods, the enterprises concerned can resume the normal operation before February 9. For non-essential business, the enterprises should arrange employees to work from home through flexible means such as telephone and internet. Otherwise, the enterprises should arrange employees to work by using means such as flexible working schedule to avoid gathering or concentration.

For some cities, the rules are not quite clear yet. For example, Tianjin issued a notice previously for informing enterprises in Tianjin to postpone resuming to work. However, the specific date for resuming work is not clear<sup>1</sup>. Till February 5, Tianjin Municipal Human Resources and Social Security Bureau orally confirmed that there are still no detailed rules released.

**2. The salary policy applied during the extension period**

(1) Before February 3, 2020

The extension of the Lunar New Year Holiday before February 3 shall be regarded as the rest days: Therefore, article 44 of the Labor Law of the PRC could be applied in this situation<sup>2</sup> and the employers are obligated to pay at the rate of 200% of the salary to the employees if employees are asked to work on the concerned days.

(2) From February 3 to February 7, 2020 (February 8 and February 9 are Saturday and Sunday):

Till now, not all cities/provinces have issued detailed rules to explain what the nature of these days is, and only a few cities have issued clear instructions. Moreover, the rules already released are quite different. We take Shanghai and Suzhou for example:

City	Policy
Shanghai	Working during this period should be considered as working on rest days. The enterprises are obligated to arrange the days off-in-lieu or pay at the rate of 200% of the salary.
Suzhou	Employees who cannot work during these days should be paid as usual; Employees who worked shall be paid as usual. Besides, employers are encouraged to provide rewards.

Other cities have not released detailed official instructions. By orally checking with Municipal Human Resources and Social Security Bureau in Qingdao, Guangzhou and Shenzhen, the salary shall be paid as usual for employees no matter if worked or not between February 3 to February 7 (working or not depending on if the employer is in essential business).

In Beijing, as stated, employees can work flexibly between Feb 3-7 (via telephone/Internet or adopting flexible working hours to avoid concentrated flow of employees), the salary shall be paid as usual.

**3. Potential liabilities of employers**

(1) Civil liabilities

According to article 77 of PRC Prevention and Treatment of Infectious Diseases Law, enterprises or individuals who lead to the spread and prevalence of infectious diseases or causing harm or property losses to others, it/he shall bear civil responsibility accordingly.

(2) Administrative liabilities

Article 64 of PRC Emergency Response Law states that if the enterprise does not take measures to prevent the potential risks, the local government can demand it to cease the production and business activities, seize temporarily or even revoke its permit or business license and impose a fine of between CNY 50,000 and CNY 200,000. If the enterprise violates the public security administration law, the public security organ shall impose appropriate punishment.

Article 50 of PRC Penalties for the Violation of Public Security Administration Law stipulates that individuals who refuse to carry out the decision or order issued by the government for emergency situation shall be given a warning, and if the circumstances are serious, he shall be detained for not less than five days but not more than 10 days. On February 2, 2020, a textile enterprise located in Jiangsu Province resume production on February 1 (in violation of the rules for resuming to work till Feb 9 in Jiangsu Province). The responsible person in the textile mill was detained for five days due to violation of the aforesaid article 50.<sup>3</sup>

(3) Criminal liabilities

It is stipulated in article 330 of PRC Criminal Law that, whoever, in violation of the provisions of PRC Prevention and Treatment of Infectious Diseases Law, refuse to execute the preventive and control measures and thus causes the spread or a grave danger of the spread of an A Class Infectious disease shall be sentenced to fixed-term imprisonment of not more than 3 years or criminal detention; If the consequences are especially serious, he shall be sentenced to fixed-term imprisonment of not less than 3 years but not more than 7 years.

If an entity commits the crime above, it shall be fined. In addition, persons who are directly in charge and other persons who are directly responsible shall be punished accordingly.

**4. Tax declaration deadline postponed to February 24, 2020**

PRC State Taxation Administration also released a notification<sup>4</sup> to support the enterprises' tax filing during the outbreak of coronavirus. Under the new rules, tax declaration deadline will be extended nationwide to February 24, 2020 nationwide. In addition, such deadline can be further postponed in Hubei province and other regions where the coronavirus is serious.

In addition to the tax declaration, a notification for delay of payment on social insurance was also issued these days. However, detailed rules of delay of payment still need to be further clarified.

**5. The necessary flexibility!**

Beyond these immediate effects, companies and organizations must reorganize their immediate operations, taking into account in particular the following elements:

- The near impossibility of traveling;
- The time periods that can be organized for the fulfillment of contractual obligations;
- The invocation of any force majeure or unforeseen clauses;
- The benefit of insurance contracts;
- The management of administrative or judicial proceedings in progress;
- Etc.

Should you need to have more details of the rules in your city, please feel free to contact us at [asiallians@asiallians.com](mailto:asiallians@asiallians.com).

Please be informed that ASIALLIANS is fully operational in Beijing, Shenzhen, Guangzhou, Hong Kong and Taipei, while our teams based in other Chinese cities having organized themselves to provide service to our clients through telework or team rotation.

1. See [http://www.tj.gov.cn/xw/bdyw/202002/t20200201\\_3668400.html](http://www.tj.gov.cn/xw/bdyw/202002/t20200201_3668400.html)

2. Article 44 of PRC Labor Law:  
Under any of the following circumstances, the employing unit shall, according to the following standards, pay laborers remunerations that are higher than those for normal working hours:  
(1) To pay no less than 150 per cent of the normal wages if an extension of working hours is arranged;  
(2) To pay no less than 200 per cent of the normal wages if work is arranged on rest days and no make-up off days can be arranged; or  
(3) To pay no less than 300 per cent of the normal wages if work is arranged on statutory holidays.

3. See [https://mp.weixin.qq.com/s/\\_bLqTaeRePXgSmmuu6YLA](https://mp.weixin.qq.com/s/_bLqTaeRePXgSmmuu6YLA)

4. See official notification <http://www.chinatax.gov.cn/chinatax/n810341/n810755/c5143135/content.html>

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