



CHINA BRIEFING

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Labor Trends and Risk Management in China 2026

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Introduction



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As China's economy continues to recalibrate, 2026 is shaping up to be a year defined less by aggressive expansion and more by measured, risk-aware growth. For companies operating in or entering the China market, the employment environment reflects this shift clearly. Hiring decisions are becoming more selective, workforce structures more deliberate, and labor management more closely scrutinized.

At the same time, rapid advances in artificial intelligence and digital HR tools are reshaping how employers recruit, manage, and assess talent. These technologies promise efficiency and scalability, yet they are unfolding alongside a labor regulatory and judicial environment that increasingly emphasizes precision, documentation, and consistent implementation. In 2025, China's Supreme People's Court released Judicial Interpretation II on the Application of Law in Labor Dispute Cases, signaling closer examination of employment practices and higher evidentiary standards in labor disputes.

In this context, risk management is no longer a defensive exercise but an integral part of growth strategy. Labor-related risks, ranging from compliance gaps and documentation weaknesses to inflexible workforce structures, can directly affect operational stability, cost control, and long-term competitiveness.

Perhaps most importantly, the experience of recent years has reinforced a simple lesson: sustainable hiring consistently outperforms reactive dispute handling. Companies that invest early in compliant structures, realistic workforce planning, and clear employment frameworks are better positioned to navigate uncertainty and adapt as conditions change.

This issue of *China Briefing* examines the labor trends, regulatory developments, and risk management strategies shaping China's employment landscape in 2026, offering practical insights for decision-makers seeking stability, flexibility, and resilience in a complex operating environment.

With kind regards,

Adam Livermore



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China's Labor Market in 2026: Wage Realignment, Mobility Shifts, and the New Talent Map

China's labor market in 2026 rewards precision over scale: hiring decisions now hinge on role criticality, location strategy, and long-term workforce structure. Wage pressure is increasingly concentrated on specific skills, cities, and functions.



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As China enters 2026, its labor market is settling into a period of adjustment shaped by slower growth, structural demographic pressures, and a more cautious corporate mindset. For foreign invested enterprises (FIEs), this shift has important implications: hiring is becoming more selective, wage growth more differentiated, and workforce planning increasingly tied to location and risk considerations rather than expansion targets alone.

While headline narratives often oscillate between optimism and pessimism, the underlying reality of China's labor market is more nuanced. Costs are not falling, but neither are they rising uniformly.

Talent mobility has not disappeared, but it has become more deliberate. And the traditional dominance of Tier 1 cities is gradually giving way to a more complex, multi city talent landscape.

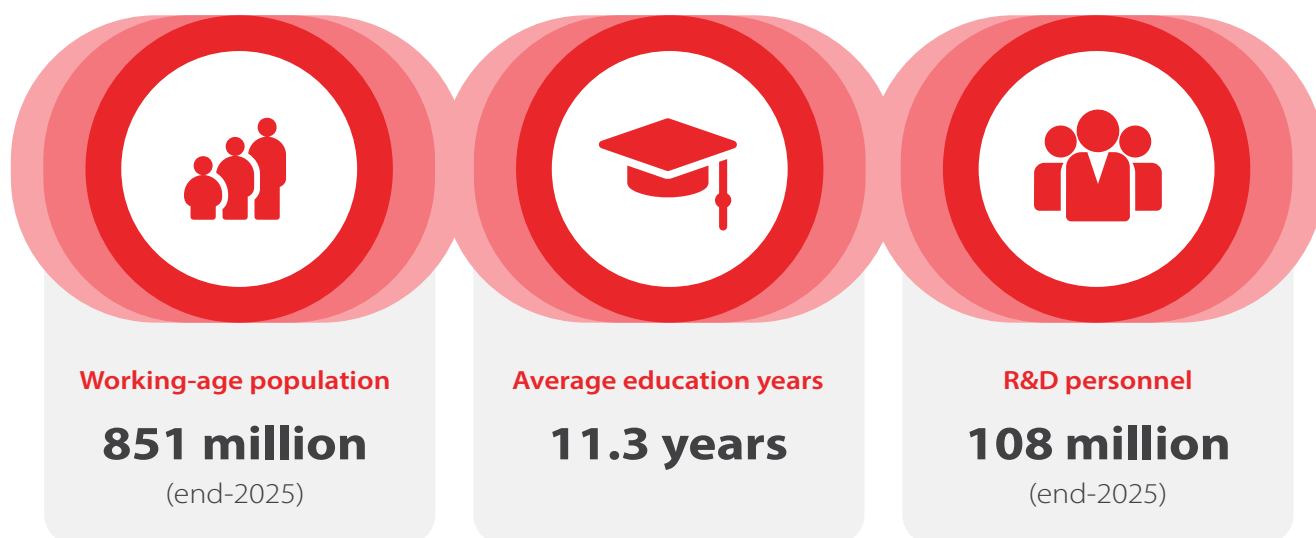
Understanding these dynamics is essential for companies making hiring and investment decisions in China in 2026.

Wage trends: Moderation with pockets of pressure

One of the most common misconceptions about China's labor market is that slower economic growth automatically translates into declining labor costs. In reality, 2026 is shaping up to be a year of wage moderation rather than wage contraction. Salary growth has clearly decelerated from the pre pandemic period, but it has not reversed, and the direction of change varies significantly by role, function, and city.

This moderation is most visible in Tier 1 cities and in mature industries, where wage levels are already relatively high. For many white collar positions, particularly in administrative, support, and mid level management functions, base salary increases have flattened. Employers are increasingly cautious about committing to across the board adjustments, opting instead to link compensation more closely to individual performance, business profitability, and role criticality.

China's Labor Market at a Glance

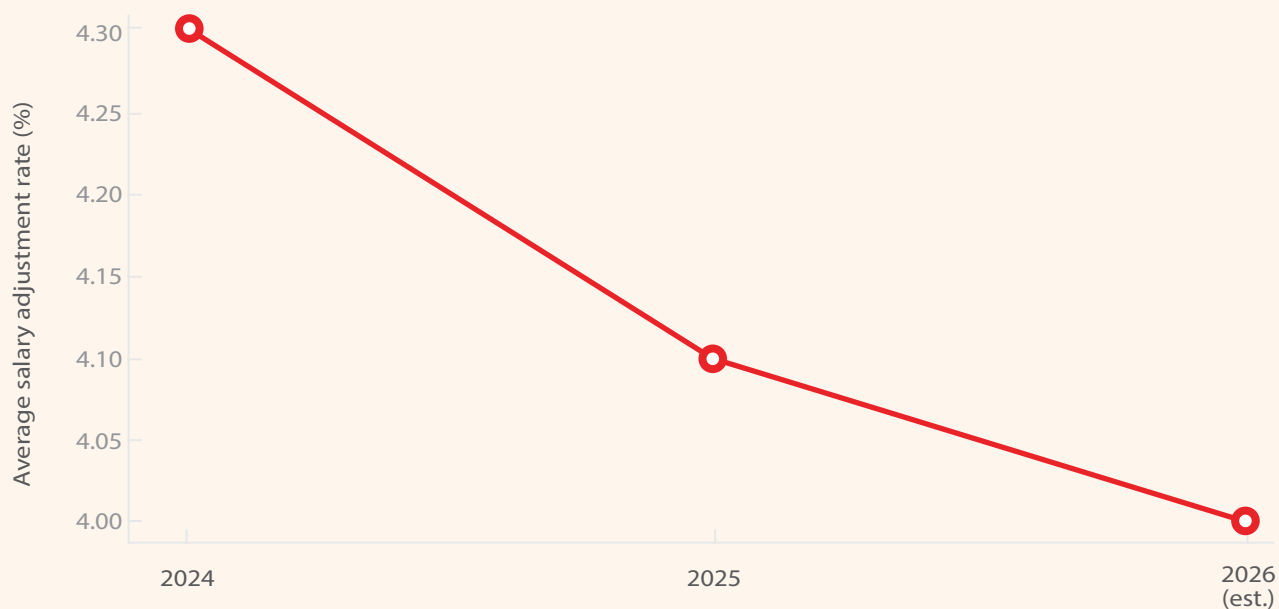


China Employee Job Hopping Rate



Source: 51Job.com

China's Salary Adjustment Trends



Source: 51Job.com

Average Salary Increase by Industry

Industry	2024	2025	2026 (est.)
High Technology	5.2%	4.9%	4.9%
Pharmaceuticals & Healthcare	4.8%	4.4%	4.3%
Manufacturing	4.4%	4.3%	4.3%
Energy & Chemicals	4.6%	4.3%	4.4%
Consumer Goods	4.5%	4.1%	4.0%
Automotive	4.3%	4.1%	4.1%
Transportation / Logistics	4.2%	4.0%	4.0%
Catering / Hotels / Tourism	4.0%	3.7%	3.7%
Financial Services	3.8%	3.5%	3.2%
Culture / Education / Media	3.2%	3.0%	3.0%
Real Estate	3.1%	2.9%	2.8%

Source: 51Job.com

Recent survey data supports this trend. According to 51job's 2026 *Resignation and Salary Adjustment Survey Brief*, 42.8 percent of surveyed companies implemented salary increases in 2025, a slight decline from 44.8 percent in 2024.

The average adjustment rate also edged down, from 4.3 percent in 2024 to 4.1 percent in 2025. Looking ahead, enterprises surveyed anticipate further budget tightening, with the average salary increase expected to dip marginally to around 4.0 percent in 2026 as companies take a more conservative view of revenue and margin growth.

At the same time, wage pressure has not disappeared – it has become more concentrated. Positions linked to technology transformation, advanced manufacturing, compliance, and operational risk management continue to command noticeable premiums. Demand remains particularly strong for AI related roles, experienced engineers, and

professionals capable of navigating complex regulatory or cross functional environments. Even in a slower hiring market, these skill sets remain scarce.

This has resulted in a more polarized wage environment. While average salary growth appears modest at the macro level, companies competing for high value talent continue to face upward pressure, especially when hiring experienced professionals or localizing roles previously held by expatriates. The same 51job survey shows that in 2025, employees in technical R&D and professional skill roles received average salary increases of 5.3 percent, significantly higher than other functional groups.

A similar divergence can be observed between blue collar and white collar labor. Blue collar wages remain heavily influenced by local labor supply conditions, minimum wage adjustments, and overtime availability. In several regions, policy driven minimum wage increases continue to support

income growth at the lower end of the labor market. Survey data indicates that frontline and service employees saw average salary increases of 4.1 percent in 2025, a trend closely linked to national policies promoting income growth among skilled and frontline workers. White collar compensation, by contrast, is increasingly shaped by role specificity and skill scarcity rather than by general market momentum.

Notably, salary adjustment rates across different cities declined slightly year on year in 2025, with new Tier 1 cities recording average increases of around 4.1 percent, largely in line with established Tier 1 cities. This convergence reflects both cost pressures in emerging hubs and greater discipline in compensation management nationwide.

For employers, the key challenge in 2026 is therefore not managing wage inflation across the board but identifying where wage pressure persists and where it has eased. As salary increase budgets tighten further, HR strategies are evolving accordingly. Companies are prioritizing differentiated incentives over uniform adjustments, concentrating resources on high value roles with proven impact.

The 51job.com's survey results suggest that "performance based differentiated salary increases" and "preferential adjustments for core employees" have become the two most widely adopted approaches, selected by 45.7 percent and 40.7 percent of companies respectively. In contrast, only a small minority of firms continue to rely on uniform, across the board adjustments.

Meanwhile, non monetary measures, such as flexible benefits, clearer career development pathways, and improved performance feedback, are playing a larger role in maintaining engagement when salary growth is limited.

Talent mobility: From opportunism to selectivity

China's job hopping culture has undergone a visible shift since the peak mobility years of the late 2010s, and the immediate post pandemic rebound. While labor mobility remains a defining feature of the market, it has become more selective and risk aware.

In 2024 and 2025, many employees prioritized job security over rapid advancement, particularly in large cities where hiring competition intensified and layoffs in certain sectors reshaped expectations. This trend has not reversed heading into 2026.

For a broad segment of the workforce, especially mid career professionals, stability, employer reputation, and long term development prospects now weigh more heavily than short term salary gains.

That said, mobility has not disappeared but simply become more segmented. Employees with skills aligned to growth areas, particularly AI, digital transformation, and advanced manufacturing, remain more willing to change jobs, often seeking roles that offer both higher compensation and stronger development trajectories.

For these candidates, the market still rewards movement, albeit with greater scrutiny on employer credibility and role substance.

Sectoral patterns further highlight this divergence. Consumer facing service industries such as catering, hospitality, and tourism continue to record the highest turnover, with a 2025 attrition rate of 16.5 percent, only marginally lower than the previous year. Manufacturing followed closely at 15.7 percent, reflecting ongoing industrial upgrading, production line optimization, and workforce restructuring amid digitalization and

“dual carbon” pressures. While demand for skilled technicians has strengthened, frontline production roles continue to face higher churn.

The real estate sector, though seeing a modest decline from 2024, remains under pressure, with a 15.4 percent attrition rate as industry consolidation and personnel optimization persist.

By contrast, transportation, logistics, and related sectors saw the most pronounced improvement in workforce stability in 2025, with attrition falling by 1.4 percentage points year on year.

This trend reflects the maturation of logistics networks and the increasing use of flexible employment models, which together are contributing to more resilient employment ecosystems in these industries.

This divergence has important implications for employers. Attrition risk is no longer evenly distributed across the workforce. Instead, it is concentrated on specific functions and skill categories.

Companies that fail to address development pathways and role clarity for high value talent may experience turnover even in an otherwise stable labor market, while those relying on generalized salary increases may find diminishing returns.

The evolving city tier equation

Perhaps the most significant structural shift in China’s labor market is the gradual rebalancing of talent across cities.

While Beijing, Shanghai, Shenzhen, and Guangzhou remain central to China’s business ecosystem, their dominance as default hiring locations is

increasingly being questioned. Tier 1 cities continue to offer deep talent pools, mature professional services, and strong infrastructure.

However, they also come with higher labor costs, more intense competition for skilled professionals, and stricter compliance and enforcement environments.

For many companies, especially those with established China operations, the question is no longer whether to operate in Tier 1 cities, but which functions genuinely need to be located there.

At the same time, a group of “new Tier 1” and strong Tier 2 cities, including Chengdu, Hangzhou, Chongqing, Suzhou, Nanjing, Wuhan, Ningbo, and others, are attracting increasing attention from both employers and job seekers.

These cities benefit from growing university talent pipelines, supportive local policies, and lower overall employment costs, while offering living standards that appeal to younger professionals.

For certain functions, particularly back office operations, shared services, engineering support, and even some technology roles, these cities now offer genuine labor cost arbitrage without the severe talent constraints once associated with non Tier 1 locations.

However, this arbitrage is not automatic. Savings depend on realistic expectations around productivity, management oversight, and retention.

Companies that relocate functions without adapting management structures or compliance processes often find that initial cost advantages erode over time. In 2026, effective workforce location planning increasingly involves a multi city approach rather than a single hub model.

Demographics and the growing skills mismatch

Underlying these market dynamics is a longer term structural challenge: China's demographic transition. Although the country still maintains one of the world's largest labor forces, with the 16–59 working age population standing at around 851 million at the end of 2025, this cohort is gradually shrinking, while the average age of workers continues to rise.

At the same time, the economy's demand for advanced technical, digital, and management capabilities is accelerating, creating a widening gap between labor supply in aggregate and skill availability in practice.

This creates a growing mismatch between labor supply and labor demand. On one hand, there is no shortage of workers in aggregate terms.

On the other, employers frequently report difficulty hiring professionals with the specific skills required to operate automated systems, manage complex compliance environments, or support digital transformation initiatives.

As China invests heavily in automation, robotics, and AI, the demand for skilled operators, engineers, and managers capable of integrating technology into business processes continues to rise. Yet, training and reskilling systems are still catching up with this pace of change.

For employers, this means that labor availability alone is no longer a reliable indicator of hiring ease.

In this context, competition for skills is likely to intensify even if overall employment growth remains modest.

What this means for employers in 2026

Taken together, these trends point to a labor market that rewards precision rather than scale. Hiring strategies in 2026 must be localized, role specific, and aligned with realistic assessments of both cost and risk.

Compensation strategies should reflect market moderation while remaining flexible enough to address genuine skill shortages.

Workforce planning must anticipate uneven attrition patterns rather than relying on historical averages.

Most importantly, sustainable hiring is increasingly about structure rather than speed. Companies that invest in clear role design, compliant employment frameworks, and thoughtful location planning are better positioned to navigate China's evolving labor environment than those focused solely on short term cost savings or rapid expansion.

In a market shaped by adjustment rather than acceleration, disciplined workforce strategy has become a competitive advantage. 



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AI Technology in China's Hiring and Workforce Management

AI is changing how HR functions operate in China, but it does not change who is accountable. Technology may automate processes, but legal responsibility remains firmly with the employer.



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Artificial intelligence (AI) and other technologies are rapidly reshaping how companies recruit, manage, and pay their employees in China. From automated CV screening and interview scheduling to payroll processing and performance analytics, AI enabled tools are increasingly embedded in day to day human resource (HR) operations.

For many employers, particularly foreign invested enterprises (FIEs) under pressure to improve efficiency and control costs, these technologies offer clear appeal. Yet, China's regulatory, judicial, and operational environment places important constraints on how far HR automation can go. In practice, AI adoption in hiring and workforce management has not reduced employer responsibility.

Instead, it has shifted where risks arise and how they must be managed. As companies look toward 2026, the central question is no longer whether AI should be used in HR, but how it can be deployed without creating new compliance and dispute exposure.

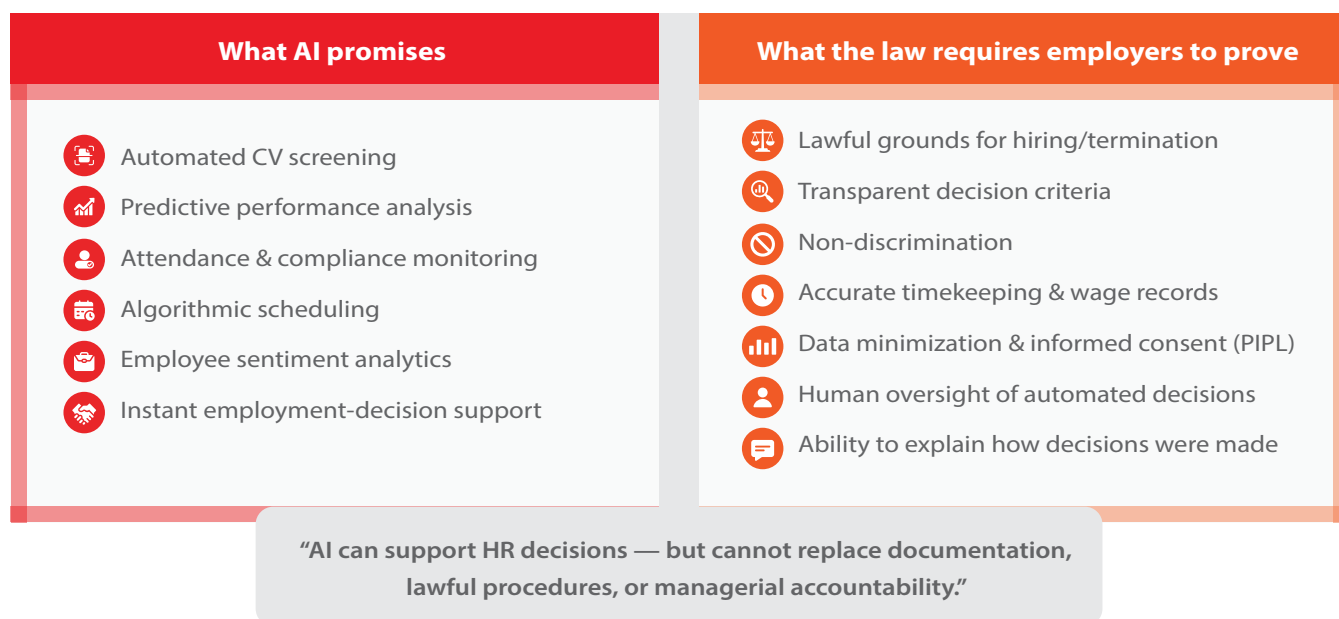
Technology adoption is accelerating but unevenly

The use of AI and digital tools in China's HR functions has expanded quickly over the past few years, driven by labor cost pressures, increased competition for skilled talent, and the growing sophistication of local HR technology providers.

Recruitment platforms increasingly rely on automated CV screening, keyword matching, and candidate scoring to narrow large applicant pools. AI assisted scheduling tools are widely used to coordinate interviews, while chatbots handle basic candidate inquiries.

Beyond recruitment, many companies are also digitizing HR administration. HR information systems (HRIS) are now commonly used to manage employee records, attendance, leave, and performance data. Payroll automation has become particularly attractive, given the complexity of China's tax, social insurance, and housing fund

AI Promise vs. Legal Responsibility



calculations, which vary by city and are subject to frequent adjustment.

However, adoption remains uneven. Large multinational companies and mature FIEs tend to have more integrated HR technology stacks, often combining global systems with localized China modules. Small and medium sized enterprises, by contrast, frequently rely on fragmented solutions or third party platforms, adopting automation in a piecemeal way.

This gap is not simply technological but reflects differences in compliance awareness, internal governance, and risk tolerance. As a result, while AI is increasingly present across China's HR landscape, the degree of oversight and integration varies significantly, and so does the risk profile.

What AI can and cannot do in recruitment

In recruitment, AI's strengths are most evident at the early stages of the hiring process. Automated screening tools can rapidly process large volumes of

CVs, identify candidates who meet baseline criteria, and reduce administrative burdens on HR teams. Interview scheduling software improves coordination efficiency, while predictive analytics can help identify patterns in candidate success or attrition.

These efficiencies are particularly valuable in China's high volume hiring environment, where popular roles may attract hundreds or thousands of applications.

Used appropriately, AI can shorten time to hire and free HR professionals to focus on higher value tasks such as candidate engagement and decision making. At the same time, AI's limitations are equally important. Automated screening systems rely heavily on predefined criteria and historical data.

In practice, this can lead to over filtering, excluding candidates with unconventional backgrounds, cross industry experience, or non standard career paths – profiles that are often valuable in China's rapidly evolving economy. Over reliance on algorithmic screening may also reinforce existing biases embedded in past hiring data.

More importantly, AI cannot replace human judgment in assessing cultural fit, role adaptability, or long term development potential. In China, where job scopes frequently evolve and where labor disputes often hinge on how roles are defined and managed in practice, these qualitative assessments remain critical. Employers that treat AI outputs as final decisions rather than decision support tools risk both talent misalignment and legal exposure.

Legal and compliance constraints on HR technology

China's legal framework places clear boundaries on how employee data can be collected, processed, and used. Personal information protection, data security, and cybersecurity regulations require employers to define legitimate purposes, limit data collection to what is necessary, and obtain appropriate employee consent. These obligations apply regardless of whether decisions are made by humans or algorithms.

AI systems used in HR often process sensitive personal data, including employment history, performance evaluations, attendance records, and, in some cases, biometric or behavioral information. If data flows across borders or between systems, additional scrutiny applies. Employers remain responsible for ensuring that HR technology vendors comply with China's data localization and security requirements.

Algorithmic decision making also raises evidentiary issues. In labor disputes, employers must be able to explain and substantiate employment decisions, such as hiring rejections, performance assessments, or terminations. An opaque algorithm that cannot be clearly interpreted or documented may weaken an employer's position in arbitration or court proceedings.

Chinese labor authorities and courts tend to focus on outcomes and implementation, rather than technological intent. Crucially, accountability does not shift to the technology provider. Even where AI tools are supplied by third party platforms, legal responsibility remains with the employer. This reality makes governance, documentation, and internal review processes essential components of any AI enabled HR system.

AI powered management versus legal reality

Beyond recruitment, some companies are experimenting with AI assisted workforce management tools, including productivity monitoring, performance analytics, and predictive attrition modeling. While these tools can offer useful insights, they also sit at the intersection of management efficiency and employee rights.

Monitoring productivity through digital tools can quickly raise privacy concerns, particularly if data collection is continuous, intrusive, or poorly explained to employees. In China, employee consent must be informed and aligned with a legitimate management purpose. Excessive monitoring may also undermine trust and morale, counteracting the intended benefits of digital management.

Performance data generated by AI systems can also become a double edged sword in labor disputes. If performance metrics are used to justify disciplinary action or termination, employers must ensure that the data is accurate, consistent, and supported by clear performance standards communicated in advance. Inconsistent or poorly contextualized data may be challenged by employees as unfair or arbitrary.

Documentation risk is therefore heightened, not reduced, by AI adoption. Digital systems

generate large volumes of data, but more data does not automatically translate into stronger evidence. Without clear policies, properly localized contracts, and well designed employee handbooks, AI generated records may fail to support the employer's position when disputes arise.

Why "human in the loop" matters in China

Given these constraints, "human in the loop" models are particularly important in the Chinese context. Rather than fully automating decisions, we generally suggest employers use AI as a support layer, augmenting – not replacing – human oversight:

- In recruitment, this means treating algorithmic screening as an initial filter, followed by human review and judgment.
- In performance management, it involves contextualizing data with managerial input and ensuring that decisions are aligned with documented policies.
- In payroll and compliance functions, it requires regular human verification of automated outputs against changing local rules.

Practical implications for employers

For employers operating in China, the growing use of AI and other technologies in HR functions calls for a reassessment of risk management strategies. Digital HR systems do not reduce compliance obligations. Rather, they often increase the need for structured governance and regular review.

Outsourcing certain functions can make sense where complexity is high and internal capacity is limited. Payroll processing, for example, benefits from automation but remains sensitive to local regulatory changes.

Similarly, recruitment support can be enhanced through AI assisted tools when combined with local expertise that understands market conditions and compliance expectations.

At the same time, technology adoption should be accompanied by updates to labor contracts, employee handbooks, and internal policies.

New roles created by digital transformation may require revised job descriptions, performance metrics, and confidentiality clauses.

Clear communication with employees about how data is used and how decisions are made is essential to maintaining trust and reducing dispute risk.

Based on our experience, the most effective HR strategies in China for 2026 are those that integrate technology with human judgment, compliance awareness, and localized execution.

AI can be a powerful enabler, but only when embedded within a framework that recognizes the legal and operational realities of China's labor market. 🇨🇳



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Labor Compliance in China: Enforcement Trends and Documentation Risk

China did not overhaul its labor laws in 2025-2026, but it significantly tightened how existing rules are interpreted and proven. Proactive rule design and proper documentation are critical to staying compliant and defensible in disputes.



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On August 1, 2025, the Supreme People's Court (SPC) released Judicial Interpretation II on the Application of Law in Labor Dispute Cases (Fa Shi [2025] No. 12), effective September 1, 2025, and paired it with typical cases to guide lower courts. The move standardizes outcomes on long contested issues, from when employers must offer open term contracts to how courts identify the "real employer" in co employment set ups, what makes non compete clauses enforceable, and why "salary in lieu of social insurance" is no longer a gray area.

The result is a compliance environment judged less by what is written in a policy binder than by what an employer can evidence, clearly, consistently, and locally.

This chapter concentrates on a handful of determinative issues that now decide most cases. Rather than cataloging symptoms or broad "trends", it unpacks what Interpretation II and recent policy developments actually change in day to day HR, payroll, and dispute handling, and how employers

should adjust documentation and workflows to match.

Two fixed terms or just a long extension?

For years, employers seeking flexibility argued they had only "extended" a first fixed term contract or "switched the contracting entity" within a group, so the count of consecutive contracts had not reached the trigger for a non fixed term (open term) obligation.

Article 10 of Judicial Interpretation II closes that door. Courts must now treat four scenarios as satisfying the "two consecutive fixed term contracts" rule once the extended or renewed term has expired:

- Accumulated negotiated extensions totaling at least one year;
- Automatic extensions agreed in advance that have run their course;
- Contracting entity swaps where the employee, not by their own cause, remains in the same

job/site and the enterprise continues labor management; and

- Other avoidance behaviors that breach good faith.

The purpose is simple: where the relationship has walked and worked like two cycles, it will be treated as two cycles.

This national baseline interacts with existing local practice. In places such as Beijing, Jiangsu, and Shenzhen, courts historically counted extensions more aggressively (some used a six month threshold), while Shanghai long preferred a case by case inquiry into substance over form. By setting “accumulated one year” as a floor for negotiated extensions and expressly counting automatic extensions and entity swaps, Article 10 narrows divergence and raises predictability across regions, even as stricter local thresholds may continue to apply where they are already in force.

Shanghai is also moving closer to the national mainstream on what happens after two cycles. Local guidance and case signals in 2025 indicate that when two fixed term contracts have run and the employee requests an open term, courts are increasingly likely to expect the employer to agree unless a lawful ground for dismissal exists under Articles 39 or 40(1)(2) of the Labor Contract Law. The city’s earlier reputation for leaving employers more room not to renew upon second term expiry is giving way to the SPC’s broader emphasis on employment stability. In practical terms, the end of a second cycle should now be treated as a conversion checkpoint, not an exit lever.

What this means in practice

Judicial Interpretation II requires employers to move from ad hoc contract handling to planned,

evidence based labor management. In practice, HR teams should use shorter initial fixed terms to assess suitability, while adopting longer, role specific renewals for key positions to avoid unintentionally triggering non fixed term obligations. Contract expiry must be managed early and proactively, with careful assessment, timely communication, and strict control over extensions, as cumulative extensions of one year or more may count as a new contract cycle.

Once an employee qualifies for a non fixed term contract, employers should plan for it rather than rely on expiry as an exit, strengthening disciplinary systems and performance management to preserve lawful termination pathways. Where fixed terms continue beyond two cycles, employers should retain clear evidence of employee initiated or mutually agreed renewals. Finally, HR policies must be dynamically adjusted to local judicial practices, especially for multi location operations, through continuous monitoring of regional court and arbitration trends.

Social insurance: “Cash out” arrangements are void and costly

Some employers have long relied on grey area social insurance arrangements to reduce short term costs or accommodate employee preferences. Common examples include paying part of the employer contribution as a cash allowance, excluding employees from social insurance during probation, or agreeing not to enroll employees who already participate in schemes elsewhere.

While these practices were sometimes tolerated in enforcement and unevenly treated by courts, Article 19 of the Judicial Interpretation II removes any remaining ambiguity. Agreements to waive social insurance or replace it with salary payments are

expressly invalid, regardless of employee consent. Where an employer fails to contribute as required, employees may terminate the contract and claim statutory severance, even if they previously agreed to the arrangement. Subsequent back payments do not rectify the original violation, although employers may recover duplicative “social insurance subsidies” already paid. Typical cases released alongside the interpretation, including *Zhu v. Security Company*, demonstrate how courts are applying this principle.

This dovetails with an enforcement environment in which local labor and tax bureaus are increasingly data matching monthly individual income tax (IIT) filings with social insurance submissions to flag mismatched bases, delayed registrations, or probation exclusions.

In 2025, inspections in major cities prioritized overtime and social insurance compliance. 2026 will see continued scrutiny and fewer soft landings. In such a setting, “good faith” arguments: “the employee wanted the extra cash” no longer dilute liability. The rule is strict and the remedy (severance) is now clearly labeled.

What this means in practice

Social insurance compliance must now be treated as a core, non negotiable HR control, not a flexible compensation item.

Employers should assume that any deviation from statutory contribution requirements can directly trigger severance liability, rather than being resolved through later rectification. HR and payroll teams should regularly reconcile IIT filings with social insurance records, ensure contribution bases match contractual salaries, and enroll employees from day one, including during probation and internal transfers.

Legacy arrangements that convert social insurance into cash allowances should be eliminated from templates and policies. Where historical non compliance exists, employers should correct it promptly and retain clear documentation of back payments and reimbursement arrangements. In disputes, the ability to demonstrate timely correction and standardized compliance may mitigate risk, but it will no longer excuse liability arising from the original failure to contribute.

Mixed employment and “who is the real employer?”

Group structures and outsourcing models often produce roles that are managed by one entity, paid by another, and listed on the payroll or social insurance of a third.

Article 3 of Judicial Interpretation II codifies how courts will determine the substance of such arrangements. Where a written labor contract exists, it will prevail. In its absence, tribunals will identify the actual employer based on labor management acts, including who assigns work, controls working hours, evaluates performance, pays wages, and contributes social insurance. Where the facts indicate shared control and benefit, courts may impose joint liability for wages and benefits on affiliated entities, unless those responsibilities were lawfully allocated through agreements consented to by the employee. The target is clear: structures that shift workers among paper entities to avoid liability will no longer adequate to shield employers from claims.

Commentary and practitioner analyses underline the same point: courts will emphasize management control and social insurance/wage evidence rather than labels such as “dispatch”, “outsourcing”, or “affiliation” when deciding who owes what. In effect, if the documents do not match how work is actually

organized and supervised, businesses should expect a substance over form ruling, with joint liability for the affiliates involved.

What this means in practice

To mitigate legal risks arising from mixed or cross entity employment, businesses should prioritize clear employment structures, corporate separation, and strong documentation. Each legal entity within a group should operate independently in HR, finance, and daily management, with managers supervising only employees of their own entity and intercompany transactions conducted on an arm's length basis.

Employment relationships should follow a clear "four in one" principle, whereby the same entity: (i) signs the labor contract, (ii) pays wages, (iii) contributes social insurance, and (iv) manages the employee's work. Where cross entity work is unavoidable, employers should use formal secondment or part time arrangements, supported by intercompany agreements and the employee's informed, written consent.

Throughout the employment lifecycle, employers should consistently identify the legal employer in contracts, payroll, attendance records, and social insurance filings. At termination, service history across affiliates should be carefully reviewed and documented. Ultimately, informal or undocumented staffing arrangements should be avoided, as courts will prioritize substance over form and may impose joint liability where responsibilities are blurred.

Over retirement age workers: From ambiguity to a rights list

Over retirement age workers refer to individuals who have exceeded the statutory retirement age

but choose to continue working. This group has expanded rapidly as China begins implementing its gradual retirement age reform.

From January 1, 2025, China officially entered a phased retirement reform period. Unless otherwise specified, the statutory retirement age will be gradually extended over 15 years:

- For male employees and female employees previously retiring at 55, the retirement age is delayed by one month every four months, reaching 63 and 58, respectively.
- For female employees previously retiring at 50, the delay is one month every two months, reaching 55.

Employees who meet the minimum pension contribution period may opt for flexible early retirement of up to three years, but not below the original statutory retirement thresholds. Conversely, employees who reach the statutory retirement age may, with employer consent, choose flexible delayed retirement for up to three years.

The long-standing legal dilemma

Despite policy encouragement to retain older workers, legal protection for over retirement age workers has historically been weak. Under the current Labor Contract Law, once an individual begins lawfully receiving basic pension benefits, the labor contract is deemed terminated. As a result, over retirement age workers often fell outside the scope of labor law protection and were routinely classified under service relationships, limiting their access to labor arbitration and statutory remedies.

At the same time, the *Decision on Implementing the Gradual Delay of the Statutory Retirement Age*, adopted by the NPC Standing Committee in

September 2024, explicitly requires employers hiring over retirement age workers to safeguard core rights, including remuneration, rest and leave, occupational safety and health (OSH), and work injury protection. This created a clear policy–law mismatch.

Judicial interpretation II ends the one-size-fits-all approach

This tension is mitigated in Judicial Interpretation II. Article 21 repeals the provision in Judicial Interpretation I that required disputes involving pension receiving retirees to be automatically treated as service contract disputes. The repeal signals an end to the former “one size fits all” judicial approach and opens the door to a more nuanced framework that recognizes and protects over retirement age workers’ rights in specific areas.

In practice, courts must now first assess the nature of the relationship rather than defaulting to a service contract classification. This marks a fundamental shift in judicial thinking, aligning adjudication with the broader retirement reform policy.

A rights list approach: MOHRSS draft regulations

Another significant development came on July 31, 2025, when the Ministry of Human Resources and Social Security (MOHRSS) released the Draft Provisional Regulations on the Protection of Basic Rights of Over Retirement Age Workers. Instead of focusing on whether the relationship is labeled a labor or service relationship, the draft adopts a “rights list” approach.

Under this framework, as long as an individual is subject to the employer’s management and provides paid labor, the employer must safeguard a defined set of core rights, regardless of how the relationship is named. These rights include labor

remuneration, rest and leave, OSH, and work injury protection.

Crucially, Article 20 of the draft provides that disputes arising from these core rights fall under the Labor Dispute Mediation and Arbitration Law. This restores access to labor arbitration for over retirement age workers in these key areas, replacing the slower and costlier civil litigation route that previously applied.

Work injury insurance: Toward a national framework

Work injury protection has been one of the most contentious issues in over retirement age employment. While no unified national rule currently exists, several regions, including Shanghai, Sichuan, Hunan, and Liaoning, have already adopted local policies requiring work injury coverage for over retirement age workers.

The MOHRSS draft regulations also explicitly requires employers to enroll over retirement age workers in work injury insurance, signaling that a nationwide scheme is taking shape.

What this means in practice

These developments reflect a fundamental shift in China’s approach to over retirement age employment, moving away from formalistic classification and toward substantive protection of core rights. For employers, compliance risk is no longer determined by whether the relationship is labeled as a labor or service arrangement, but by whether remuneration, rest and leave, occupational safety, and injury protection are effectively safeguarded and properly documented.

Written agreements, appropriate job design, work injury insurance enrollment where available, and

preparedness for labor arbitration will be central to managing over retirement age employment risks in 2026 and beyond.

In regions where over retirement age workers are not yet covered by statutory work injury insurance, employers should proactively explore alternative risk mitigation measures.

These may include purchasing commercial accident or employer liability insurance, enhancing workplace safety training, adjusting job intensity, and strengthening internal incident response procedures. While such measures do not replace statutory obligations, they can help reduce exposure during the current policy transition period and demonstrate good faith compliance in the event of disputes.

Non compete clauses: Narrower targets, clearer remedies

Judicial Interpretation II narrows abuse of non compete clauses while confirming their value in appropriate roles.

Article 13 provides that where an employee did not know or access trade secrets or IP related confidential matters, a non compete does not take effect. Even for covered employees, overbroad scope, territory, or duration, out of proportion to the secrets the employee actually handled, can be partially invalidated.

Article 14 confirms that employers may agree in service non compete obligations with senior managers, senior technical staff, and others with confidentiality duties, and courts will not invalidate such clauses merely for lack of in service compensation (which is distinct from local practice on post employment compensation).

Article 15 provides that where a valid non-compete is breached, employers may recover both paid compensation and liquidated damages as agreed. Taken together, these provisions reward precision over boilerplate, requiring companies to align restrictive covenants with the confidential information that specific roles actually access.

What this means in practice

Employers may wish to move away from one size fits all non compete clauses and adopt a more tailored approach. In practice, this means considering the specific role and identifying the types of confidential information the employee is actually exposed to, such as client data, pricing models, formulas, or algorithms, and then calibrating the scope, territory, and duration of the non compete accordingly.

To support enforceability, companies can also consider maintaining basic records that reflect an employee's access to sensitive information, for example system permissions, document access, or project participation. This can help demonstrate why a non compete applies to a particular individual. Where non compete obligations are breached, agreements may reasonably provide for both the return of paid compensation and liquidated damages.

Double wage: Liability and defenses are now clearer

Judicial Interpretation II also addresses a frequent flashpoint: double wages arising from the failure to conclude a written labor contract on time. Article 6 standardizes calculation rules, requiring monthly calculation and pro rata adjustment based on actual workdays where the employment period is less than one month. Article 7 recognizes limited defenses where employers can prove force majeure,

or demonstrate that the delay was caused by the employee's intentional refusal or gross negligence.

Article 8 further clarifies that where statutory protected periods trigger a continuation of the labor relationship, such as during medical treatment or a union office term, this will not be treated as a "no written contract" situation for purposes of double wage liability. Commentators note that these provisions reduce prior inconsistencies without relaxing the core obligation: employers must ensure contract execution within 30 days of commencement.

Key takeaway

As China enters 2026, labor compliance outcomes are increasingly shaped not by abstract legal principles, but by how convincingly an employer can demonstrate that its documents reflect reality. Arbitrators and judges are less concerned with whether a company has the "right" clauses on paper, and more focused on whether contracts, internal rules, payroll records, and social insurance filings tell the same story as the way people are actually managed and paid.

Where compliance is internally consistent, disputes tend to narrow quickly. If the employment contract accurately reflects the employee's role, the employee handbook aligns with the chosen working hour system, payroll and individual income tax filings match the contractual salary, and social insurance contributions are made on the correct base – the factual framework is usually clear.

Similarly, when renewal decisions are planned and documented well in advance, rather than handled reactively at expiry, employers are better positioned to manage expectations and reduce litigation risk.

By contrast, disputes escalate when form and substance diverge. Common examples include employees working across group entities without formal secondment arrangements, social insurance bases are set below contractual pay, or repeated "extensions" are used in place of proper renewals. Judicial Interpretation II explicitly empowers courts and arbitration panels to look beyond labels and identify the real employment arrangement, assigning responsibility accordingly. In such cases, incomplete or inconsistent documentation often becomes the employer's weakest point.

Enforcement trends reinforce this direction. Labor inspections in 2025 placed particular emphasis on overtime compliance, probation practices, and social insurance participation, all of which are increasingly supported by digital data matching across tax and social security systems.

This trajectory is expected to continue in 2026, with supervision becoming more localized and more evidence driven. Against this backdrop, good documentation should not be viewed as a bureaucratic burden, but as a frontline compliance tool, one that directly influences how risks are assessed, disputes are resolved, and liabilities are allocated. 



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Managing Labor Risks: Workforce Structuring Strategies for 2026 and Beyond

In 2026, managing labor risk in China is fundamentally about workforce design. Companies that treat employment structures as part of their risk architecture are better positioned to adapt, scale, and operate with confidence.



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China's labor environment in 2026 requires companies to think about workforce structuring as a core risk management function. Judicial Interpretation II, tighter social insurance enforcement, and increasingly data driven inspections have made labor risk more predictable in direction, yet more difficult to correct once embedded. In this context, workforce decisions are no longer purely operational. They shape how risk accumulates, how disputes are assessed, and how resilient an organization is when employment relationships come under scrutiny.

Labor risk has become structural

Labor risk in China increasingly arises from how employment relationships are designed and managed over time rather than arising from isolated compliance failures. Employment stability remains a central policy objective, and dispute resolution bodies tend to assess employer behavior holistically. This means early decisions on contract terms, job design, and contribution practices continue

to influence outcomes years later. Risks tend to accumulate gradually, rather than emerging at a single decision point.

Once a dispute enters arbitration or court, there is limited scope to "reset" the relationship. Arbitrators and judges increasingly examine whether the employer's practices were consistent and reasonable over time. Where gaps exist between written arrangements and actual management, those gaps tend to define liability. This makes labor disputes harder to mitigate retrospectively and places greater emphasis on preventive structuring and documentation.

Mapping risk across the employee journey

Labor risk can be more effectively managed when mapped across the employee journey. At the hiring stage, risk often stems from unclear role definitions, misaligned contract structures, or unrealistic probation expectations. These early design choices later influence flexibility and the availability of lawful exit options.

During onboarding and classification, missteps may occur if working hour systems, contract types, or employment classifications do not reflect how work is actually performed. These issues often remain dormant until triggered by disputes over overtime, social insurance, or termination.

In ongoing management, risk tends to accumulate quietly. Informal role changes, inconsistent performance documentation, undocumented internal transfers, or divergence between contractual salary and social insurance contribution bases may not cause immediate friction, yet they weaken the employer’s position over time.

At the exit stage, accumulated risk crystallizes. Termination and non renewal outcomes frequently depend on the historical record of compliance rather than the final decision alone.

Exploring alternative employment models

As labor risk becomes more structural, companies are suggested to reassess how different workforce models allocate responsibility and exposure.

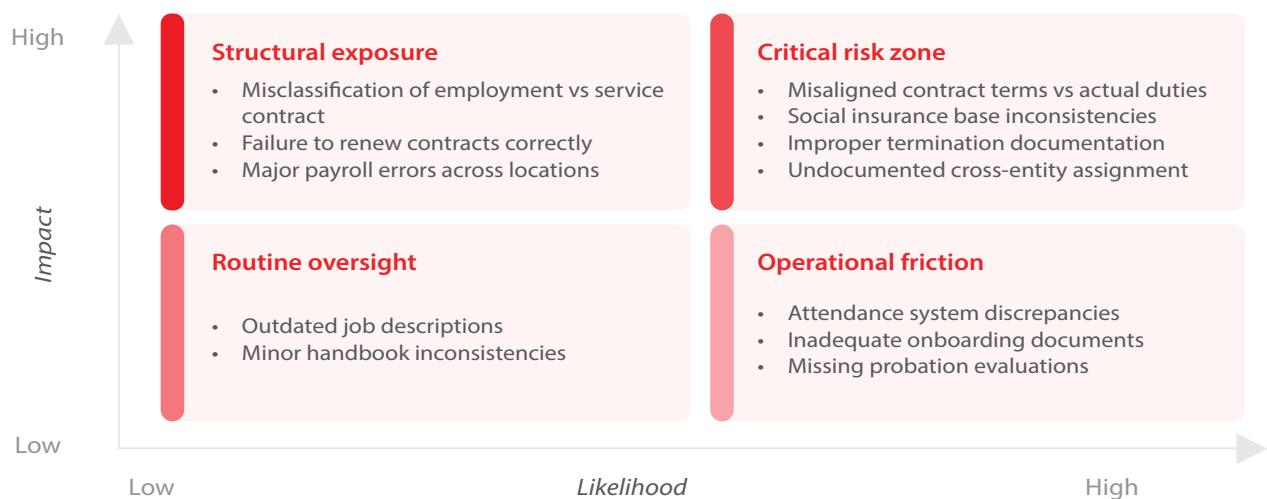
Direct hiring remains the default model for many employers and offers the greatest level of control over personnel and operations. It is most effective where roles are stable, headcount growth is predictable, and internal HR and compliance capabilities are well developed.

Under this model, however, the employer retains full exposure to contract management, social insurance compliance, termination risk, and dispute resolution. Outsourcing can provide operational scalability and administrative efficiency when properly structured. Its effectiveness depends on genuine separation between the company and the outsourced workforce, clear contractual allocation of responsibilities, and limited day to day control. Where outsourcing arrangements blur into de facto employment, courts and regulators may disregard the structure and reassign liability.

Employer of Record (EOR) arrangements are increasingly used for market entry, geographic expansion, project based hiring, and situations requiring speed and flexibility. Under an EOR model, the employment relationship and statutory

Choosing the Right Workforce Model in China: Direct Hire, Outsourcing, or EOR			
	Direct hire	Outsourcing	EOR
Control over daily management	Full control	Shared / limited	Company controls work; EOR handles employment
Compliance responsibility	Employer bears all	Contractor bears, but risk reverts if control is blurred	EOR assumes statutory obligations
Termination risk	High, fully retained	Medium, depending on structure	Lower, handled by EOR
Speed of hiring/expansion	Slow–moderate	Moderate	Fastest
Use cases	Stable, long-term teams	Project-based or non-core roles	Market entry, testing new locations, uncertain headcount

Where Labor Risk Concentrates Across the Employment Life Cycle



compliance obligations sit with a licensed local employer.

This can significantly reduce exposure to contract disputes, social insurance errors, and termination risk, particularly where internal HR infrastructure is limited or where headcount volatility is expected.

Each model involves tradeoffs in cost, control, and risk allocation. Effective workforce structuring requires matching the employment model to the business scenario rather than applying a single approach across all roles and locations.

Building a sustainable labor risk framework

Managing labor risk in China also requires a framework that is continuous rather than reactive. Regular compliance reviews, typically conducted annually, help identify misalignments before they escalate. These reviews should examine employment contracts, internal policies, payroll practices, social insurance contributions, and actual management behavior as an integrated system.

Documentation hygiene plays a central role. Contracts, employee handbooks, performance

records, payroll data, and social insurance filings should be internally consistent and aligned with how employees are managed in practice. In China's labor dispute system, documentary evidence often carries decisive weight.

Seeking external support

Equally important is recognizing when external support adds value. As labor rules become more technical and enforcement more localized, many companies find it efficient to rely on integrated HR services, external advisors, or EOR solutions for specific stages of growth. External support can help standardize practices, monitor regulatory changes, and reduce the burden on internal teams, particularly during expansion or restructuring.



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