

iGlobal Law 2024 Annual Alert : China

Legal Change	Effective Date	Action required
<p>Administrative Measures for Supervision and Report System of the Social Security Funds (the “Administrative Measures”)</p> <p>The Administrative Measures went into effect on May 1st, 2023. According to the Administrative Measures, insured entities suspected of the following conducts can be reported by any organization or individual: (1) fabricating insuring conditions of social insurance or making illegal back payments by providing false certification materials or other means, (2) forging or altering relevant documents, archives, and materials to defraud the social insurance funds, (3) organizing or assisting others to defraud insurance back payments through forged or altered records and materials, early retirement qualifications, or improperly claim social insurance benefits through forged or altered records and materials, and (4) other forms of defrauding, misappropriating, embezzling, or misusing the social insurance funds.</p>	<p>May 1st, 2023</p>	<p>Employers are advised to carry out an internal audit to ensure their human resources departments and the relevant employment contracts are compliant with social insurance fund-related activities. Additionally, employers should bolster internal education for employees to mitigate any potential misunderstandings or misreporting that may arise from a lack of understanding about social security policies.</p>
<p>Rule on the Special Labor Protection for Females in Workplaces (Reference Text) and Rules on Workplace Sexual Harassment Elimination (Reference Text)</p> <p>These rules require employers to formulate bylaws forbidding sexual harassment and provide female employees with special workplace conditions. The Rules set out 4 aspects of protection – (1) labour and employment protection, (2) wage and welfare protection, (3) maternity protection, and (4) occupational safety and health protection.</p> <p>The rules for the elimination of sexual harassment primarily require : (1) employer commitment, (2) publicity and training, (3) employee report and complaint, (4) investigation and disposition, and (5) trade union engagement and supervision.</p>	<p>March 8th, 2023</p>	<p>Employers are advised to verify if they have implemented internal bylaws that address workplace sexual harassment and provide special protection for female employees. If such bylaws are absent, it is imperative that employers promptly establish regulations that are in compliance with the law. Employers can refer to available reference texts and are at liberty to create their own bylaws concerning these issues.</p>
<p>Standard Contract Measures for the Cross-Border Transfer of Personal Information (the “Personal Information Measures”)</p> <p>Employers transferring personal data from Mainland China may be required to adopt and enter the standardized contract formulated by the National Cyberspace Administration with the overseas recipient.</p>	<p>June 1st, 2023</p>	<p>Employers are advised to confirm whether they transfer any personal information from Mainland China to overseas, and if the standardized contract is applicable to them. If so, it is recommended that employers promptly establish a standardized contract with the overseas recipients.</p>

The Personal Information Measures require that a personal information processor shall meet the following criteria in order to adopt the standardized contract: (1) it is not an operator of critical information infrastructure, (2) it processes personal information of less than 1 million individuals, (3) it has cumulatively transferred personal information of less than 100,000 individuals since January 1 of the previous year, and (4) it has cumulatively transferred sensitive personal information of less than 10,000 individuals since January 1 of the previous year.

The personal information processors shall file with the provincial Cyberspace Administration within 10 business days after the standardized contract enters into effect.