Each month, ALB draws on its panel of country editors to bring readers up to date with regulatory developments across the region.

**Regional updates**

**CHINA**

**Paul Weiss**

Reforms in the PRC Labor Dispute Mediation and Arbitration Law

The new Labor Dispute Mediation and Arbitration Law of the PRC will take effect as of May 1, 2008 (“New Law”). The New Law streamlines the existing labor dispute regime and aims to lower costs and resolve labor disputes “fairly and timely”. Major highlights are as follows:

1. Initiating mediation and arbitration of labor disputes will be free of charge.
2. The New Law provides for mandatory mediation prior to an arbitral award is given; and arbitration may be bypassed if the labor dispute concerns arrears in salaries, recovery of medical expenses for work-related injuries, severance payments or penalties under a mediation settlement agreement so that employees may apply to a court directly for payment orders if mediation has failed.
3. Employee’s grounds of appeal to labor arbitral awards are expanded. Employees may now appeal to a court for any adverse arbitral decision for disputes relating to non-payment of salaries, medical expenses for work-related injuries, severance and penalties regarding a disputed amount not exceeding 12-months of local minimum monthly wages, working hours, leave entitlement and social insurance contributions, in contrast with the limited circumstances under the Arbitration Law of the PRC that an employee may have recourse to.
4. Employers are placed with a greater evidential burden. Generally, the burden of proof rests on the asserting party; however, under the New Law, the arbitration tribunal has the power to order an employer to produce evidence in its control, and the employer shall bear the “unfavorable consequences” if it fails to do so.
5. Time limit to apply for arbitration is extended from 60 days to one year from the date when the party knows or should have known that his rights have been infringed. An exception to this rule is for disputes over arrears in remuneration, in which case the limitation period does not run until the relevant employment contract has been expired or terminated.
6. The time to settle labor disputes is significantly shortened. Previously, a labor arbitration case must be concluded within 60 days from the date on which the case was filed (and a possible extension to 90 days in exceptional cases). Under the New Law, an arbitration case should be concluded within 45 days from the date of the commission’s acceptance of the case, with a possible extension up to 15 days for complicated cases.

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