
劳动法视角下我国“竞业限制”法律问题研究

摘 要

随着近年我国市场经济的飞速发展，在激烈的市场竞争环境中。用人单位为了保持竞争力会与劳动者签订竞业限制协议，在签订竞业限制协议条款时，既可与劳动者约定违约金条款，又可与之约定侵权损害赔偿条款。这是一些用人单位为了有效维护自身的合法利益而所采取的保密方法。竞业限制制度在虽然我国国内实行的时间并不长，但被很多用人单位将其视为一种保护其商业秘密及获得市场竞争地位的法宝，在劳动者正式入职初期便与其签订了相关竞业限制协议。但是这些协议往往是劳资双方不对等的产物，里面可能不仅是对劳动者基本择业自由权的直接限制，更可能是基本就业生存权的直接限制。给这些劳动者继续就业发展带来巨大的社会压力，长期以往也将会严重影响经济社会的安定和谐。基于对劳动者合法就业生存权和发展权的依法保护的根本考虑，同时也为了有效维护就业市场的正常性和竞争市场秩序以及维护社会的公共利益，本文主要通过对国外及国内关于竞业限制制度有关条款规定的深入研究，对《劳动合同法》的有关竞业限制相关条款规定提出了更加完善性的建议。

关键词：竞业限制；择业自由权；社会公共利益

Abstract

With the rapid development of China's market economy in recent years, in the fierce market competition environment. In order to maintain competitiveness, employers will sign non-competition agreements with workers, which reflects the confidentiality methods adopted by some employers to effectively safeguard their own legitimate interests. Although the non-competition restriction system has not been implemented for a long time in China, it is regarded by many employers as a magic weapon to protect their trade secrets and gain market competitive position, and relevant non-competition restriction agreements have been signed with workers at the early stage of their formal employment. But these agreements are often the product of unequal labor and capital, which may not only be a direct restriction on the basic freedom to choose a job, but also a direct restriction on the basic right to employment. To these laborer continue to obtain employment development to bring huge social pressure, in the long run will also seriously affect the stability and harmony of the economy and society. Based on the legitimate right to survival and development of employment in accordance with the law to protect the fundamental consideration, also is normal in order to maintain the employment market and competitive market order and safeguard the public interests of the society, this article mainly through to the foreign and domestic about non-compete system in-depth study of the relevant provisions, the "labor contract law" about non-compete related provision more perfection suggestion are put forward.

Keywords: Competition restrictions; Freedom of choice; Public interest

以上内容仅为本文档的试下载部分，为可阅读页数的一半内容。

如要下载或阅读全文，请访问：

<https://d.book118.com/267136155110006121>