

# Challenges and Solutions for Occupational Injury Protection of Workers in New Forms of Employment

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## Abstract

With the rapid development of the digital economy, an increasing number of people have joined the ranks of workers in new forms of employment. However, the current work injury insurance system cannot cover this group, leaving them with weak resilience against risks when facing accidents. Platforms, as the employing entities, also shirk their responsibilities. Given the growing size of this workforce, urgent interim measures for occupational injury protection should be introduced to fulfil the role of work injury insurance. Subsequently, relevant laws and regulations should be gradually amended to decouple entitlement to work injury insurance benefits from the strict requirement of establishing a formal labor relationship. This would expand coverage to more workers, effectively transforming work injury insurance into a de facto occupational injury insurance scheme.

**Keywords:** workers in new forms of employment, occupational Injury, work injury insurance, social security

## 1. Introduction

In recent years, propelled by the rapid development of China's 'Internet Plus' initiative, workers in new forms of employment under various new business models have emerged rapidly, marking a new phase in China's economic development. Accompanying these novel economic and employment patterns are significant challenges to the work injury insurance system posed by complex labor environments, alongside platform workers' substantial need for protection against occupational injuries. Due to the tightly coupled relationship between work injury insurance and formal labor contracts in China, platform workers lack recognized insurance status compared to traditional enterprise employees, rendering the current work injury insurance system largely inapplicable[1]. Establishing occupational injury protection is therefore of paramount importance for this increasingly substantial workforce in new forms of employment.

On March 15, 2021, at the Ninth Meeting of the Central Financial and Economic Affairs Commission, President Xi Jinping emphasized that China's platform economy has experienced rapid growth in recent years, with its status and role in overall economic and social development becoming increasingly prominent. He called for fostering an innovation conducive environment, resolving prominent contradictions and issues, clarifying labor protection responsibilities for platform enterprises, and promoting the standardized, healthy, and sustainable development of the platform economy. In July 2021, eight ministries including the Ministry of Human Resources and Social Security (MHRSS) and the National Development and Reform Commission (NDRC) jointly issued the Guidelines on Safeguarding the Labor Rights and Interests of Workers in New Forms of Employment. This document implements the decisions of the CPC Central Committee and the State Council, supporting and regulating new employment forms while effectively protecting the labor rights of new-economy workers to facilitate the standardized, healthy, and sustainable growth of the platform economy. According to the National Bureau of Statistics, by the end of 2021, China had approximately 200 million flexible workers, a figure projected to rise further. This situation underscores the urgent need to develop feasible occupational injury protection systems.

## 2. Research Regarding Employment Relationships of New Economy Workers

Under China's current legal framework, scholarly debate persists regarding the classification of employment relationships within the new business economy, primarily centering on the criteria for determining labor subordination. Some scholars advocate moving beyond the traditional Labor Law framework, instead applying the Civil Code and Contract Law to regulate platform-based work relationships. Others propose expanding the scope of traditional employment relationships and adapting the assessment methodologies to accommodate the characteristics of the new economy[2]. There are also suggestions to introduce the concept of "atypical

employment relationships" and establish specialized protection mechanisms[3]. Additionally, certain research defines specific platform-based work arrangements as collaborative business relationships, emphasizing features like risk-sharing and profit-sharing[4]. These debates underscore the complexity of classifying employment relationships and the challenges in legal application under new technological conditions.

### **3. The Challenges in Occupational Injury Protection for Workers in New Forms of Employment**

#### *3.1 The Tight Coupling of Employment Injury Protection and Labor Relations*

China's current primary mechanisms for mitigating employment-related risks consist of employment injury insurance and supplementary commercial insurance. The major social insurance programs—pension, medical, maternity, employment injury, and unemployment insurance—are typically bundled as an integrated package during enrolment.

It can be argued that the entire social insurance system is predicated on the establishment of labor relations. This signifies a tightly coupled relationship between the social insurance framework and labor relations: once the prerequisite of an employment relationship ceases to exist, workers lose access to their entitled benefits.

Under these conditions, China's current regulatory framework requires Workers in New Forms of Employment to establish formally recognized labor relations with their platforms through signed labor contracts to access employment injury insurance benefits. Compared to traditional employees' fixed work patterns, these workers exhibit significant flexibility and unpredictability in working hours, locations, and task assignments, retaining substantial labor autonomy. Recognized labor relations would entitle workers not only to employment injury insurance but to all social insurance benefits—including pension, medical, and maternity coverage. This would substantially increase labor costs for new-economy enterprises, a scenario they strongly oppose, and could significantly impede the industry's development. The "platform + individual" employment model fundamentally weakens workers' economic and personal subordination to platforms. Some even engage in such work part-time after regular employment to supplement income. In such cases, occupational injuries sustained may nullify eligibility for pre-existing employment injury coverage.

The current tight coupling of employment injury insurance with labor relations creates a binary confrontation: addressing occupational injury risks for workers inherently impedes the development of the new-economy sector. If this dichotomy remains unresolved, workers in new forms of employment will continue to fall outside the social protection framework. Given their rapidly growing workforce, this situation now constitutes a grave risk to both economic expansion and social stability.

#### *3.2 "Coerced Involvement Phenomenon" among Workers in New Forms of Employment*

Although workers in new forms of employment may appear to enjoy significant autonomy in their work, they often face a phenomenon of "being coerced" in their actual labor process, where they are required to perform tasks beyond their current job scope. They frequently find themselves entrapped by platform algorithms, economic incentives, and customer "coercion."

New business model enterprises often implement highly rigid rules and regulations for calculating wages, where any violation directly results in pay deductions. These platforms establish distinct pricing and remuneration systems for peak demand periods versus regular hours. While peak periods offer higher rates and apparently more lenient time allowances, this allotted time is consistently insufficient for workers to safely and punctually complete assigned tasks. Food delivery riders, for example, frequently resort to running red lights during peak hours to shorten delivery times. The nature of control exerted by these companies has shifted from spatial supervision to temporal constraints. This method aligns with the flexible work patterns characteristic of gig economy workers but constitutes a form of control intensely focused on outcomes. Payment is guaranteed solely upon completing tasks within the stipulated time frame, with no restrictions on how the work is done. The seemingly 'relaxed' time allowances are, in reality, meticulously calculated by corporate algorithms analyzing vast order data to produce a superficially reasonable time frame. In practice, however, workers aiming to maximize earnings during high-pay peak periods often feel compelled to 'cut corners' to save time and complete more orders. Furthermore, these workers typically interact directly with customers. During service delivery, some customers make requests beyond the defined task scope. Fulfilling these extra demands introduces unnecessary risks. For instance, a rider asked to 'quickly pick up an extra item' faces even greater time pressure, compounded by the threat of negative customer ratings. This often forces riders to adopt riskier methods, such as frequent traffic violations, to meet deadlines. Consequently, the perceived labor autonomy of gig economy workers is largely illusory. Beneath the veneer of freedom, they remain entrapped by platform algorithms, economic incentives, and customer 'coercion'.

Although gig economy workers enjoy the freedom to set their own working hours, their income dependency on platform-allocated orders leads most full-time workers to log 8 hours or more daily. A survey of 422 food delivery riders in Hubei Province revealed that 87.4% work 8 hours or longer per day, with 5.5% exceeding 12 hours. Similarly, research involving 1,214 couriers in Beijing showed only 11.5% worked fewer than 8 hours, while over 50% worked 8 hours or more. This study also identified widespread overwork among couriers, with 78.8% experiencing labor intensity at dangerous or high-risk levels. Full-time gig workers consistently exceed standard working hours – sometimes surpassing statutory maximums – dedicating virtually all waking hours beyond essential rest to work in pursuit of higher income[5].

### *3.3 Occupational Injury Coverage Faces Systemic Dilemmas*

Platform workers universally face significant occupational risks. China's Regulations on Work-Related Injury Insurance stipulate that compensation requires meeting the 'three-work criteria' (work-related, during work hours, at workplace), yet gig workers often have irregular schedules and undefined work locations. For instance, food delivery riders follow unpredictable routes and schedules. Even dedicated riders struggle to prove compliance with the 'three-work criteria' during accidents. While routes assigned by platforms could theoretically define workplaces, algorithmic constraints sometimes produce sub optimal paths. When riders take shortcuts and accidents occur, determining work-related injury status becomes legally complex.

At present, many workers in emerging employment forms, in order to mitigate occupational risks, often need to purchase commercial insurance, such as personal accident insurance. However, such commercial insurance typically has high premiums, complex claims procedures, compensation limits, and numerous exemption clauses. These limitations make it difficult for such insurance to provide effective treatment and assistance comparable to work-related injury insurance. Therefore, in response to the flexible employment model, which is a non-standard employment arrangement, we need to re-examine the structure of occupational injury protection. Should we adjust the existing work injury insurance system by creating special provisions for flexible workers, or should we establish an entirely new occupational injury protection system? If we choose to extend the current work injury insurance scheme, considering that the premiums are paid by employers, how should the cost of occupational injury protection be shared in a way that reflects fairness? If new-type workers are working for multiple platforms at the same time, could a cost-sharing model between individuals and enterprises enhance corporate responsibility, encourage employers to fulfill their obligations, and increase workers' willingness to contribute? Is it possible that enterprises might transfer these costs in other ways? Currently, the Regulations on Work-Related Injury Insurance provide legal protection for employees in the event of occupational accidents, but they do not apply to new-type workers. The Social Insurance Law, as a superior law, also lacks corresponding provisions. This may lead to questions of legality for pilot programs implemented in different regions.

## **4. Paths for Tackling Occupational Injury Protection Issues for Workers in New Forms of Employment**

According to regional pilot outcomes, occupational injury insurance for workers in new forms of employment represents an insurance model integrated within China's existing work injury insurance framework. It maintains comparable benefit levels while introducing tailored per-order contribution mechanisms designed for these workers' distinctive needs. This approach preserves the stability of the current system while adapting to the characteristics of new employment forms. Consequently, the system should explicitly stipulate provisions in the following aspects.

### *4.1 Fundamental Principles of Occupational Injury Protection*

First, delineation of primary responsibilities within the occupational injury protection system. The most critical element of occupational injury protection is establishing clear accountability boundaries. In constructing this system, the state must assume responsibility for institutional design and financial safeguards. The rapidly expanding scale of workers in new forms of employment, coupled with their high occupational risk exposure, has evolved into a systemic socioeconomic threat. Consequently, the state should establish corresponding occupational injury protections to mitigate this escalating risk rather than allowing it to accumulate unchecked. While the state bears responsibility for establishing the institutional framework, this does not imply direct state provision of benefits. Market forces may be leveraged for operational delivery mechanisms. Nevertheless, the state must retain authority over three core functions: initial system design, nationwide implementation oversight, and post-deployment iterative refinements. State intervention remains imperative given the system's coverage of an increasingly significant economic demographic, its direct impact on expanding populations' welfare, and the inherent power asymmetry between workers and digital platforms within this emerging employment paradigm.

Second, the State's Financial Safeguard Responsibility for Occupational Injury Protection. Given the distinctive nature of platform work, workers themselves should bear partial contribution obligations. Concurrently, since

occupational injury protection fundamentally mitigates work-related risks for platform workers and generates positive externalities for societal stability, the state is obligated to provide fiscal subsidies. As this system will safeguard growing numbers of platform workers, the state must also establish a financial backstop to prevent systemic collapse and mitigate large-scale societal risks.

Third, platform enterprises and workers must jointly contribute to occupational injury protection. Platform enterprises exercise de facto control over workers through algorithmic governance and economic incentives. Given that platform workers are indispensable to the platform economy, enterprises should bear the primary contribution burden. Concurrently, as workers enjoy substantially greater autonomy than conventional laborers, they too must share partial contribution obligations. Furthermore, since such algorithmic control mechanisms inherently carry risk-generating potential, the state must impose regulatory discipline requiring enterprises to fulfill risk prevention and mitigation obligations.

Fourth, Occupational Injury Determination. Workers covered by occupational injury insurance may generally follow the assessment procedures outlined in the current Regulations on Work-Related Injury Insurance when establishing occupational injury claims. However, the application of the "Three Work Principles" (work-related time, place, and cause) must be adapted to platform workers' distinctive operational context rather than mechanically applied.

#### *4.2 Rolling out the Optimal Implementation Approach*

Currently, in the absence of a comprehensive occupational injury protection system, achieving full commercial insurance coverage for platform workers is imperative to mitigate occupational risks during this policy vacuum period. However, such coverage remains merely a stopgap solution, as commercial insurance fundamentally fails to meet the occupational injury protection needs of platform workers. Some scholars propose establishing a dedicated occupational injury insurance system for this workforce. Yet given that platform workers represent a minority compared to China's vast conventional labor force, creating a separate insurance framework would contradict the core principles of China's social insurance system—which prioritizes higher-tier pooling and operational synergy. Such fragmentation would inevitably lead to inconsistent administration and benefit disparities.

Both the "innovative approach" and "integrated approach" currently represent more viable pathways. The innovative approach—establishing a government-led occupational injury insurance scheme for platform workers administered by commercial insurers—constitutes the path of least institutional friction given the ongoing ambiguity in platform workers' employment relationships. Under government stewardship, this model can effectively reduce premium contributions while enhancing benefit levels. Moreover, its exceptionally low roll out costs and minimal operational disruption to platform businesses translate into negligible industry resistance.

Conversely, the integrated approach of incorporating platform workers into the existing workers' compensation system delivers the most comprehensive protection scope. However, this model requires precise delineation of responsibilities between platforms and workers, potentially triggering significant market realignment. Its implementation entails substantially higher costs and complexity.

Regardless of the chosen pathway, mandatory participation remains non-negotiable. Only through compulsory enrollment can the occupational injury protection system achieve sustainable operation, thereby addressing the growing occupational risks faced by China's expanding platform workforce.

#### *4.3 Revise and Refine Relevant Laws and Regulations to Establish a Robust Legal Foundation*

##### *4.3.1 Amendments to Relevant Provisions of the Social Insurance Law*

As the higher-level legislation governing the Regulations on Work-Related Injury Insurance, the Social Insurance Law should prioritize expanding coverage through amendments to its work injury insurance chapter[3]. Being a cornerstone of China's social security system, work injury protection should not be confined to employees with formal labor contracts. Given the critical importance of safeguarding workers, those without established employment relationships merit equal protection. Since universal coverage has been achieved for basic pension insurance and basic medical insurance, work injury insurance should likewise permit individual contributions—decoupling coverage from employment status to integrate platform workers into the work injury compensation framework.

Concretely, Article 33 of the Social Insurance Law should be amended by adding: 'Platform workers, flexible employment personnel, and other non-standard workers may voluntarily participate in Occupational Injury Insurance and contribute occupational injury insurance premiums in accordance with relevant regulations.'

#### 4.3.2 Amendments to Relevant Provisions of the Regulations on Work-Related Injury Insurance

The Regulations on Work-Related Injury Insurance also need corresponding amendments regarding coverage scope and recognition criteria. When revising the Regulations, non-standard workers should be included in the coverage.

Firstly, for Article 1, the phrase "to ensure that employees suffering from work-related accidents or occupational diseases obtain medical treatment and economic compensation..." should be amended to add "as well as non-standard workers sustaining work-related injuries." For Article 2, the following should be added: "Platform enterprises providing services to non-standard workers shall proportionally contribute occupational injury insurance premiums for laborers without established employment relationships." This maintains consistency with China's legislative terminology while expanding protection to platform workers and flexible employment personnel. The translation follows standard legal drafting conventions for social insurance regulations.

Secondly, the criteria for recognizing work-related injuries require corresponding amendments. Given the uncertain working hours and locations characteristic of non-standard workers, accident injury assessments for this group cannot strictly follow the traditional "three-work principle". Take food delivery riders as an example: every delivery initiated when they activate delivery services through their apps should be recognized as working time. Regarding Article 10: The provision stating "Employees do not contribute to work-related injury insurance premiums" should be revised to require proportional cost-sharing between non-standard workers and platforms for occupational injury insurance. This approach not only enhances platform accountability but also exempts individuals from full payment, thereby increasing their willingness to contribute. For Article 18, which currently requires submitting "proof of an employment relationship with the employer", such documentation mandates should be waived for non-standard workers to accommodate flexible employment arrangements. All other regulatory provisions shall continue to apply to non-standard workers where contextually appropriate.

### 5. Conclusion and Future Perspectives

As a rapidly expanding labor force in the digital economy, non-standard workers remain vulnerable to occupational accidents due to their exclusion from conventional work-related injury insurance systems. Given their growing population, a transitional approach should be implemented: Occupational injury insurance must first emerge as a subsystem of the existing work-related injury insurance framework, then progressively merge with it, ultimately transforming work-related injury insurance into a de facto occupational injury insurance system. This new scheme must retain its social insurance attributes while gradually expanding coverage through pilot programs that adapt to non-standard workers' unique needs. Concurrent amendments to relevant provisions in the Social Insurance Law and Work-Related Injury Insurance Regulations will provide legal grounding for these pilots, enabling their phased nationwide scaling.

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