

# Determination of Labor Legal Relations of Food Delivery Riders in the Context of New Business Formats

Guo Zimo

Beijing Wuzi University, Beijing, China

## ABSTRACT

The rapid development of science and technology has spawned the rapid rise of e-commerce and platform economies, and the new form of labor groups represented by food delivery riders has gradually grown. The determination of the labor relationship between food delivery riders and food delivery platforms is facing difficulties, including the lack of legal regulation, the rigidity of traditional identification standards, and the difficulty in balancing the agreement of the parties and the actual performance of the contract. It is necessary to fully consider the actual impact of algorithms on the work of food delivery riders through innovative concepts and countermeasures, and use a new subordination identification standard with economic subordination as the core. From the aspects of clarifying legal provisions, updating judgment standards, and determining the space for agreement on the basis of facts first, it provides a more appropriate and unified standard for the identification of labor relations in new business formats, effectively protects the legitimate rights and interests of workers in new business formats, and promotes the sustainable and healthy development of the new business format economy.

**KEYWORDS:** *new business formats; food delivery riders; labor relations identification; subordination standards*

## I. The Nature of Employment Relations in Food Delivery Platforms under the Background of New Business Formats

E-commerce platforms, food delivery platforms, ride-hailing platforms, etc. in the context of the platform economy are a type of enterprise built based on Internet technology that can connect bilateral or multilateral user groups, thereby promoting interactions and transactions between different users. The employment model of platform enterprises is different from that of traditional employers. Its most prominent feature is the integration of technology empowerment and algorithm-driven mechanisms into the employment relationship links of enterprise managers, which formally transforms into a relationship between workers and the Internet. This transformation has impacted the traditional labor relations model and triggered disputes over whether platform employment under the background of new business formats is subject to adjustment by labor legal relations.

To solve the problem of protecting the labor rights and interests of employees in new business formats,

*How to cite this paper:* Guo Zimo "Determination of Labor Legal Relations of Food Delivery Riders in the Context of New Business Formats" Published in International

Journal of Trend in Scientific Research and Development (ijtsrd), ISSN: 2456-6470, Volume-9 | Issue-4, August 2025, pp.518-523,

[www.ijtsrd.com/papers/ijtsrd97253.pdf](http://www.ijtsrd.com/papers/ijtsrd97253.pdf)



Copyright © 2025 by author (s) and International Journal of Trend in Scientific Research and Development Journal. This is an Open Access article distributed under the terms of the Creative Commons Attribution License (CC BY 4.0) (<http://creativecommons.org/licenses/by/4.0>)



there has been a trend of "tripartite classification" of employment relations in China's social law circle. The traditional dichotomy of employment relations mainly distinguishes between labor relations and service relations. On this basis, the "tripartite classification" further divides a new type of employment relationship between the two, also known as "quasi-employment relations", which is mainly applicable to platform employment in the environment of the new economic format. When labor disputes arise, the "tripartite classification" helps to more accurately judge the type of employment relationship between the two parties of the platform, so as to apply different laws and regulations for handling. For labor relations disputes, labor arbitration institutions and courts will make rulings in accordance with labor laws and regulations to protect the legitimate rights and interests of workers; for service relations disputes, the attribution of responsibilities is mainly defined in accordance

with the service contracts signed by both equal civil subjects and civil laws; for situations that do not fully meet the conditions of labor relations, enterprises can sign written agreements with workers.

Food delivery riders are the "third category of workers" under the background of new business formats, and their relationship with food delivery platforms is mostly a new type of employment relationship, namely "quasi-employment relations". In the 19th century, social contradictions accumulated in Germany, and legislation in the labor field became a focus. At that time, individual labor laws and social insurance laws only protected "employees" and ignored domestic workers who provided supporting processing or services for factories. In response, Germany enacted the "Domestic Work Law" and the "Domestic Work Wage Protection Law" in 1911 and 1923, trying to protect the rights and interests of this group. In 1923, Meyersbach first put forward the concept of "quasi-employees". In addition, countries or regions such as the United Kingdom, France, and Germany have defined and stipulated "the third category of workers" in their laws. However, it should be noted that labor law theories originating in European and American countries cannot well adapt to China's actual national conditions and the current situation of protecting workers' rights and interests, and the tripartite classification model cannot fully meet the needs of protecting the rights and interests of employees in new business formats. Therefore, we cannot blindly introduce and copy this model, and still need to explore innovative strategies more suitable for China's economic development and the protection of the rights and interests of workers in new business formats.

## **II. Difficulties in Determining Labor Relations of Food Delivery Riders in New Employment Forms**

### **A. Lack of Legal Regulation for the Determination of Labor Relations in New Business Formats**

China's current basic laws and regulations for protecting workers' rights and interests include the "Labor Law of the People's Republic of China", "Labor Contract Law of the People's Republic of China", and "Regulations on Work-Related Injury Insurance", but these laws and regulations are not specifically formulated for workers in new business formats. Only after determining that there is a labor relationship between workers in new business formats and employers can these laws and regulations further play their role in protecting workers' legitimate rights and interests. However, the determination of labor relations for employees in new business formats is precisely a difficult problem to be solved in practice.

The "Guiding Opinions on Safeguarding the Labor Security Rights and Interests of Workers in New Employment Forms" issued by eight ministries and commissions including the Ministry of Human Resources and Social Security stipulates three types of workers and related legal relations. For those who meet the conditions of labor relations, enterprises shall conclude labor contracts with workers and apply the laws and regulations in the field of labor law in China; for service relations formed between the two parties based on equal civil subjects, the relevant provisions of civil law shall apply; for those that do not fully meet the conditions of labor relations, enterprises can sign written agreements with workers. However, the "Guiding Opinions" still lack specific legal regulations for the third type of legal relations between labor relations and service relations, and do not clearly define what constitutes "situations that do not fully meet the conditions of labor relations" and the nature of "written agreements". This will lead to relevant enterprises in practice using this vague standard to argue for themselves, avoiding their responsibilities to workers in new business formats. Moreover, relevant policy documents can only provide theoretical guidance for the determination of labor relations of employees in new business formats in practice, without direct legal binding force, and cannot well urge enterprises under new business models such as food delivery platforms to consciously and actively safeguard the legitimate rights and interests of workers in new business formats such as food delivery riders.

In my opinion, it is not particularly important whether employees under new business models need to be listed as the third category of workers separately. With the development of social economy and the support of modern technological empowerment, more and more complex and changing new situations will appear in practice. For such new problems, it is unrealistic to list them one by one or legislate from the perspectives of legal system coordination, resource allocation and utilization, and cost. But this does not mean that there is no need for legal regulation. Therefore, I believe that whether the relationship between workers in new business formats and platform enterprises is regulated as the third type of special legal relationship, or such situations are included in the scope of labor relations or service relations through innovative existing legislation, the most important thing is to unify the identification standards and legal application to avoid the phenomenon of "different judgments for similar cases".

## **B. Difficulty in Applying Traditional Identification Standards**

China's traditional standards for determining labor relations between workers and employers mainly rely on the "Notice of the Ministry of Labor and Social Security on Matters Concerning the Establishment of Labor Relations", which examines and considers from the perspectives of subject qualification, subordination characteristics, and content relevance. However, in the context of new business formats, enterprises' employment methods are more flexible and diverse, with obvious "de-laborization" characteristics, breaking the dual structure of traditional labor relations, and more showing multilateral employment relations. It is difficult to accurately determine and grasp the legal relationship between workers in new business formats and enterprises based on traditional identification standards.

Taking food delivery riders as an example, from the perspective of traditional subordination characteristics, food delivery riders have greater autonomy compared with traditional workers and can freely choose working hours to go online to receive orders. But this autonomy is relative. If a rider does not receive orders for a long time or refuses too many orders, he may be restricted by the platform such as reducing the priority of order distribution. Moreover, food delivery platforms will assign orders to riders through algorithm systems, send work instructions, require riders to abide by the basic service requirements stipulated by the platform in terms of clothing and etiquette, and track the rider's location information and delivery progress through mobile devices to supervise the rider's work. It can be seen that food delivery riders have their own relative autonomy on the basis of obeying platform management, and their personal subordination to the platform is vague.

From the perspective of economic subordination, the main economic income of food delivery riders comes from the delivery remuneration paid by the platform. If they lose the order resources of the platform, it is difficult for food delivery riders to obtain similar income through other channels. Moreover, the platform will also guide riders to increase working hours and improve work efficiency through some incentive measures such as order completion rewards, which indicates that riders still have a high degree of economic dependence on the platform. However, the stability of food delivery riders' income is relatively poor, which is easily affected by factors such as the number of orders, weather conditions, and peak and off-peak hours. Compared with the relatively fixed salary in traditional labor relations, the fluctuation is

relatively large. In addition, with the rise of crowdsourcing logistics in recent years, some crowdsourcing riders work part-time on multiple platforms, and their economic subordination to a specific platform enterprise has weakened.

In terms of organizational subordination, the organizational connection between food delivery riders and platform enterprises is relatively loose. They usually do not need to participate in the internal organizational activities of platform enterprises, such as staff meetings and team building. They do not belong to the traditional organizational structure of platform enterprises, but only complete delivery work through the information and opportunities provided by the platform. It is also difficult for them to conduct collective negotiations with enterprises on behalf of rider groups through industry unions and other organizations like workers under traditional employment models, so their organizational subordination to food delivery platforms is weak.

The traditional criteria for determining labor relations mainly judge from three aspects: personal subordination (such as whether workers accept the command and management of employers), economic subordination (such as whether workers mainly rely on the work provided by employers to obtain economic sources), and organizational subordination (such as whether workers are members of the organizational structure of employers). However, if we strictly judge the legal relationship between workers in new employment forms such as food delivery riders and online car-hailing drivers and platforms in accordance with traditional standards, some practitioners will be excluded from labor relations, which is not conducive to the protection of their legitimate rights and interests. But this does not mean that the traditional subordination standards are outdated. Instead, we should continue to innovate concepts and measures on this basis, fully consider the impact of technologies such as big data and artificial intelligence on the subordination of food delivery riders under the background of new business formats, and realize the substantive protection and interest balance of workers in new business formats.

## **III. Innovative Countermeasures for Determining Labor Relations of Food Delivery Riders in New Employment Forms**

### **A. Improve the Legal Regulatory Framework for the Determination of Labor Relations in New Business Formats**

At the legal level, China's legal basis for protecting the rights and interests of workers in new employment forms includes the "Civil Code", "Labor



Law", "Labor Contract Law", "Work Safety Law" and "Occupational Disease Prevention and Control Law", and the "Work Safety Law" and "Occupational Disease Prevention and Control Law" have also expanded their protection objects to include employees outside traditional labor relations.

At the policy level, the Party and the government attach great importance to the trend of new business formats. The report of the 20th National Congress of the Communist Party of China proposed to "improve the system for protecting workers' rights and interests and strengthen the protection of the rights and interests of workers in flexible employment and new employment forms"; in July 2021, eight departments including the Ministry of Human Resources and Social Security jointly issued the "Guiding Opinions on Safeguarding the Labor Security Rights and Interests of Workers in New Employment Forms" as an important guiding document for protecting the rights and interests of workers in new business formats, regulating employment and labor relations determination, and making specific requirements for the protection of rights and interests such as labor remuneration, rest and vacation, social insurance, and occupational safety and health; in December 2021, the Ministry of Human Resources and Social Security issued the "Measures for the Protection of Occupational Injuries of Employees in New Employment Forms (Trial)", which was launched in seven provinces and cities including Beijing, Shanghai, Jiangsu, Guangdong, Hainan, Chongqing, and Sichuan from July 2022...

However, China's current policy documents on the protection of workers in new business formats are mostly guiding opinions, interim measures, administrative normative documents, etc., with low legal rank and insufficient binding force on relevant responsible subjects, which still need to be strengthened at the institutional level. There are currently two paths: formulating special laws and regulations for the determination of labor relations and protection of rights and interests of workers in new business formats, or modifying and innovating current legislation to meet practical requirements. Personally, I prefer the second path. China has formed a relatively sound labor legal system represented by the "Labor Law", "Labor Contract Law", "Social Insurance Law", "Law on Mediation and Arbitration of Labor Disputes", and "Regulations on Work-Related Injury Insurance". If we carry out special legislation for the protection of labor rights and interests in new business formats within this institutional framework, it will not only disregard China's legislative logic and rules, damage the legal

framework, but also be unfavorable to the effective allocation and rational utilization of judicial resources. Therefore, we should integrate the innovative concept of "protecting the basic human rights of digital vulnerable groups" into the existing legal framework, add relevant provisions on the protection of the rights and interests of workers in new business formats, clarify the judgment standards for the determination of labor relations, the division of responsibilities for social security rights, and the determination of work-related injuries, establish a multi-party collaborative governance model, set up special research groups on new business formats in some regions for pilot projects first, strengthen the administrative law enforcement supervision of labor rights and interests protection in new business formats, give full play to the role of intermediary organizations such as trade unions and grassroots organizations such as communities and streets, actively cultivate the awareness of workers in new business formats to join trade unions, and stipulate the obligation of platform enterprises to support employees to join trade unions. In addition, in judicial practice, we should improve the judicial guidance case system for the protection of labor rights and interests in new business formats, providing judges with trial ideas and unified judgment standards for handling related labor dispute cases.

## **B. Update the Standards for Determining Labor Relations**

### **1. Taking Economic Subordination as the Core Criterion**

In the context of new business formats, it is quite necessary and reasonable to strengthen the identification standards of economic subordination. Firstly, economic subordination can reflect the essential characteristics of labor relations. The essence of labor relations is that workers pay labor, and employers pay remuneration in exchange for the value created by workers. On the one hand, economic subordination reflects the economic dependence of workers on employers, that is, workers mainly obtain economic income by providing labor to specific employers; on the other hand, it emphasizes that employers have the obligation to pay labor remuneration to workers on time and in full. This economic dependence and value exchange relationship constitutes the basis of the rights and obligations of both parties, fundamentally demonstrates the nature of labor law, and has strong labor law ethical values, such as fairness and justice, human rights protection, and harmony in labor relations.

Secondly, economic subordination can better adapt to diversified employment forms. In the context of new business formats, taking food delivery riders as an example, although some riders have part-time jobs, this cannot deny the economic connection between food delivery riders and various food delivery platforms. Usually, the main source of income for food delivery riders still comes from delivery remuneration and other fees paid by food delivery platforms, and food delivery riders still have a strong economic subordination to the platform to a large extent. In addition, the degree of economic subordination can also be used as an important basis for distinguishing similar legal relations such as labor relations, service relations, and contractual relations. If workers are highly economically dependent on employers, their income mainly comes from the employers, and their work content and methods are greatly affected by employers, then this relationship should be identified as labor relations.

Thirdly, economic subordination is more open and inclusive, and can provide a simpler, quantifiable and operable standard for determining labor relations. Economic subordination is mainly manifested in the economic dependence of workers in new business formats on the platform, which itself contains a certain degree of personal subordination. Moreover, compared with other identification standards such as personal subordination, economic subordination is easier to measure and judge through some objective indicators and facts, such as the source of workers' wage income, income stability, the way and cycle of employers' payment of labor remuneration, and whether workers have their own means of production, which can more intuitively judge the degree of economic subordination of workers to employers from the aspect of "labor consideration".

## **2. Taking Personal Subordination and Organizational Subordination as Auxiliary Standards**

In the context of new business formats, we cannot measure complex and changing social legal relations with a single standard. Taking economic subordination as the core criterion for determining labor relations in new business formats does not mean completely abandoning other judgment methods, and we still need to use personal subordination and organizational subordination as supplements.

In terms of personal subordination, big data algorithms have a substantial impact on the autonomous work of food delivery riders. Food delivery platforms use precise algorithms to distribute orders to riders. It seems that riders have the right to choose whether to accept orders, but once they go

online to work, they need to be restricted by the platform's time requirements and delivery route planning. During lunch and dinner peak hours, food delivery platforms will also increase the delivery fees of orders and set additional bonuses to induce riders to work intensively during the time periods expected by the platform. This kind of constraint by issuing instructions through technical means is similar to the requirements of employers for employees in traditional employment relations. The form of technology cannot deny the platform's control over riders, and food delivery riders can only highly comply under the drive of economic interests. In addition, food delivery platforms also have a series of behavioral norms for riders. For example, if riders do not follow the dress code, the platform will issue warnings and fines; if they receive complaints from customers due to poor service attitude, the platform will restrict the number of days riders can accept orders after multiple accumulations.

In terms of organizational subordination, although riders can complete account registration and identity binding by themselves, their employment usually requires simple training organized by platform partners, including interpretation of platform rules, traffic safety regulations, service skills, etc., before they can start delivery work. The delivery work of food delivery riders is highly dependent on the resources provided by food delivery platforms, including order acquisition and route planning. Without order distribution by the platform system, it is difficult for riders to obtain a wide range of orders and relatively considerable income, which also reflects the degree of organizational connection between food delivery riders and the platform.

## **IV. Conclusion**

The report of the 20th National Congress of the Communist Party of China clearly proposed "synergistic governance of pollution reduction and carbon emission reduction". Ensuring the synergy efficiency of the two through legal means is an important path for China to promote the construction of ecological civilization and institutional reform, implement the "dual-carbon" strategic goals, achieve the goal of building a "beautiful China", and fulfill international environmental protection obligations. Through research on relevant policy backgrounds and legal principle interpretation, aiming at the current situation of China's synergistic governance of pollution reduction and carbon emission reduction and the deficiencies of legal guarantees, improvements can be made by formulating special legislation on climate change response, clarifying the legal positioning of greenhouse gases, adhering to the

holistic legal concept, and compiling the ecological and environmental code, so as to ensure that China moves forward steadily on the road of sustainable development.

## References

- [1] Xi Jinping: Speech at the General Debate of the 75th Session of the United Nations General Assembly, People's Daily, September 23, 2020, p. 3.
- [2] Lou Yu. Rules for Determining Legal Relations in New Employment Forms [J]. China Legal Science, 2024, (05):285-304.
- [3] Lou Yu. Legal Basis and System Construction for Occupational Injury Protection of New Formats Practitioners-Taking Crowdsourcing Online Delivery Personnel as an Example [J]. Social Sciences, 2021, (06):20-29.
- [4] Lou Yu. The Choice of the Civil Code: Labor Contract or Employment Contract-Doctrinal Analysis and Enlightenment of the Revision of Article 611a of the German Civil Code [J]. Science of Law, 2019(5).
- [5] Liu Junhai, Chai Weiwei. The Determination of Labor Relations in New Format Employment Should Keep Pace with the Times [N]. Guangming Daily, August 31, 2024.
- [6] Que Zibing. Judicial Determination of Labor Relations under the Background of Flexible Employment in Food Delivery Platforms [J]. China Journal of Applied Jurisprudence, 2021, (04):62-76.
- [7] Li Xiong, Huang Linhan. Innovative Research on the Determination of Labor Relations in New Employment Forms [J]. Hebei Law Science, 2023, 41(07):84-106.
- [8] Chang Kai. The Nature and Characteristics of Platform Enterprise Employment Relations and Their Legal Regulation [J]. China Legal Review, 2021, (04):31-42.
- [9] Wang Quanxing, Wang Qian. The Determination of Labor Relations and Protection of Rights and Interests of "Online Hired Workers" in China [J]. Law Science, 2018, (04):57-72.
- [10] Xu Shuang, Yang Xuan. New Progress in the Protection of Labor Rights and Interests of Practitioners in New Business Formats [R]. "Report on the Development of China's Human Rights Cause (2024)".
- [11] Du Qinnv. Research on the Choice of Policy Tools for Protecting the Rights and Interests of Workers in New Business Formats [J]. Chinese Public Administration, 2020, (09):42-48.
- [12] Zhong Renyao. How to Protect the Labor Security Rights and Interests of Employees in New Business Formats [J]. People's Tribune, 2021, (27):68-71.