Interim Provisions on Wage Payment of the PRC

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

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Article 1 — These Provisions are formulated in accordance with the relevant provisions of the Labor Law of the People's Republic of China, for the purpose of safeguarding the right of workers to obtain remuneration through their labor and standardizing employers' wage payment conduct.

Article 2 — These Provisions apply to enterprises and individually-owned economic organizations within the territory of the People's Republic of China (hereinafter collectively referred to as "employers") and to the workers who have formed labor relations with them.

State organs, public institutions, and social organizations, and the workers who have entered into labor contracts with them, shall implement these Provisions accordingly.

Article 3 — "Wages" as used in these Provisions refers to the remuneration paid by an employer to a worker in various forms in accordance with the provisions of the labor contract.

Article 4 — Wage payment mainly includes: the items of wage payment, the level of wage payment, the form of wage payment, the objects of wage payment, the time of wage payment, and wage payment under special circumstances.

Article 5 — Wages shall be paid in legal tender. Wages shall not be replaced by payment in kind or in securities.

Article 6 — An employer shall pay wages to the worker in person. Where a worker is unable to receive his or her wages in person for some reason, the wages may be received on his or her behalf by a relative or by a person entrusted by the worker.

An employer may entrust a bank with paying wages on its behalf.

An employer shall keep written records of the amount of wages paid to workers, the time of payment, and the names and signatures of the recipients, and shall preserve such records for not less than two years for reference. When paying wages, an employer shall provide each worker with a wage statement.

Article 7 — Wages shall be paid on the date agreed between the employer and the worker. Where the agreed date falls on a holiday or rest day, wages shall be paid in advance on the nearest preceding working day. Wages shall be paid at least once a month; where a weekly, daily, or hourly wage system is adopted, wages may be paid on a weekly, daily, or hourly basis.

Article 8 — For workers who complete one-off temporary labor or a specific task, the employer shall pay wages immediately upon completion of the labor task in accordance with the relevant agreement or contract.

Article 9 — Where the labor contract is dissolved or terminated by the parties in accordance with the law, the employer shall pay the worker's wages in full at the time of such dissolution or termination.

Article 10 — Where a worker participates in social activities within the statutory working hours in accordance with the law, the employer shall pay wages as if the worker had provided normal labor. Social activities include: exercising the right to vote or to stand for election; attending, as an elected representative, meetings convened by the government at or above the township (town) or district level, political parties, trade unions,

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the Communist Youth League, women's federations, and other organizations; serving as a witness in a people's court; attending congresses of model workers and advanced workers; time spent by non-full-time members of grassroots trade union committees on trade union activities under the Trade Union Law; and other social activities participated in according to law.

Article 11 — During periods when a worker enjoys statutory annual leave, home leave, marriage leave, or bereavement leave, the employer shall pay the worker's wages in accordance with the standards stipulated in the labor contract.

Article 12 — Where an employer suspends work or production for reasons not attributable to the worker within one wage payment cycle, the employer shall pay the worker's wages in accordance with the standards stipulated in the labor contract. Where such suspension exceeds one wage payment cycle, if the worker has provided normal labor, the remuneration paid to the worker shall not be lower than the local minimum wage standard; if the worker has not provided normal labor, the matter shall be handled in accordance with the relevant provisions of the State.

Article 13 — Where an employer, after a worker has completed the work quota or the assigned work task, arranges for the worker to work beyond the statutory standard working hours based on actual needs, wages shall be paid according to the following standards:

(1) Where the employer arranges for the worker to extend working hours beyond the statutory standard working hours on a working day, wages shall be paid at not less than 150% of the worker's hourly wage standard stipulated in the labor contract;

(2) Where the employer arranges for the worker to work on a rest day and compensatory rest cannot be arranged, wages shall be paid at not less than 200% of the worker's daily or hourly wage standard stipulated in the labor contract;

(3) Where the employer arranges for the worker to work on a statutory holiday, wages shall be paid at not less than 300% of the worker's daily or hourly wage standard stipulated in the labor contract.

For workers on a piece-rate wage system, where the employer arranges for extended working hours after the worker has completed the piece-rate quota, wages shall, in accordance with the principles set out above, be paid at not less than 150%, 200%, and 300%, respectively, of the piece-rate unit price for the worker's statutory working hours.

Where an employer has been approved by the labor administrative department to adopt a comprehensive working-hours calculation system, the portion of comprehensively calculated working hours exceeding the statutory standard working hours shall be deemed as extended working hours, and the employer shall pay the worker wages for such extended working hours in accordance with these Provisions.

The above provisions shall not apply to workers under a non-fixed working-hours system.

Article 14 — Where an employer goes bankrupt in accordance with the law, workers have the right to receive their wages. In bankruptcy liquidation, the employer shall, in accordance with the order of liquidation prescribed in the Enterprise Bankruptcy Law of the People's Republic of China, first pay the wages owed to its workers.

Article 15 — An employer shall not deduct workers' wages. Under any of the following circumstances, an employer may withhold workers' wages on behalf of a third party:

(1) Individual income tax withheld and paid by the employer on behalf of the workers;

(2) Various social insurance contributions withheld and paid by the employer that should be borne by the workers individually;

(3) Child support or alimony that is ordered to be withheld in court judgments or rulings;

(4) Other expenses that may be deducted from workers' wages as provided by laws and regulations.

Article 16 — Where economic loss is caused to an employer by reason of the worker himself or herself, the employer may require compensation for the economic loss in accordance with the labor contract. Such compensation may be deducted from the worker's wages. However, the amount deducted each month shall not exceed 20% of the worker's monthly wages. Where the remaining wages after deduction are lower than the local monthly minimum wage standard, wages shall be paid according to the minimum wage standard.

Article 17 — Employers shall, in accordance with these Provisions, formulate their internal wage payment systems through consultation with workers' congresses, workers' representative assemblies, or through other forms, and shall inform all workers of the unit thereof, while filing a copy with the local labor administrative department for the record.

Article 18 — Labor administrative departments at all levels have the authority to supervise employers' wage payment. Where an employer commits any of the following acts infringing upon the lawful rights and interests of workers, the labor administrative department shall order the employer to pay the workers' wages and economic compensation, and may also order it to pay compensation:

(1) Deducting or unjustifiably delaying payment of workers' wages;

(2) Refusing to pay wages for extended working hours;

(3) Paying workers' wages below the local minimum wage standard.

The standards for economic compensation and compensation shall be implemented in accordance with the relevant provisions of the State.

Article 19 — Where a labor dispute arises between a worker and an employer over wage payment, the parties may apply to the labor dispute arbitration organ for arbitration in accordance with the law. A party dissatisfied with the arbitral award may bring a lawsuit in a people's court.

Article 20 — These Provisions shall come into force as of January 1, 1995.

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