

Minimum Wage Provisions of the People's Republic of China

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

Adopted at the 12th Ministerial Meeting of the Ministry of Labor and Social Security on December 30, 2003, promulgated by Order No. 21 of the Ministry of Labor and Social Security of the People's Republic of China on January 20, 2004, effective as of March 1, 2004.

Article 1 — Purpose — These Provisions are formulated in accordance with the Labor Law of the People's Republic of China and relevant regulations for the purposes of safeguarding the basic livelihood of workers and their family members and protecting the lawful rights and interests of workers in receiving labor remuneration.

Article 2 — Scope of Application — These Provisions shall apply to enterprises, private non-enterprise entities, individually-owned businesses with employees (hereinafter referred to as “employers”) and the workers working for them within the territory of the People's Republic of China. State organs, public institutions and social organizations and the workers working for them established through labor contracts shall be governed by these Provisions.

Article 3 — Definition of Minimum Wage — For the purposes of these Provisions, “minimum wage standard” refers to the minimum labor remuneration that an employer shall pay to a worker for the normal work provided by the worker during the statutory working hours or the working hours stipulated in the labor contract signed in accordance with the law.

Article 4 — Forms of Minimum Wage — Minimum wage standards shall be in the form of a monthly minimum wage standard and an hourly minimum wage standard. The monthly minimum wage standard shall apply to full-time employed workers, and the hourly minimum wage standard shall apply to part-time employed workers.

Article 5 — Determination of Minimum Wage Standards — The minimum wage standards in provinces, autonomous regions and municipalities directly under the Central Government shall be determined by the people's governments of provinces, autonomous regions and municipalities directly under the Central Government and shall be filed with the State Council. The minimum wage standards in cities and counties divided into districts shall be formulated and submitted by the relevant departments of the people's governments of provinces, autonomous regions and municipalities directly under the Central Government.

Article 6 — Factors for Determining Minimum Wage — The determination and adjustment of the monthly minimum wage standard shall take into account the following factors:

1. The minimum living expenses of the worker himself and the average number of dependents;
2. The average wage level of society;
3. Labor productivity;
4. The employment situation;
5. Differences in the level of economic development between regions.

The determination and adjustment of the hourly minimum wage standard shall, on the basis of the monthly minimum wage standard taking into account the announced standard, also take into account the following factors:

1. The basic old-age insurance premiums and basic medical insurance premiums payable by the entity;
2. Differences between part-time workers and full-time workers in terms of working stability, working conditions, labor intensity, welfare benefits, etc.

Article 7 — Calculation Method — The determination of the monthly minimum wage standard shall be calculated by reference to the internationally accepted proportion method or the Engel coefficient method. Specific calculation methods shall be determined by the local people's governments.

Article 8 — Adjustment of Minimum Wage — The minimum wage standard shall be adjusted at least once every two years and shall be published within seven days after approval.

Article 9 — Publication and Filing — Minimum wage standards shall be implemented within 10 days after publication. The people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall file the minimum wage standards and their basis, detailed calculation data and the implementation situation with the Ministry of Labor and Social Security.

Article 10 — Employer Obligations — Employers shall publicly announce the applicable minimum wage standards to their workers in their entities. Employers shall not pay workers wages below the applicable minimum wage standard.

Article 11 — Items Excluded from Minimum Wage — The following items shall not be included as components of the minimum wage:

1. Overtime pay; 2. Allowances for special working conditions such as middle shift, night shift, high temperature, low temperature, underground work, toxic and harmful work, etc.; 3. Other labor remuneration that is not included in the minimum wage according to laws, regulations and State provisions.

Where a worker provides normal work, the wages payable by the employer shall not be lower than the local minimum wage standard after deducting the following items:

1. Overtime pay; 2. Allowances for special working conditions such as middle shift, night shift, high temperature, low temperature, underground work, toxic and harmful work, etc.; 3. Welfare benefits not included in the wage component according to the provisions.

Where a worker who implements a piece-rate wage or commission wage system provides normal work, the employer shall not pay wages lower than the corresponding monthly or hourly minimum wage standard.

Article 12 — Employer Violations — Where an employer violates the provisions of Articles 10 and 11 of these Provisions, the labor security administrative department shall order it to make corrections within a specified time limit and may impose a fine in accordance with the relevant provisions of the State.

Article 13 — Worker Complaints — Where an employer violates these Provisions, workers shall have the right to complain to the labor security administrative department. The labor security administrative department shall accept and handle such complaints in accordance with the law.

Article 14 — Trade Union Supervision — Trade unions shall have the right to supervise the implementation of the minimum wage system and shall have the right to request that the relevant departments handle violations in accordance with the law.

Article 15 — Supplementary Provisions — These Provisions shall come into force on March 1, 2004. The Minimum Wage Provisions for Enterprises promulgated by the Ministry of Labor on November 24, 1993 shall be repealed simultaneously.

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