

Provisions of the PRC on Minimum Wages

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

Issued by the former Ministry of Labor and Social Security on December 8, 1993, and amended in accordance with the Provisions on Minimum Wages issued by the Ministry of Human Resources and Social Security on June 17, 2004

Effective: March 1, 2004

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Article 1 — These Provisions are formulated in accordance with the Labor Law of the People's Republic of China and other relevant laws and regulations for the purposes of safeguarding the basic livelihood of workers and their family members and promoting social fairness and justice.

Article 2 — These Provisions shall apply to enterprises, private non-enterprise entities, individually-owned businesses, and other organizations (hereinafter referred to as "employers") and the workers who have established labor relations with them within the territory of the People's Republic of China. State organs, public institutions, and social organizations shall implement these Provisions by reference. For the purposes of these Provisions, "minimum wage" means the minimum labor remuneration that shall be paid by the employer to the worker for the normal labor provided by the worker within the statutory working hours or the working hours agreed upon in the labor contract in accordance with the law.

Article 3 — Minimum wage standards shall be determined 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 workers, and the hourly minimum wage standard shall apply to part-time workers.

Article 4 — The labor and social security administrative departments of the people's governments of provinces, autonomous regions, and municipalities directly under the Central Government shall, in conjunction with the trade unions at the same level and the enterprise federation or entrepreneur association, formulate minimum wage standards within their respective administrative regions, and submit them to the Ministry of Human Resources and Social Security for the record. The labor and social security administrative department under the State Council shall guide and supervise the formulation and implementation of minimum wage standards throughout the country.

Article 5 — When determining and adjusting the monthly minimum wage standard, reference shall be made to factors such as the minimum living expenses of the worker and the average number of dependents supported by the worker, the average wage level of urban workers, labor productivity, the employment situation, and the differences in the level of economic development among regions. When determining and adjusting the hourly minimum wage standard, on the basis of the monthly minimum wage standard, reference shall also be made to the basic pension insurance premiums and basic medical insurance premiums payable by the employer for part-time workers, taking into account the differences between part-time workers and full-time workers in respect of job stability, working conditions, labor intensity, welfare benefits, and other aspects.

Article 6 — The minimum wage standard shall be adjusted at least once every two years. Where the relevant factors change significantly, the minimum wage standard shall be adjusted in a timely manner.

Article 7 — After the minimum wage standard for the administrative region is determined, the labor and social security administrative department of the people's government of the province, autonomous region, or municipality directly under the Central Government shall release the minimum wage standard within seven working days after approval, and shall publicize it in the local government gazette and at least one local newspaper of general circulation.

Article 8 — The employer shall, on the basis of the minimum wage standard, determine the wage level of the workers of the entity through collective negotiation between the employer and the workers. The employer shall not reduce the wage level of the workers on the grounds of adjusting the minimum wage standard.

Article 9 — The employer shall, within 10 days after the new minimum wage standard is released, publicize the standard to all workers of the entity in a conspicuous place.

Article 10 — The minimum wage standard shall not include the following items: (1) overtime wages; (2) allowances for special working conditions such as working at heights, underground, in high temperatures, at low temperatures, or in toxic or hazardous environments; and (3) other wages and benefits that shall not be included in the minimum wage as prescribed by laws, regulations, and the State.

Article 11 — Where a worker provides normal labor within the statutory working hours or the working hours agreed upon in the labor contract, the labor remuneration paid by the employer to the worker shall not be lower than the local minimum wage standard. Where the worker provides normal labor but the labor remuneration is lower than the local minimum wage standard, the employer shall pay the difference.

Article 12 — The employer shall pay the worker the minimum wage standard for the period during which the worker enjoys statutory leave such as annual leave, home leave, marriage or funeral leave, and maternity leave, and participates in social activities in accordance with the law. The employer shall also pay labor remuneration in accordance with the provisions of the labor contract for the period during which the employer suspends production or business for reasons not attributable to the worker and for a period not exceeding one wage payment cycle.

Article 13 — Where an employer violates the provisions of Article 11 of these Provisions, the labor and social security administrative department shall order it to pay the worker the difference in wages within a prescribed time limit, and may also order the employer to pay economic compensation to the worker in accordance with the provisions.

Article 14 — Where a dispute arises between a worker and an employer over the minimum wage standard, it shall be handled in accordance with the relevant provisions on the handling of labor disputes. Where a worker or an employer is dissatisfied with the decision of the labor and social security administrative department, it may apply for administrative reconsideration or bring an administrative lawsuit in accordance with the law.

Article 15 — The labor and social security administrative departments of the local people's governments at or above the county level shall be responsible for supervising and inspecting the implementation of the minimum wage standards within their respective administrative regions. Trade unions shall supervise the implementation of the minimum wage standards in accordance with the law, and shall have the right to request the labor and social security administrative departments to handle any violations of the provisions on minimum wages.

Article 16 — These Provisions shall come into force on March 1, 2004. The Provisions on Minimum Wages in Enterprises issued by the former Ministry of Labor on November 24, 1993 shall be repealed simultaneously.

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