

Regulation on Ensuring Wage Payment to Rural Migrant Workers of the People's Republic of China

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

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Chapter I — General Provisions

Article 1 — This Regulation is formulated for the purposes of regulating the wage payment behavior of rural migrant workers, ensuring that rural migrant workers receive their wages on time and in full, and safeguarding their lawful rights and interests.

Article 2 — This Regulation shall apply to the payment of wages to rural migrant workers providing labor services to enterprises, individually-owned businesses, private non-enterprise entities and other organizations within the territory of the People's Republic of China.

Article 3 — Rural migrant workers shall have the right to receive their wages on time and in full. No entity or individual may default on or fail to pay wages to rural migrant workers.

Article 4 — People's governments at or above the county level shall assume overall responsibility for ensuring wage payment to rural migrant workers within their respective administrative regions, and shall

establish work coordination mechanisms.

Article 5 — The human resources and social security administrative departments shall take the lead in organizing and coordinating work on ensuring wage payment to rural migrant workers, and shall be responsible for supervision and inspection.

Article 6 — Employers shall enter into written labor contracts with rural migrant workers in accordance with the law and shall specify in the labor contracts the wage standards, payment time limits, and payment methods.

Article 7 — The labor security supervision system shall be improved, and the wage payment behavior of employers shall be subject to public supervision in accordance with the law.

Article 8 — Trade unions, the Communist Youth League, women's federations, disabled persons' federations and other organizations shall safeguard the lawful rights and interests of rural migrant workers in wage payment in accordance with the law.

Chapter II — Wage Payment Forms and Periods

Article 9 — Employers shall pay wages to rural migrant workers on time and in full and shall not withhold or unjustifiably default on wages.

Article 10 — Employers shall pay wages to rural migrant workers in the form of currency, through bank transfer or in cash. Physical objects, marketable securities or other forms shall not be used in place of currency payment.

Article 11 — Employers shall pay wages to rural migrant workers on a monthly basis. Where it is difficult to implement monthly payment due to special characteristics of the industry or sector, a wage payment system based on weeks, days or hours may be implemented.

Article 12 — Employers shall prepare written records of wage payment, including the names, payment amounts, payment time, and recipients' signatures or seals. Wage payment records shall be kept for at least three years for future reference.

Article 13 — Employers shall provide rural migrant workers with their own wage statements. Where rural migrant workers inquire about their wage payments, employers shall provide timely and truthful responses.

Article 14 — Where an employer, due to business difficulties or other reasons, is unable to pay wages on time, it shall explain the situation to rural migrant workers and, upon reaching an agreement, may extend the payment period, provided that the extension shall not exceed 30 days.

Article 15 — Where a rural migrant worker is required to work overtime, the employer shall pay overtime wages in accordance with the law.

Chapter III — Special Provisions on Wage Payment in the Construction Sector

Article 16 — The construction sector shall implement a special management system for the wages of rural migrant workers.

Article 17 — Construction project contracting entities shall open a special wage account for rural migrant workers in accordance with the law and shall ensure that the funds in the special account are sufficient to pay the wages of rural migrant workers.

Article 18 — General construction project contractors shall assume the primary responsibility for ensuring that the wages of rural migrant workers are paid in full. Subcontractors shall assume direct responsibility for paying wages to the rural migrant workers they employ.

Article 19 — General construction project contractors shall, in accordance with the law, pay wages directly to rural migrant workers through the special wage account. Subcontractors shall verify attendance and prepare wage payment schedules, which shall be confirmed by the rural migrant workers themselves.

Article 20 — Construction project owners shall guarantee the funds in the special wage account. Where the project owner fails to provide funds in the special wage account, resulting in the default of wages of rural migrant workers, the project owner shall bear liability for advance payment.

Article 21 — General construction project contractors shall establish a real-name employment management system for rural migrant workers, entering into labor contracts and registering real-name information in accordance with the law.

Article 22 — General construction project contractors shall store wage deposits for rural migrant workers, which shall be specifically used for the payment of wages in arrears. The wage deposit shall be returned after the project is completed and accepted.

Article 23 — The construction administrative department shall include the payment of wages to rural migrant workers by construction enterprises in the scope of construction market supervision.

Article 24 — Where a construction project owner requires the contracting entity to advance funds for construction, the government project owner shall be prohibited from doing so.

Chapter IV — Supervision and Administration

Article 25 — The human resources and social security administrative department shall exercise supervision and inspection by means of daily inspections, special inspections, written inspections and other methods.

Article 26 — The human resources and social security administrative department shall establish a system for assessing the creditworthiness of wage payment to rural migrant workers.

Article 27 — The housing and urban-rural development, transportation, water resources and other relevant departments shall supervise construction project owners and construction enterprises within the scope of their respective functions and duties.

Article 28 — Public security authorities shall assist in the investigation and handling of cases of refusal to pay labor remuneration.

Article 29 — The people's courts shall accept lawsuits filed by rural migrant workers for wage payment in accordance with the law and shall provide judicial assistance and legal aid to eligible rural migrant workers.

Article 30 — Any organization or individual shall have the right to report defaults on the wage payment to rural migrant workers.

Chapter V — Legal Liability

Article 31 — Where an employer fails to pay wages to rural migrant workers on time and in full, the human resources and social security administrative department shall order it to make payment within a specified time limit. Where it fails to make payment within the time limit, the human resources and social security administrative department shall impose a fine.

Article 32 — Where an employer is ordered to make payment within a specified time limit but fails to do so, the human resources and social security administrative department may impose a fine of not less than 5,000 yuan but not more than 20,000 yuan per person for whom wages are owed.

Article 33 — Where the circumstances are serious, the human resources and social security administrative department shall include the employer in the directory of entities with serious credit deficiencies and publish relevant information.

Article 34 — Where an employer's failure to pay labor remuneration constitutes a crime, criminal liability shall be pursued in accordance with the relevant provisions of the Criminal Law.

Article 35 — Where the relevant government departments and their staff members fail to perform their duties in accordance with the law, the relevant persons in charge and directly responsible personnel shall be subject to administrative sanctions in accordance with the law.

Article 36 — Where a construction project owner fails to provide the agreed funds in the special wage account, the human resources and social security administrative department or other relevant departments of the people's government at or above the county level shall order it to make corrections within a specified time limit. Where it fails to do so, the project shall be ordered to suspend construction and a fine shall be imposed.

Chapter VI — Supplementary Provisions

Article 37 — The term “rural migrant workers” as used in this Regulation means workers who provide labor services to employers and whose household registration is in a rural area.

Article 38 — Matters not covered by this Regulation shall be handled in accordance with the Labor Law, the Labor Contract Law, the Labor Security Supervision Regulation and other relevant laws and regulations.

Article 39 — The people's governments of provinces, autonomous regions and municipalities directly under the Central Government may formulate implementation rules in accordance with this Regulation and in light of local actual conditions.

Article 40 — This Regulation shall come into force on May 1, 2020.

This translation is provided for informational purposes only. For legal matters, please consult the original Chinese text or seek professional legal advice. For assistance with wage payment compliance, construction industry employment and HR management in China, please contact Dan Young Business Consultancy.