Regulations on Guaranteeing Wage Payment to Migrant Workers of the PRC

Dan Young Business Consultancy — www.danyoungcpa.com

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

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Chapter I — General Provisions

Article 1 — These Regulations are enacted for the purposes of regulating wage payment practices, guaranteeing that migrant workers receive their wages on time and in full, and safeguarding their lawful rights and interests in accordance with the law.

Article 2 — These Regulations shall apply to matters relating to the guarantee of wage payment to migrant workers.

For the purposes of these Regulations, "migrant workers" means rural laborers who provide labor services to employers.

For the purposes of these Regulations, "wages" means the labor remuneration received by migrant workers for providing labor services to employers.

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Article 3 — Migrant workers shall have the right to receive their wages on time and in full. No entity or individual may default on or deduct the wages of migrant workers.

Migrant workers shall abide by labor discipline and professional ethics, implement labor safety and health regulations, and complete their labor tasks. Employers shall, in accordance with the law, pay migrant workers their wages on time and in full.

Article 4 — The local people's governments at or above the county level shall be responsible for guaranteeing the payment of wages to migrant workers within their respective administrative areas, establish a coordination mechanism for the work of guaranteeing wage payment to migrant workers, strengthen the capacity building of supervision and guarantee, and improve the target responsibility system for guaranteeing wage payment to migrant workers, and shall incorporate such work into the performance evaluation and supervision of the people's governments at the corresponding level and the relevant departments.

The people's governments of townships and towns and sub-district offices shall strengthen the investigation and mediation of conflicts and disputes over the payment of wages to migrant workers, and prevent and resolve conflicts in a timely manner.

Article 5 — Employers shall strictly abide by laws, regulations, and rules relating to wage payment, and conscientiously fulfill their obligations to pay wages to migrant workers.

Article 6 — The departments of human resources and social security, housing and urban-rural development, transport, water conservancy, and other relevant departments under the State Council shall, in accordance with the division of functions and responsibilities, be responsible for guaranteeing the payment of wages to migrant workers.

Article 7 — Trade unions, communist youth leagues, women's federations, disabled persons' federations, and other organizations shall, in accordance with the law, safeguard the right of migrant workers to receive wages, and provide support and assistance to migrant workers in safeguarding their rights in accordance with the law.

Article 8 — News media shall carry out public interest publicity on laws, regulations, and policies relating to the guarantee of wage payment to migrant workers, publicize advanced models, and strengthen public opinion supervision over the arrears of wages to migrant workers in accordance with the law.

Article 9 — Migrant workers are encouraged to report any wage arrears. Any entity or individual shall have the right to report wage arrears to the relevant government departments. The departments of human resources and social security and other relevant departments shall publicly provide channels for reporting and complaints, accept reports and complaints in accordance with the law, and keep the information on the reporters confidential.

Chapter II — Forms of Wage Payment and Settlement Period

Article 10 — Employers shall pay wages to migrant workers themselves or entrust banks to pay wages on their behalf. The form of currency shall be adopted for wage payment, and no payment shall be made in kind or in the form of securities or other substitutes.

Article 11 — Employers shall enter into a written labor contract or a written agreement with migrant workers specifying the wage payment standards, the time of payment, the mode of payment, and other matters.

Article 12 — Employers shall prepare written records of wage payment and keep them for not less than three years. The records shall include the names and identification numbers of the migrant workers, the amount of wages paid, the items of wages, the time of wage payment, and the signature or seal of the migrant worker confirming receipt of the wages.

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Where employers pay wages to migrant workers, they shall provide the migrant workers with a list of their wages.

Article 13 — Where the employment of migrant workers practices the hourly wage, daily wage, weekly wage, or monthly wage system, the wages shall be paid on a daily, weekly, or monthly basis as agreed in the labor contract or agreement.

Wages shall be settled and paid on a monthly basis in the construction field. Where the employment of migrant workers practices the piecework wage system, the wage payment period may be agreed upon by both parties in accordance with the law.

Article 14 — Where an employer terminates or ends a labor contract with a migrant worker in accordance with the law, the employer shall pay the migrant worker the wages in a lump sum upon termination or end of the labor contract.

Chapter III — Special Systems for Wage Arrears Clearance

Article 15 — In the engineering construction field, the construction employer shall open a special account for the wages of migrant workers in a banking financial institution for the purpose of paying the wages of migrant workers for the construction project, and the special account shall be subject to special management and special use.

Where the construction employer fails to open a special account for the wages of migrant workers in accordance with the provisions, the project shall not be permitted to commence construction.

Article 16 — The construction employer shall store a wage deposit for migrant workers in a banking financial institution in accordance with the relevant provisions. The wage deposit shall be used exclusively for the payment of wages owed to migrant workers.

Article 17 — The construction employer shall sign a construction contract with the subcontractor in accordance with the law, and the construction employer shall have the obligation to supervise the subcontractor in paying wages to migrant workers on time and in full.

Where the construction employer subcontracts or illegally subcontracts the project, resulting in wage arrears to migrant workers, the construction employer shall be responsible for clearing the arrears.

Article 18 — Where the project is subcontracted in violation of regulations, resulting in wage arrears to migrant workers, the construction employer or the general contractor shall be responsible for clearing the arrears, and may seek recourse from the subcontractor after clearing the arrears in accordance with the law.

Article 19 — The project owner shall provide the construction employer with a guarantee for the payment of the project funds. Where the project funds of a government-invested project are not implemented, the project shall not be permitted to commence construction. The project owner shall make timely payments of the project funds in accordance with the contract. Where the project funds are not paid in accordance with the contract, resulting in wage arrears to migrant workers by the construction employer, the project owner shall advance the payment of the wages owed to migrant workers within the limit of the outstanding project funds.

Article 20 — The human resources and social security administrative department, upon discovering an employer in arrears of wages to migrant workers, shall order the employer to make corrections within a prescribed time limit. Where the employer fails to make corrections within the time limit, the department shall impose an administrative penalty on the employer, and the employer shall be ordered to pay compensation to the migrant workers in accordance with the relevant State provisions.

Article 21 — Employers shall establish a real-name management system for migrant workers and truthfully register information on migrant workers. No unit or individual may seek improper benefits in the name of migrant workers.

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Chapter IV — Supervision and Guarantees

Article 22 — The departments of human resources and social security, housing and urban-rural development, transport, water conservancy, and other relevant departments shall, in accordance with the division of functions and responsibilities, establish a system for supervising and inspecting the payment of wages to migrant workers. They shall conduct inspections to detect and eliminate hidden dangers of wage arrears on a regular basis.

Article 23 — The human resources and social security administrative departments shall establish a system for supervising and inspecting the payment of wages to migrant workers and shall have the power to take the following measures when conducting supervision and inspection:

(1) To enter the premises of the employer to conduct on-site inspections;

(2) To examine the labor contracts, wage payment ledgers, and other relevant materials on the spot; and

(3) To question the relevant personnel and request explanations on the relevant matters.

Article 24 — The departments of human resources and social security shall, in conjunction with the relevant departments, establish a credit rating system for guaranteeing wage payment to migrant workers, carry out credit rating, and implement classified dynamic management.

Article 25 — For employers that seriously default on the wages of migrant workers, the relevant departments shall include them in the list of targets for joint disciplinary action for untrustworthiness, and shall impose joint punishment on them and their legal representatives, principal responsible persons, and directly responsible persons in accordance with the law in such matters as government procurement, project bidding and tendering, review of production permits, qualification examination, financing and loans, market access, preferential tax treatment, and evaluation for awards and honors.

Article 26 — Local people's governments at or above the county level shall establish an emergency reserve fund for guaranteeing wage payment to migrant workers, which shall be used for advancing part of the wages or basic living expenses when the employer is in arrears of wages to migrant workers and unable to pay.

Chapter V — Legal Liability

Article 27 — Where an employer has any of the following circumstances, the human resources and social security administrative department shall order it to make corrections within a prescribed time limit; where it fails to make corrections within the time limit, a fine of not less than 20,000 yuan and not more than 50,000 yuan shall be imposed on the employer, and a fine of not less than 10,000 yuan and not more than 30,000 yuan shall be imposed on the legal representative, the principal responsible person, or the directly responsible person:

(1) Failing to pay wages in full and on time;

(2) Failing to prepare and keep wage payment ledgers in accordance with the provisions; or

(3) Failing to provide a list of wages to migrant workers.

Article 28 — Where a construction employer has any of the following circumstances, the competent department of housing and urban-rural development, transport, water conservancy, or other relevant department shall order it to make corrections within a prescribed time limit; where it fails to make corrections within the time limit, it shall be ordered to suspend work for rectification, and a fine of not less than 50,000 yuan and not more than 100,000 yuan shall be imposed; where the circumstances are serious, the qualification certificate shall be restricted or revoked:

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(1) Failing to open or use a special account for the wages of migrant workers in accordance with the provisions;

(2) Failing to store a wage deposit for migrant workers in accordance with the provisions;

(3) Failing to implement a real-name management system for migrant workers; or

(4) Subcontracting the project in violation of regulations.

Article 29 — Where a project owner fails to provide a guarantee for the payment of the project funds in accordance with the law or where the project funds of a government-invested project are not implemented and the project is permitted to commence construction, the relevant department shall order it to make corrections and impose sanctions on the directly responsible person in charge and other directly responsible persons in accordance with the law.

Article 30 — Where a government-invested project is in arrears of project funds, resulting in wage arrears to migrant workers, the local people's government at or above the county level shall clear the arrears. Where the circumstances are serious, sanctions shall be imposed on the directly responsible person in charge and other directly responsible persons in accordance with the law.

Article 31 — Where an employer refuses to cooperate with the supervision and inspection conducted by the human resources and social security administrative department in accordance with the law, the human resources and social security administrative department shall order it to make corrections; where it refuses to make corrections, a fine of not less than 2,000 yuan and not more than 20,000 yuan shall be imposed.

Article 32 — Where any functionary of the relevant government department neglects duties, abuses powers, or engages in malpractice for personal gain in the work relating to guaranteeing wage payment to migrant workers, sanctions shall be imposed on the functionary in accordance with the law; where a crime is constituted, criminal liability shall be pursued in accordance with the law.

Chapter VI — Supplementary Provisions

Article 33 — These Regulations shall come into effect on May 1, 2020.

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