Regulations on Minimum Wage of the People’s Republic of China

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Contents

Table of Contents 1

Chapter I — General Provisions 1

Chapter II — Determination and Publishing of Minimum Wage Standards 2

Chapter III — Implementation of Minimum Wage Standards 2

Chapter IV — Supervision and Inspection 3

Chapter V — Legal Liability 3

Chapter VI — Supplementary Provisions 4

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Table of Contents

- Chapter I — General Provisions
- Chapter II — Determination and Publishing
- Chapter III — Implementation
- Chapter IV — Supervision and Inspection
- Chapter V — Legal Liability
- Chapter VI — Supplementary Provisions

Chapter I — General Provisions

Article 1 — These Regulations are formulated in accordance with the Labor Law of the People's Republic of China and other relevant laws and regulations to safeguard the basic livelihood of workers and their family members and to standardize the administration of minimum wages.

Article 2 — These Regulations apply to enterprises, private non-enterprise entities, individually owned economic organizations with employees (hereinafter collectively referred to as "employers"), and workers who have established labor relationships with them within the territory of the People's Republic of China. State organs, public institutions, social organizations, and workers with whom they have established labor relationships shall implement these Regulations in accordance with the relevant provisions.

Article 3 — For purposes of these Regulations, "minimum wage standard" means the minimum amount of remuneration that an employer shall pay to a worker for the provision of normal labor within the statutory working hours or the working hours stipulated in the labor contract concluded in accordance with the law, under the prerequisite that the worker has provided normal labor. "Normal labor" means the labor performed

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by a worker within the statutory working hours or the working hours stipulated in the labor contract concluded in accordance with the law. The State shall implement a system of minimum wage guarantee. Minimum wage standards generally take the form of a monthly minimum wage standard and an hourly minimum wage standard. The monthly minimum wage standard applies to full-time workers, and the hourly minimum wage standard applies to part-time workers.

Chapter II — Determination and Publishing of Minimum Wage Standards

Article 4 — The determination and adjustment of the monthly minimum wage standard shall take into account, with reference to the following factors, the minimum living expenses of the worker and the average number of dependents supported by the worker, the average wage level of urban employees, the labor productivity, the employment situation, and the differences in the level of economic development among regions: (1) the minimum living expenses of the worker and the average number of dependents supported by the worker; (2) the average wage level; (3) the labor productivity; (4) the employment situation; and (5) the differences in the level of economic development among regions. The determination and adjustment of the hourly minimum wage standard shall take into account, with reference to the monthly minimum wage standard applied, the basic old-age insurance premiums, basic medical insurance premiums, and other social insurance premiums paid by the entity, while appropriately considering the differences between part-time workers and full-time workers in terms of the stability of working hours, working conditions, labor intensity, welfare benefits, and other aspects.

Article 5 — The minimum wage standard shall be formulated by the administrative departments for labor and social security of the people's governments of provinces, autonomous regions, and municipalities directly under the Central Government (hereinafter referred to as "provincial labor security departments") in conjunction with the trade unions at the same level and the enterprise association or entrepreneurs' association, and shall be submitted to the Ministry of Labor and Social Security for filing. After the plan is submitted by the provincial labor security department for filing, the provincial labor security department shall submit the amended plan to the people's government of the province, autonomous region, or municipality directly under the Central Government for approval, and shall publish it within seven days after approval. The formulation plan shall be submitted for filing within 15 days before publication. The minimum wage standard shall be published in the local people's government gazette and on at least one local newspaper with full-area circulation.

Article 6 — The minimum wage standard shall be published before the announcement of the implementation plan, and the implementation plan shall include the scope and time of implementation, and other contents. The published minimum wage standard shall be implemented at least one month after publication. The implementation of the newly published standard shall be completed within seven working days.

Article 7 — The minimum wage standard shall be published in the local people's government gazette and at least one local newspaper with full-area circulation. The minimum wage standard shall be adjusted at least once every two years.

Article 8 — Employers shall publicize the applicable minimum wage standards to all employees of the entity within 10 days after the publication of the minimum wage standard.

Chapter III — Implementation of Minimum Wage Standards

Article 9 — Employers shall pay wages to workers at a rate not lower than the local minimum wage standard. Where a worker provides normal labor, the wages paid by the employer to the worker after deducting the following items shall not be lower than the local minimum wage standard: (1) overtime wages; (2) allowances for special working conditions such as night shift, high temperature, low temperature, underground work, toxic and hazardous working environments; and (3) welfare benefits of workers as prescribed by laws, regulations, and the State. Where the employment system of piece-rate wages or commission wages is

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implemented, the employer shall, on the basis of scientific and reasonable labor quotas, pay wages such that the wages are not lower than the corresponding minimum wage standard. Where a worker is unable to provide normal labor because of his or her own reasons, such as being on personal leave, the provisions of the relevant laws and regulations shall apply.

Article 10 — The minimum wage standard shall include the social insurance premiums and housing provident fund paid by individual workers. The minimum wage standard shall not include social insurance premiums and housing provident fund paid by the employer for the worker.

Article 11 — An employer shall pay the worker's wages on the date stipulated in the labor contract or the collective contract. If the payment date falls on a statutory holiday or rest day, the payment shall be made in advance on the nearest working day. Wages shall be paid at least once a month. Where the system of weekly, daily, or hourly wages is implemented, wages may be paid on a weekly, daily, or hourly basis.

Article 12 — Where a worker provides normal labor during the probation period or internship period, the employer shall pay wages at a rate not lower than the local minimum wage standard.

Article 13 — Where an employer is unable to pay wages to workers on time due to difficulties in production and operation, it shall consult with the trade union or employee representatives of the entity, and may defer payment for not more than one month.

Chapter IV — Supervision and Inspection

Article 14 — The administrative departments for labor and social security under the local people's governments at or above the county level shall, in accordance with the law, supervise and inspect the implementation of minimum wage standards by employers within their respective administrative areas. Trade unions shall, in accordance with the law, supervise the implementation of minimum wage standards by employers. Where an employer violates the provisions on minimum wage standards, the trade union shall have the right to request the local administrative department for labor and social security to handle the matter.

Article 15 — When conducting supervision and inspection, the administrative departments for labor and social security shall have the right to examine account books, documents, records, and other relevant materials relating to the payment of workers' wages, and may conduct on-site inspections at the workplace. Employers and workers shall truthfully provide relevant information and materials.

Article 16 — Workers shall have the right to report and bring complaints against any employer that violates the provisions on minimum wage standards. The administrative departments for labor and social security shall deal with reports and complaints in a timely manner, keep the informant confidential, and reward those whose reports and complaints are verified to be true.

Chapter V — Legal Liability

Article 17 — Where an employer pays wages lower than the local minimum wage standard in violation of the provisions of these Regulations, the administrative department for labor and social security shall order the employer to pay the difference within a prescribed time limit; where the employer fails to pay within the prescribed time limit, the employer shall be ordered to pay additional compensation to the worker at the rate of not less than 50% and not more than 100% of the difference payable.

Article 18 — Where an employer obstructs or hinders supervision and inspection conducted by the administrative department for labor and social security in accordance with the law, or refuses to implement the rectification order of the administrative department for labor and social security, the employer shall be penalized in accordance with the relevant provisions of the regulations on labor security supervision.

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Article 19 — Where functionaries of the administrative departments for labor and social security neglect their duties, abuse their powers, or engage in malpractices for personal gain in the supervision and inspection of minimum wage standards, administrative sanctions shall be imposed on them 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 20 — The Ministry of Labor and Social Security shall be responsible for interpreting these Regulations.

Article 21 — These Regulations shall enter into force on March 1, 2004.

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