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## CHINA

**Regulations concerning minimum wages in enterprises.** Dated 24 November 1993.

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### CHAPTER I. GENERAL PROVISIONS

**Section 1.** The purpose of these Regulations is to meet the requirements of developing the socialist market economy, to ensure the basic needs of the worker and his family, to help improve workers' performance and to promote fair competition between enterprises.

**Section 2.** These Regulations apply to the various economic types of enterprises established inside the territories of the People's Republic of China (hereinafter referred to as "an enterprise or enterprises") and workers who receive pay from these enterprises (hereinafter referred to as "a worker or workers").

The people's government of a province, an autonomous region or municipality directly under the central Government shall decide whether these Regulations shall apply to an enterprise established by a county or a township

**Section 3.** The term "minimum wages" in these Regulations means the minimum remuneration that the enterprise where a worker is employed must pay for the regular work performed by the worker within the prescribed working time. The term "minimum wage rates" in these Regulations means the amount of minimum wages payable per time unit of work.

**Section 4.** The principle of democratic consultation between the representatives of the government, the trade union and the enterprise shall apply in fixing minimum wage rates.

**Section 5.** The State Council's Department of Labour Administration shall

exercise unified administration over the national minimum wage system.

The department of labour administration under the people's government of a province, an autonomous region or a municipality directly under the central Government shall exercise unified administration over the minimum wage system of the administrative region concerned.

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## **CHAPTER II. FIXING AND PROMULGATING MINIMUM WAGE RATES**

**Section 6.** Under the guidance of the State Council's Department of Labour Administration, minimum wage rates shall be fixed by the department of labour administration under the people's government of a province, an autonomous region or a municipality directly under the central Government in consultation with the trade union and the association of enterprise directors at the corresponding level.

**Section 7.** In fixing minimum wage rates, account shall be taken of the information on a locality supplied by the government statistics bureau about the minimum living standards of employees and their dependants, the average wages of workers and staff, labour productivity, the urban economic situation and the level of economic development. Minimum wage rates thus fixed shall be higher than the amounts of social relief fund and unemployment benefits but lower than the average wage in the locality. As for the methods of actual calculation, see the Annex.

**Section 8.** Minimum wage rates shall be fixed generally by the month, but may also be fixed by the week, the day or the hour. Minimum wage rates for different time units shall be convertible.

**Section 9.** Minimum wage rates shall take into account the specific conditions of different localities and trades of the same region, and different minimum wage rates may be fixed for localities with different economic development levels and for different trades.

**Section 10.** The local chamber of industry and commerce as well as local departments of finance, civil affairs and statistics, etc. shall be consulted when the department of labour administration under the people's government of a province, an autonomous region or a municipality directly under the central Government meets with the trade union and the association of enterprise directors at the corresponding level to fix minimum wage rates.

**Section 11.** The department of labour administration under the people's government of a province, an autonomous region or a municipality directly under the central Government must register a report at the State Council's Department of Labour Administration on the local minimum wage rates that have been fixed and their basis, specifications and coverage (localities, trades and personnel).

**Section 12.** Having received the report of the department of labour administration under the people's government of a province, an autonomous region or a municipality directly under the central Government, the State Council's Department of Labour Administration shall summon the All-China Federation of Trade Unions (ACFTU) and the China Enterprise Directors' Association (CEDA) to examine the report. If the minimum wage rates submitted and their coverage are found to be inappropriate, the State Council's Department of Labour Administration is entitled to give its views on modification. The reply must be in written form and must reach the department of labour administration under the people's government of a province, an autonomous region or a municipality directly under the central Government within 15 days from the day when it was received.

**Section 13.** When no reply regarding modification is received from the State Council's Department of Labour Administration within 25 days from the day when the report was sent to it, or having received such reply but having modified the original minimum wage rates and their coverage, the department of labour administration under the people's government of a province, an autonomous region or a municipality directly under the central Government shall submit the local minimum wage rates and their coverage to the people's government of the corresponding level for approval, and have them promulgated within seven days after its approval.

**Section 14.** The minimum wage rates and their coverage of a province, an autonomous region or a municipality directly under the central Government shall be promulgated in the local government bulletin and published in at least one of the newspapers circulated in the entire region.

**Section 15.** If the factors set out in section 7 of these Regulations have changed, or if there have been great variations in the accumulative total of the cost-of-living index of the workers and staff of a locality, the promulgated and implemented minimum wage rates shall be adjusted in due time. Such adjustments shall be made no more than once in a year.

The competence, manner and procedure for introducing an adjustment to the minimum wage rates and the manner in which adjustments are to be promulgated shall be subject to the same rules under which they are fixed.

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## CHAPTER III. PAYMENT OF MINIMUM WAGES

**Section 16.** Minimum wages shall be paid in legal currency and on time.

**Section 17.** The following items shall not be regarded as part of minimum wages:

- (1) wages paid for overtime work;
- (2) compensation given for work on swing shifts, night shifts or for work carried out under special conditions such as high or low temperatures,

- underground, exposure to hazardous substances, etc.;
- (3) social security benefits and other non-wage employment benefits prescribed by national laws, regulations and policies.

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## CHAPTER IV. GUARANTEE AND SUPERVISION OF MINIMUM WAGES

**Section 18.** An enterprise must inform its workers about the relevant provisions on minimum wages.

**Section 19.** The wages paid to a worker by an enterprise must not be lower than the applicable minimum wage rates.

Enterprises which adopt such means of payment as piece-rate wages or wages based on total earnings of an enterprise must ensure that the resulting wages are not lower than the minimum wage rates fixed for each hour, day, week or month.

**Section 20.** The first paragraph of section 19 shall not be applied to those workers who, for reasons that relate only to them, fail to perform regular work within the prescribed working time.

**Section 21.** Workers who are on leave in accordance with the relevant provisions for reasons such as home leave, marriage, or the death of an immediate relative, or are on leave to participate in state or social activities as required by law shall be regarded as performing regular work.

**Section 22.** The department of labour administration under the people's governments at various levels are responsible for the inspection and supervision of the application of minimum wages.

**Section 23.** Trade unions shall have the right to supervise the implementation of minimum wages. If an enterprise is found to be paying wages lower than the minimum wage rates to its workers, trade unions shall have the right to demand that the department concerned deal with the matter.

**Section 24.** If disputes arise between the workers and their enterprise regarding minimum wages, they shall be dealt with in accordance with the regulations for handling labour disputes.

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## CHAPTER V. LEGAL RESPONSIBILITIES

**Section 25.** The State Council's Department of Labour Administration shall instruct that any contravention of sections 7, 10, 11, 13 and 14 of these Regulations be rectified within a specified time.

**Section 26.** Where an enterprise has contravened sections 16, 17, 18, or 21 of these Regulations, the department of labour administration under the local government shall instruct it to rectify such contravention(s) within a specified time. If rectification is not carried out during this period of time, economic penalties shall be imposed on the enterprise and those who are responsible.

**Section 27.** Where an enterprise has contravened section 19 of these Regulations, the department of labour administration under the local government shall instruct it to pay, within a specified time, the wages owed to the workers as well as compensation which shall be determined by the duration of the delay. For a delay of less than one month, compensation equal to 20 per cent of a worker's wage must be paid to the worker; for a delay of less than three months, compensation equal to 50 per cent of the wages must be paid; and for a delay of more than three months, compensation equal to 100 per cent of the wages must be paid. In the case of an enterprise refusing to pay overdue wages and compensation, economic penalties shall be imposed on such enterprise and those who are responsible.

**Section 28.** In the event that a party does not accept the punitive decision, such party may, in accordance with the Regulations on administrative reconsideration, apply for reconsideration of the case. If the party concerned refuses to accept the reconsideration decision, it may take legal proceedings under the Administrative Procedure Act in the people's court.

**Section 29.** Where the applicant for reconsideration, upon the expiry of the claim period, has not taken legal proceedings, nor has complied with the reconsideration decision, enforcement shall be carried out under the Regulations on administrative reconsideration.

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## CHAPTER VI. SUPPLEMENTARY PROVISIONS

**Section 30.** In accordance with these Regulations, implementing rules may be promulgated by the people's government of a province, an autonomous region or a municipality directly under the central Government.

**Section 31.** The State Council's Department of Labour Administration shall be responsible for the interpretation of these Regulations.

**Section 32.** These Regulations shall come into force on the date of promulgation.

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[**SCHEDULE:** Method for calculating minimum wage rates.]



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