

<b>Title</b>	<a href="#">Enforcement Rules of the Labor Standards Act</a>
<b>Amended Date</b>	2016.06.21
<b>Category</b>	Ministry of Labor ( 勞動部 )

Chapter I General Provisions

Article 1 The Rules are prescribed in accordance with Article 85 of the Labor Standards Act (here-in-after referred to as the Act).

Article 2 Wages and the number of days in the following periods shall not be included for the purpose of calculating the average wage referred to in Subparagraph 4 of Article 2 of the Act:

1. The day on which the event occurs requiring calculation to be made,
2. The period of medical treatment for occupational injury,
3. The period in which wages are paid at half the normal rate referred to in the Paragraph 2 of Article 50 of the Act, and
4. Where, due to a natural disaster, an unexpected event, or other force majeure, the employer cannot continue business operations, and there is no work for the employee.

Article 3 The Standard Business Classification of the Republic of China shall be applicable in designating the businesses referred to in Subparagraphs 1 to 7 of Paragraph 1 of Article 3 of the Act.

Article 4 The business (or industries) designated by the Central Competent Authority referred to in Subparagraph 8 of Paragraph 1 of Article 3 of the Act and business (or industries) referred to in Paragraph 3 that the application of the Act will genuinely cause undue hardship to them, shall be those business (or industries) designated by the Central Competent Authority in accordance with the Standard Business Classifications of the Republic of China and the Central Competent Authority may designate only a portion of a business.

Article 4-1 (deleted)

Article 5 In calculating the seniority of a worker, the seniority is limited to the years serving in the same business entity from the day the worker was employed.

Seniority accrued in the same business before and after the promulgation and enforcement of the Act shall be combined.

Chapter II Labor Contract

Article 6 The temporary, short-term, seasonal and specific work referred to the Paragraph 1 of Article 9 of the Act shall have the following denotations.

1. Temporary work shall mean work of an unexpected and

non-continuous nature, and is not to exceed six months.

2. Short-term work shall mean work of a non-continuous nature that is expected to be completed within a short period of time and is not to exceed six months.

3. Seasonal work shall mean work of non-continuous nature which is influenced by seasonal raw materials, source of materials or sale in market and is not to exceed nine months.

4. Specific work shall mean work of non-continuous nature which can be completed within a specific period. But if the length of work is to exceed one year, it should be reported to the competent authority for approval and record.

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Article 7	<p>A labor contract shall, in accordance with the Act, make stipulations for the following matters:</p> <ol style="list-style-type: none"><li>1. Matters relating to the workplace and the work to be performed in the workplace,</li><li>2. Matters relating to time of starting and finishing work, rest periods, holidays, public holidays, leave, and shift changes in the rotation system,</li><li>3. Matters relating to the determination, readjustment, calculation, final settlement, the dates and the methods of wage payment,</li><li>4. Matters relating to the entering and termination of a labor contract, and retirement,</li><li>5. Matters relating to severance pay, pension and other allowances, and bonuses,</li><li>6. Matters relating to the expenses for boarding, lodging and tools which the worker should bear,</li><li>7. Matters relating to safety and health,</li><li>8. Matters relating to labor education and training,</li><li>9. Matters relating to welfare,</li><li>10. Matters relating to compensation and remedy for occupational accident and subsidy for ordinary injury or sickness,</li><li>11. Matters relating to work discipline that shall be observed,</li><li>12. Matters relating to award and discipline, and</li><li>13. Other matters relating to rights and obligations of the labor and management.</li></ol>
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Article 8 (Deleted)

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Article 9 When an labor contract is terminated according to the provisions of the Act, the employer shall immediately pay the worker wages due to him/her.

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Chapter III Wages

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Article 10	<p>The regular benefits mentioned in Subparagraph 3 of Article 2 of the Act, regardless of what they may be called, refer to benefits other than the following:</p> <ol style="list-style-type: none"> <li>1. Dividends,</li> <li>2. Bonuses, viz for. year-end bonuses, competition bonuses, research or invention bonuses, bonuses for outstanding performances, long-service bonuses, bonuses for the saving of fuel and other raw materials, and other bonuses of an irregular character,</li> <li>3. Special payment for Spring Festival, May Festival and Moon Festival,</li> <li>4. Subsidies for medical expenses and education expenses of workers and their children,</li> <li>5. Service charges directly paid to the worker by a customer,</li> <li>6. Presents donated by the employer in the event of a marriage or celebration, or monetary condolences in the event of funeral services,</li> <li>7. Compensation for occupational accidents,</li> <li>8. Premiums for labor insurance and for any commercial insurance of the employer, in which the worker is covered as the insured person,</li> <li>9. Travel expenses, travel allowance, public relation allowances,</li> <li>10. Work uniforms, tools, and reimbursement for conversion, and</li> <li>11. Other matters designated by the Central Competent Authority in conjunction with the Central Competent Authority for specific business purpose.</li> </ol>
Article 11	<p>The basic wage mentioned in Article 21 of the Act refers to remuneration received by a worker for regular working hours, excluding overtime pay and additional payments for overtime work in statutory regular leave day or public holidays.</p>
Article 12	<p>The basic wage of a piece-work labor shall be calculated in accordance with the quantity of production in each eight-hour day, or the quantity of work performed.</p>
Article 13	<p>When a worker's working hour is less than eight hours per day, the basic wage may be calculated pro rata in accordance with the working time, unless otherwise stipulated in the work rules, the labor contract, or any relevant laws or regulations.</p>
Article 14	<p>The basic wage for a child worker shall not be less than seventy percent of the basic wage.</p>
Article 15	<p>The arrear wages referred to in subparagraph 1, Paragraph 1 of Article 28 of the Act shall be limited to wages owed within six months prior to suspension, liquidation or bankruptcy declaration of the employer's business.</p>

Article 16 In the event of the death of a worker, the employer shall immediately settle and pay the arrear wages to the worker's survivors.  
The priority order for such payments shall be in accordance with the provisions of Subparagraph 4 of Article 59 of the Act.

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Chapter IV Working Hours, Recess and Holidays

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Article 17 If the regular working hours mentioned in Article 30 of the Act exceed two calendar days, the working hours shall be combined for calculation purposes.

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Article 18 If the working hours of a worker cannot be readily calculated owing to special errands or other reasons requiring him to attend to work outside the workplace, his/her working hours shall be deemed to be his regular working hours. This shall not apply, however, where his actual working hours have been proven.

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Article 19 When a worker works in different worksites belonging to the same business entity or the same employer, the working hours in each of such worksites shall be added together, including necessary transportation time between the sites.

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Article 20 If an employer reschedules regular working hours, regular leave, or overtime work in accordance with Paragraphs 2 to 3 to Article 30, Subparagraphs 1 to 3 of Paragraphs 1 of Article 30-1, or Paragraphs 1 to 3 of Article 32 of the Act, he/ she should give public notice immediately.

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Article 20-1 The term “overtime” referred to in the Act shall mean the part of working hours that exceeds eight hours per day or the part of working hours that exceeds a total of eighty-four hours every two weeks. But if the working hours have been rescheduled pursuant to Paragraphs 2 to 3 of Article 30, or Subparagraph 1 of Paragraph 1 of Article 30-1 of the Act, it shall mean the part of working hours that exceeds such hours rescheduled.

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Article 21 An employer should record the time of his workers’ attendance pursuant to Paragraph 5 of Article 30 of the Act and minute shall be used as the unit for the entries.

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Article 22 The scope of the supervisory work of pit operations mentioned in Paragraph 4 of Article 32 of the Act is:

1. Supervision of pumping machines,
2. Supervision of wind pressure machines and cooling equipment,
3. Supervision of safety and alarming equipment, and
4. Supervision and the recording of production and construction work.

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Article 23 The annual commemorative holidays mentioned in Article 37 of the Act are as follows:

1. Founding Day of the Republic of China (January 1),
2. Peace Memory Day (February 28),
3. Revolutionary Martyrs Day (March 29),
4. Confucius Birthday (September 28),
5. National Independent Day (October 10),
6. President Chiang Kai-shek's Birthday (October 31),
7. Dr. Sun Yat-sen's Birthday (November 12), and
8. Constitution Day (December 25).

The Labor Day mentioned in Article 37 of the Act is May 1 Labor Day.

The other holidays mentioned in Article 37 of the Act as set by the Central Competent Authority are the followings:

1. The following day of the Founding Day of the Republic of China (January 2),
2. Chinese New Year (January 1 to January 3 of the lunar calendar),
3. Women Day and Children's Day combined (the day before Tomb Sweeping Day),
4. Tomb Sweeping Day(Qingming Festival of the lunar calendar),
5. Dragon Boat Festival (May 5 of the lunar calendar),
6. Mid-Autumn Festival (August 15 of the lunar calendar),
7. Chinese New Year' s Eve,
8. Taiwan's Restoration Day (October 25), and
9. Other holidays as designated by the Central Competent Authority.

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Article 24 The annual paid leave mentioned in Article 38 of the Act shall be determined according to the following provisions:

1. The seniority on which the annual paid leave are calculated shall be rated according to the provisions of Article 5 of the Act.
2. Annual paid leave arrangements shall be made by mutual agreements between the workers and the employer.
3. Where annual paid leave have not been taken because of the end of the calendar year or the termination of contract, the employer shall pay wages for the days on which such days of leave should have been but were not taken.

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#### Chapter V Child Workers and Female Workers

Article 25 The heavy work mentioned in Paragraph 2 of Article 44 of the Act refers to work beyond the mental or physical capabilities of children to operate. Hazardous work means work defined pursuant to the statutes and administrative regulations governing labor safety and health.

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Article 26 The employer may require a woman worker who applies for maternity leave referred to in Paragraph 1 of Article 50 of the Act to produce documentary evidence.

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#### Chapter VI Retirement

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Article 27 The ages designated in Subparagraph 1 of Article 53, Subparagraph 1 of Paragraph 1 of Article 54 and the proviso in Paragraph 2 of Article 54 of the Act shall be consistent with the age recorded in the worker's household.

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Article 28 (deleted)

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Article 29 The situations in which an employer may apply to the competent authority for approval to pay workers' retirement pensions in installments as set forth in Paragraph 3 of Article 55 of the Act include the followings:

1. Where the funds appropriated to the retirement reserve according to law are insufficient for payment.
2. Where the management or finance of the business is truly difficult.

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Article 29-1 According to the payment standards set forth in Paragraph 1 of Article 55 of the Act, the amount of pension referred to in Paragraph 2 of Article 56 of the Act shall be calculated in accordance with the followings:

1. Number of workers: Including incumbent workers to whom the Act applies at the end of the year or whose lengths of service are reserved according to Paragraph 1 of Article 11 of the Labor Pension Act, as well as workers meeting the retirement conditions specified in Article 53 or subparagraph 1 of Paragraph 1 of Article 54 of the Act in the following year.
2. Length of service: Starting from the date the Act applies to the end of the year following the year which the length of service is calculated or the day before the Labor Pension Act applies as a result of choice.
3. Average wages: The average monthly wages of the year in which calculation is made.

The unit of amounts to be calculated as mentioned in the preceding Paragraph shall be New Taiwan Dollar; amount shall be rounded to the nearest tenth.

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#### Chapter VII Compensation for Occupational Accidents

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Article 30 The wage compensation payable by an employer to a worker in accordance with the stipulations of Subparagraph 2 of Article 59 of the Act shall be paid to him /her on the wage pay day.

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Article 31 The pre-existing wage mentioned in Subparagraph 2 of Article 59 of

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the Act refers to the wage the worker received for the regular working hours in the day before the occurrence of occupational accident. Where the wage of the worker is calculated on a monthly basis, one day's wage shall be the amount equivalent to the wage the worker received for one month's regular working hours divided by thirty just one month immediately before the occurrence of occupational accident.

If the amount calculated pursuant to the preceding paragraph for a worker with occupational disease falls short of the average wage, the average wage shall be used as the standard.

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Article 32            The employer shall pay the compensation provided in the proviso of Subparagraph 2 of Article 59 of the Act within fifteen days after the determination of the liability to bear such compensation. Until such compensation is paid, the employer shall continue to pay the compensation provided in the proceeding part of Subparagraph 2.

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Article 33            The employer shall pay funeral expenses provided in Subparagraph 4 of Article 59 of the Act within three days after the death of the worker, and survivor compensation should be paid within fifteen days after the death.

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Article 34            If, in accordance with the provisions of the Labor Insurance Act or other applicable statutes or administrative regulations, the employer has paid compensation to the worker in regard to the same accident provided in Article 59 of the Act, such compensation paid may be deducted by the employer. But, if the compensation is paid from funds jointly contributed by the worker and the employer, only the portion contributed by the employer shall be deducted.

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Article 34-1           In case a worker is killed or incapacitated due to an occupational accident and the worker is covered under labor insurance in accordance with the provisions of the Labor Insurance Act, his/her incident has been verified as an occupational accident, the amount of compensation that his/her employer shall pay to the worker in accordance with Article 59 of the Act shall be the amount determined by the difference between the worker's average wage and average insurance wage of labor insurance and then paid by the standard amount established pursuant to Subparagraphs 3 and 4 of Article 59 of the Act.

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#### Chapter VIII Apprentices

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Article 35            The employer shall not require an apprentice to do household affairs, miscellaneous jobs or other work for purposes other than skill learning. However, this does not include keeping the workplace clean

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and tidy and the cleaning of machinery or equipment.

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Article 36 The working time of an apprentice shall include periods for learning.

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Chapter IX Work Rules

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Article 37 Employers with more than thirty workers shall establish work rules and submit them to the local competent authorities within thirty days for approval and record.

These work rules shall be revised timely according to the changes in statutes and administrative regulations, worker-employer agreements or management systems. Such revised rules shall be submitted to the local competent authorities for approval and record in accordance with the aforesaid procedures.

If it deems necessary, the competent authorities may notify an employer to revise the employer's work rules.

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Article 38 After the work rules have been approved and recorded by the competent authorities, the employer shall display them in the workplace and distribute a copy to each worker.

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Article 39 The employer may, if necessary, establish separate work rules in accordance with the individual subparagraph set forth in Article 70 of the Act.

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Article 40 Where the worksites of a business entity are at different locations, the employer may establish suitable work rules for all workers of the business entity or separate rules for each workplace.

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Chapter X Supervision and Inspection

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Article 41 The Central Competent Authority shall publish an annual labor inspection directive for the following year.

Inspection agencies shall separately devise their own inspection plans in accordance with the inspection directives referred to in the previous paragraph, and within fifty days after the directives have been published, the agencies shall report their inspection plans to the Central Competent Authority. After these plans have been duly approved, inspection work shall commence accordingly.

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Article 42 Without prejudice to the statutes and administrative regulations concerning civil servants, the regulations for the recruitment, training and service of inspectors of labor inspection agencies shall be established by the Central Competent Authority.

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Article 43 When inspecting a business entity, an inspector may notify demanding the owner, his/ her agent, workers or other relevant persons to present all necessary documents or explanations.

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Article 44 On the completion of an inspection visit, the inspector shall give all

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necessary explanations on the results of his visit to the business entity, and submit a report of the same to the inspection agency. In the event that the inspection agency decides that the business entity has violated the statutes or administrative regulations, it shall be duly handled in accordance with the relevant laws and regulations.

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Article 45 In the event that the business entity has any objection against the results of an inspection, it may, within ten days after the receipt of such a report, file objections in writing to the inspection agency.

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Article 46 The complaint referred to in Paragraph 1 of Article 74 of the Act may be filed orally or in writing.

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Article 47 The employer shall investigate any complaint mentioned in the proceeding article; and in the event that the violations of the statutes or administrative regulations have been found, he /she shall immediately correct the violations and notify the complainant of the result thereof.

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Article 48 The competent authorities or the inspection agencies shall investigate the matters of any complaint referred to in Paragraph 1, Article 74 of the Act within seven days after the receipt of such a complaint. In the event that the violations of the statutes or administrative regulations have been found, the competent authorities or the inspection agencies shall either notify the business entity to correct the violations, or duly handle the matter in accordance with the relevant laws and regulations, and notify the complainant of the story of handling within fourteen days.

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Article 49 The meaning for any unfavorable measure provided in Paragraph 2 of Article 74 of the Act refers to the derogation of the rights and interests enjoyable under the statutes and administrative regulations, contracts or customs and practices.

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#### Chapter XI Supplementary Provisions

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Article 50 A civil servant who concurrently has the status of a worker provided in Article 84 of the Act denotes a person who, under relevant civil service statutes and administrative regulations, is appointed, assigned, invited or selected to work as an employee in any business (or industries) provided in Article 3 of the Act and receives remuneration for it. The meaning for other labor conditions provided in this connection refers to working hours, recess, holidays, safety and health, welfare, overtime pay, and so on.

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Article 50-1 Supervisory, administrative workers, professional workers with designated responsibility, monitoring and intermittent workers referred to in Subparagraphs 1 and 2 of Paragraph 1 of Article 84-1

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are defined as follows:

1. Supervisory, administrative workers mean those who are hired by an employer to be responsible for the operation and management of business and with the power to decide the hiring, discharge, or working conditions of the workers in general.
2. Professional worker with designated responsibility means one who utilizes his/her professional knowledge or skills to complete a task and is responsible for its success or failure.
3. Monitoring work means chiefly to monitor work in certain work place.
4. Intermittence work means the work is intermittence in nature.

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Article 50-2      When employers hand in to the local competent authority for approval or record the written agreement between the employers and the employees pursuant to Article 84-1, it shall include ranking title, work items, rights, responsibility, nature of work, work hours, regular leave, vacation, female work at night... etc.

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Article 50-3      Where workers controversy arising out of contract termination or occupational accidents , and a lawsuit is filed for claiming wage payment, severance pay, pension, vocational injury compensation or for authenticating the existence of labor relation, the worker concerned may request legal aid from Central Competent Authority. The aforementioned legal aid businesses may be entrusted by the Central Competent Authority to civil organization to operate.

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Article 50-4      Employers who go into liquidation or declare bankruptcy before the amendment of Paragraph 2 of Article 28 takes effect on February 6, 2015, but have not yet completed the liquidation or bankruptcy procedures after the amendment takes effect may act according to Paragraph 5 of the same Article and apply for payment of pensions and severances owed to workers from the Arrear Wage Payment Fund, provided that the amounts are no more than the total specified in subparagraph 2 of Paragraph 2 of the same Article.

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Article 51      The Rules shall become effective on the date of promulgation.

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