

MACAO SPECIAL ADMINISTRATIVE REGION

Law No. 5/2020

Minimum Wage for Employees

The Legislative Assembly decrees, pursuant to subparagraph 1) of Article 71 of the Basic Law of the Macao Special Administrative Region, that the following shall be enforced as law:

Article 1

Object

This law is aimed at establishing a legal regime on minimum wage for employees, in order to ensure the most basic wage protection for employees and to prevent excessively low wages.

Article 2

Scope of application

This law shall apply to the labour relations governed by paragraph 1 of Article 3 of Law No. 7/2008 (Labour Relations Law) and by special legislation provided for in paragraph 3 of Article 3 of that law, but not apply to the labour relations established with:

- 1) Employees who perform domestic work;
- 2) Individuals who hold the disability assessment registration card referred to in paragraph 2 of Article 2 of Law No. 9/2011 (Regime of Disability Allowance and Free Health Care Services).

Article 3

Composition of the minimum wage

The minimum wage shall mean the basic remuneration provided for in Article 59 of Law No. 7/2008, but exclude:

- 1) Overtime remuneration;
- 2) Extraordinary remuneration for night work or shift work;
- 3) Thirteenth month pay or other periodic benefits of a similar nature.

Article 4

Minimum wage rates

1. The minimum wage rates are:

- 1) \$6,656 (six thousand six hundred and fifty six patacas) per month, for remuneration calculated monthly;
- 2) \$1,536 (one thousand five hundred and thirty six patacas) per week, for remuneration calculated weekly;
- 3) \$256 (two hundred and fifty six patacas) per day, for remuneration calculated daily;
- 4) \$32 (thirty two patacas) per hour, for remuneration calculated hourly;
- 5) An average of \$32 (thirty two patacas) per hour, obtained by dividing basic remuneration in the month by the number of hours actually worked in the month, for remuneration calculated by actual output, without prejudice to the provisions of paragraph 4.

2. When the mode of calculating remuneration combines actual output with any one of the modes – per month, week, day and hour, the minimum wage shall correspond to the rates set out in subparagraphs 1) to 4) of the preceding paragraph respectively, without prejudice to the provisions of paragraph 4.

3. The rate referred to in subparagraph 3) of paragraph 1 is calculated based on a maximum limit of eight normal working hours a day, and the remuneration of the period exceeding this limit is calculated at a rate of not less than \$32 (thirty two patacas) per hour.

4. The situation where the employee's remuneration in the month does not meet the minimum wage rates shall also be considered to be in conformity with the provisions of subparagraph 5) of paragraph 1 or paragraph 2 in the following circumstances:

- 1) The average remuneration per hour, obtained by dividing the sum of the basic remunerations in the month and the two preceding months by the number of hours actually worked in this period, is not lower than the minimum wage rate set out in subparagraph 5) of paragraph 1, for employees whose remuneration calculated by actual output;
- 2) The average of the remunerations in the month and the two preceding months is not lower than the minimum wage rates set out in subparagraph 1) to 4) of paragraph 1 respectively, for employees whose remuneration calculated in accordance with the provisions of paragraph 2.

Article 5

Mandatory

1. The remuneration paid by the employer to the employee shall be in conformity with the minimum wage rates provided for in the preceding article.

2. If the remuneration paid by the employer is not in conformity with the minimum wage rates provided for in the preceding article, the employer shall pay the employee the difference between the remuneration amount of the month in which it is calculated and the statutory minimum wage rate.

3. The contract clauses setting out a remuneration amount that is lower than those provided for in this law shall be considered as non-existent, and replaced by the provisions of this law.

Article 6

Overtime remuneration

1. The provision of overtime work shall entitle the employee to receive the overtime remuneration calculated in accordance with the provisions of Article 37 of Law No. 7/2008, and the normal remuneration per hour used to calculate the overtime remuneration shall not be lower than the average hourly basic remuneration calculated based on the applicable minimum wage rates and according to the provisions of Article 61 of Law No. 7/2008.

2. If the overtime remuneration paid by the employer to the employee does not comply with the provisions of the preceding paragraph, the employer shall pay the difference in the overtime remuneration.

Article 7

Penalties

1. The penalties set out in Law No. 7/2008 for denying the right to remuneration shall be applicable to the employer who does not pay the minimum wage to employees according to the provisions of Article 4.

2. The penalties set out in Law No. 7/2008 for non-compliance with the rules on calculating overtime remuneration shall be applicable to the employer who does not comply with the calculation rules provided for in paragraph 1 of the preceding article.

Article 8

Supervision

The supervision on compliance of this law shall be within the purview of the Labour Affairs Bureau.

Article 9

Review

The minimum wage rates shall be reviewed for the first time two years after the entry into force of this law and subsequently once every two years, and may be adjusted according to the economic development.

Article 10

Application in time

The provisions of this law shall be applicable to labour contracts and agreements concluded before its entry into force and valid on that date, except when the effects of acts or situations have fully ceased prior to that moment.

Article 11

Repeal

The following shall be repealed:

- 1) Law No. 7/2015 (Minimum Wage for Cleaning and Security Employees in the Property Management Services);
- 2) Decree-law No. 43/95/M of August 21.

Article 12

Entry into force

This law shall enter into force on November 1, 2020.

Approved on April 16, 2020.

President of the Legislative Assembly, Kou Hoi In.

Signed on April 21, 2020.

To be published.

Chief Executive, Ho Iat Seng.

[The English version of this law is provided for reference only. Please note that only the Chinese and Portuguese versions published in the Macao SAR Gazette are official and are the sole authority of the law.]