

Regulation on Paid Annual Leave of the Employees

Decree [2007] No. 514 by the State Council

The Regulations on Paid Annual Leave of the Employees, adopted at the 198th executive meeting of the State Council on December 7, 2007 are hereby promulgated and shall become effective as of January 1, 2008.

**Wen Jiabao
Primer of the People's Republic of China**

Regulations on Paid Annual Leave of the Employees

Article 1 These Regulations are formulated in accordance with the Labour Law and the Civil Servants Law of the People's Republic of China in order to protect the employees' rights to rests and annual leaves, as well as to encourage the employees to actively carry out their working duties.

Article 2 The employees of the government departments, social organizations, enterprises, public institutions, private non-enterprise units and individually-owned commercial and industrial businesses that have been working for a consecutive period of more than one year shall be entitled to the paid annual leave (hereinafter referred to as "annual leave"). The employer shall guarantee that their employees may take the annual leaves. The employees taking annual leave shall be entitled to the same wage level of normal working days.

Article 3 Where an employee has provided service for a period of one full year but less than ten years, he/she is entitled to five

days of annual leave; where he/she has served for a period of ten full years but less than twenty years, the entitled annual leave shall be ten days; and for a service period over twenty years, the entitled annual leave shall be fifteen days.

The statutory national holidays and rest days shall not be included in the annual leave.

Article 4 An employee shall not be entitled to annual leave for the current year where he/she is under any of the following circumstances:

(1) The employee is entitled to summer and winter vacations in accordance with the laws and regulations, and the number of days of such vacations exceeds that of his/her annual leave;

(2) The employee has accumulatively taken more than twenty days of casual leave and the employer has not reduced his/her wage level thereof in accordance with the regulations;

(3) The employee with service period of one full year but less than ten years has accumulatively taken more than two months of sick leave;

(4) The employee with service period of ten full years but less than twenty years has accumulatively taken more than three months of sick leave;

(5) The employee with service period over twenty years has accumulatively taken more than four months of sick leave.

Article 5 The employer shall, considering the specific conditions of production and work, as well as the individual preferences of the employees, coordinate and arrange the annual leave of its employees.

Annual leave may be arranged in a concentrated period or in several periods of time within one year, but it generally shall not span beyond one year. The employers may make annual leave

arrangement for their employees that span beyond one year where they need to make such arrangement due to their production and job specialties.

Where the employers can not arrange annual leave for the employees due to production or working requirements, they may, with the consent of the concerned employees, not arrange annual leave. For the annual leave that should have been taken by the employees but otherwise, the employers shall pay remuneration for annual leave to the concerned employees rating 300% of the daily wage rate of such employees.

Article 6 The personnel administration departments and labour and social security administration departments of the People's Governments at county level or above shall actively conduct supervision and examination on the implementation of these Regulations by the employers as per their respective jurisdictions.

The trade unions shall protect the employees' rights to annual leave in accordance with the laws and regulations.

Article 7 Where an employer fails to arrange annual leave for the employees and meanwhile refuses to pay remuneration for annual leave in accordance with these Regulations, the personnel departments or the labour and social security departments of the People's Governments at county level or above shall order rectification within a period of time as per their respective jurisdictions. In case that no rectification has been made within the time limit, such employer, in addition to the payment of remuneration for annual leave, shall be ordered to make compensation to the concerned employees rating the same amount with the remuneration for annual leave. Where the employer refuses to make payment of remuneration for annual leave and compensation, and the personnel of such employer are public servants or administered in reference to the Civil Servants Law, the

person-in-charge that is held directly responsible and other directly responsible personnel shall be penalized in accordance with the law, if such employer is categorized otherwise, the labour and social security department, the personnel department or the concerned employee shall apply for compulsory enforcement by a People's Court.

Article 8 Where the employees and the employers confront disputes over annual leave, the relevant issues shall be handled in accordance with relevant laws and administrative regulations of the State.

Article 9 The personnel administration department and the labour and social security administration department of the State Council shall each formulate the implementing rules of the Regulations in accordance with their respective authorities.

Article 10 These Regulations shall become effective as of January 1, 2008.

(In case of any discrepancy between the English translation and the original Chinese text, the Chinese text shall prevail. ---translator)

职工带薪年休假条例

中华人民共和国国务院令 第 514 号

《职工带薪年休假条例》已经 2007 年 12 月 7 日国务院第 198 次常务会议通过，现予公布，自 2008 年 1 月 1 日起施行。

总理 温家宝

二〇〇七年十二月十四日

职工带薪年休假条例

第一条 为了维护职工休息休假权利，调动职工工作积极性，根据劳动法和公务员法，制定本条例。

第二条 机关、团体、企业、事业单位、民办非企业单位、有雇工的个体工商户等单位的职工连续工作 1 年以上的，享受带薪年休假（以下简称年休假）。单位应当保证职工享受年休假。职工在年休假期间享受与正常工作期间相同的工资收入。

第三条 职工累计工作已满 1 年不满 10 年的，年休假 5 天；已满 10 年不满 20 年的，年休假 10 天；已满 20 年的，年休假 15 天。

国家法定节假日、休息日不计入年休假的假期。

第四条 职工有下列情形之一的，不享受当年的年休假：

- （一）职工依法享受寒暑假，其休假天数多于年休假天数的；
- （二）职工请事假累计 20 天以上且单位按照规定不扣工资的；
- （三）累计工作满 1 年不满 10 年的职工，请病假累计 2 个月以上的；
- （四）累计工作满 10 年不满 20 年的职工，请病假累计 3 个月以上的；
- （五）累计工作满 20 年以上的职工，请病假累计 4 个月以上的。

第五条 单位根据生产、工作的具体情况，并考虑职工本人意愿，统筹安排职工年休假。

年休假在 1 个年度内可以集中安排，也可以分段安排，一般不跨年度安排。单位因生产、工作特点确有必要跨年度安排职工年休假的，可以跨 1 个年度安排。

单位确因工作需要不能安排职工休年休假的，经职工本人同意，可以不安排职工休年休假。对职工应休未休的年休假天数，单位应当按照该职工日工资收入的 300% 支付年休假工资报酬。

第六条 县级以上地方人民政府人事部门、劳动保障部门应当依据职权对单位执行本条例的情况主动进行监督检查。

工会组织依法维护职工的年休假权利。

第七条 单位不安排职工休年休假又不依照本条例规定给予年休假工资报酬的，由县级以上地方人民政府人事部门或者劳动保障部门依据职权责令限期改正；对逾期不改正的，除责令该单位支付年休假工资报酬外，单位还应当按照年休假工资报酬的数额向职工加付赔偿金；对拒不支付年休假工资报酬、赔偿金的，属于公务员和参照公务员法管理的人员所在单位的，对直接负责的主管人员以及其他直接责任人员依法给予处分；属于其他单位的，由劳动保障部门、人事部门或者职工申请人民法院强制执行。

第八条 职工与单位因年休假发生的争议，依照国家有关法律、行政法规的规定处理。

第九条 国务院人事部门、国务院劳动保障部门依据职权，分别制定本条例的实施办法。

第十条 本条例自 2008 年 1 月 1 日起施行。