

STANDARD GUIDANCE

(COP 15) Remuneration

A. Definitions and applicability

Remuneration is paid by employers to workers. It includes wages or salaries and any other benefits in cash or in kind.

The legally required **minimum wage** is the higher of that set by the government or that contained in an applicable collective bargaining agreement.

A **Collective Bargaining Agreement** is a legally enforceable written contract between the management of a company and its employees, represented by a trade union or equivalent, that sets out terms and conditions of work. Collective bargaining agreements must comply with Applicable Law.

Source:

- *ILO Convention 100 – Equal Remuneration*
www.ilo.org/ilolex/cgi-lex/convde.pl?C100
- *Social Accountability International (SAI) – Social Accountability SA 8000 International Standard (2008)*
www.sa-intl.org/_data/n_0001/resources/live/2008StdEnglishFinal.pdf
- *RJC Code of Practices (2013)*

The **Remuneration** section of the COP is applicable to all Members with Employees.

B. Issue background

Wage-related benefits vary by country, but often include items such as holiday, overtime pay, sick pay, health benefits, incentives and bonuses, limited family leave benefits with pay, and savings plans. In some cases, non-wage benefits may be provided to workers such as health care, accommodation, employee education, and basic services such as water and electricity.

The minimum wage is the minimum amount that must be paid to the workers of a country. It is generally set on an hourly, daily or monthly basis. There is legislation for minimum wage fixing in more than 90% of countries. Ideally, this wage is determined to cover the minimum needs of the worker and his/her family, in light of the country's prevailing economic and social conditions (a 'living wage'). However this is not always the case in labour-intensive industries, which can lead to a cycle of employees taking on excessive working hours and/or overtime in order to make ends meet. Working hours and remuneration are those closely linked.

In addition to wage levels, it is important that workers receive their payments regularly in order to meet their domestic needs. The frequency of payments – weekly, fortnightly or monthly, for example – should be pre-determined and respected. Wages should be paid either as a bank transfer, in cash or as a cheque, as agreed with workers. It is usually a legal requirement for employers to provide clear information to workers on how their wages are calculated and keep certain time, wage and leave records (see **General Employment Conditions**). Regular wage slips should be provided to workers that clearly show the rates of pay, any benefits paid, and any applicable deductions.

Any amounts deducted from wages must be determined by due process. Legitimate deductions include income taxes, pension contributions and union membership, for example. Examples of unacceptable deductions under the RJC Code of Practices are recruitment fees either to the employer or agencies, charges for personal protective equipment, and any form of deposit or advance on equipment. Deductions should not be made as a disciplinary measure for employee behaviour, except where explicitly provided for in employee contracts or collective bargaining agreements. Workers must not be forced to buy provisions or services from

their employer or workplace. Overall, it is important to ensure that deductions do not result in workers' payments being below the minimum wage.

C. Key regulations

International standards

In 1928, the International Labour Organisation (ILO) adopted Convention 28, which required signatory nations to establish a minimum wage fixing body that should "take account of the necessity of enabling the workers to maintain a suitable standard of living." In 1970, the ILO adopted Convention 131, which delineated the factors that must be included in the calculation of a minimum wage: "the need of workers and their families, their general level of wages in the country, the cost of living, social security benefits, relative living standards of other social groups, requirements of economic development, the country's level of productivity and maintenance of high levels of employment." ILO Convention 30, Hours of Work (Commerce and Offices) Convention, Article 7.4, recommends that signatory nations establish an overtime rate of no less than one-and-a-quarter times the regular rate.

The right to just and favourable remuneration is also enshrined in Article 23.3 of the Universal Declaration of Human Rights (1948). This states that remuneration should ensure for the worker and his/her family an existence worthy of human dignity.

National law

Nearly all countries have a national body which determines minimum wages nationally, or for sectors and/or occupations. Wages and other benefits may also be directly negotiated through collective bargaining agreements between employers and workers represented by independent trade unions. In most jurisdictions, overtime attracts a premium above the ordinary rate of pay. As this varies between sectors and countries, overtime pay should be calculated in accordance with the rates specified in national legislation or any applicable collective bargaining agreements. It is essential to be aware of all relevant wage conditions in all jurisdictions of operation.

D. Suggested implementation approach

- ***COP 15.1: Wages for normal work week:*** *Members shall pay all Employees a wage for a normal work week, not including overtime, based on the higher of either the applicable legal minimum wage plus associated statutory benefits, or the prevailing industry standards. Wages calculated on a performance-related basis shall not be less than the legal minimum wage for a normal work week.*

Points to consider:

- Assign responsibility for setting and overseeing remuneration to a senior management function such as human resources.
- Understand the Applicable Law related to remuneration and statutory benefits in all countries of operation. The correct minimum wage rate will vary according to region, type of factory and skill level of the worker. Any collective bargaining agreement should deal with wages, overtime rates, methods of payment, and deductions (if applicable).
- It should not be necessary to work overtime or achieve performance bonuses to earn the legal minimum wage, including under piece rate systems.
- For part-time workers, the applicable wages levels are pro-rated as appropriate.
- Where probationary or training employment is legally allowed, the wage shall not be below the legal minimum applicable to that category of work.
- Piece rate payments are common in the diamond cutting/polishing sector and to some extent in the manufacture of jewellery. Members shall not set production targets, piece rates or any other incentive or production system at such a level that workers need to work beyond the applicable normal work week, excluding overtime, in order to make at least the minimum wage or the prevailing industry wage, whichever is higher.
- Where payment of statutory benefits depends on registration of employees into social insurance schemes and the like, Members are responsible for the required administration to ensure that employees receive their benefits in accordance with the Applicable Law.

- As calculation of remuneration may depend on hours worked, see also the [Working Hours](#) guidance.

Box X: India – Employees Provident Fund

In 2011, the Madras high court and the Madhya Pradesh high court in two separate cases held that various allowances paid by the employer to its employees under different heads such as conveyance, education, food concession, medical, special holidays, night shift incentives, city compensatory allowance, etc., qualified as basic wages under section 2(b) of the PF Act and needed to be included while computing the PF contribution.

The Employees Provident Fund Organisation (EPFO) issued a circular dated November 30, 2012 to clarify the calculation basis for Provident Fund (PF) contributions. The circular states that basic wages will include all allowances which are "ordinarily, necessarily and uniformly" paid to the employees. Thus, various allowances such as conveyance, educational allowance, medical allowance, etc., will have to be taken into consideration while computing the PF contribution. In December 2012, the circular was put in temporary abeyance pending further investigation by the EPFO.

In view of the ongoing clarification process being undertaken by the EPFO, the RJC position on calculating employees' PF contributions is that Members need to be able to justify their calculation basis to auditors, based on section 2(b) of the PF Act. Applicable Law, which includes applicable high court decisions, should be taken into account in making this determination.

- **COP 15.2: Overtime wages:** *Members shall reimburse overtime work at a rate at least equal to that required by Applicable Law or a Collective Bargaining Agreement, or where unregulated by either, at a premium rate at least equal to the prevailing industry standards.*

Points to consider:

- A premium rate means a higher rate of pay than the regular workweek rate. There is no common international rate for overtime so it is important to be aware of Applicable Law, collective bargaining agreements and/or comparable industry standards. See also guidance on [Legal Compliance](#).
- Overtime pay benefits should be calculated in accordance with Applicable Law or any collective agreements. Where neither provide specific direction on method of overtime calculation, overtime benefits should be calculated at a premium rate on the wages paid to that employee for a normal work week. The rate should be equal to or greater than the prevailing industry standards.
- Overtime pay benefits apply to those workers and to those managers who have a contract with defined hours. It is not required for managers who genuinely set their own work schedules and hours.
- Any piece work production in hours worked beyond the normal work week should be paid at a premium rate, as overtime. Calculating overtime incentives under a variable piece rate compensation structure can be very complex. A simple incentive system such as a flat rate (for example, 1 cent extra per item for piece rate production above quota and/or beyond the 40- or 48-hour week) can be easier to understand and therefore implement for both workers and managers.
- As calculation of overtime depends on hours worked, see also the [Working Hours](#) guidance.

- **COP 15.3: Method of payment:** *Members shall make wage payments to Employees that are: a) On a regular and pre-determined basis, and not delayed or deferred; b) By bank transfer or in cash or cheque form, in a manner and location convenient to the Employees, and not in the form of vouchers, coupons or promissory notes; c) Accompanied by a wage slip which clearly details wage rates, benefits and deductions where applicable.*

Points to consider:

- Frequency of remuneration should comply with national laws and regulations, where applicable.
- Workers should not be obliged to travel any significant distance or incur costs to collect their pay. Employers may not use promissory notes, coupons or merchandise in lieu of wages.
- Wage slips should accompany all payments to Employees, including piece rate workers. The wage slips should provide adequate information as to how the wage was calculated and should identify the amount and reason for any deductions from their pay.

- **COP 15.4: Deductions:** *Members shall only make employer-determined deductions from wages where: a) Deductions are determined and calculated following a documented due process that is clearly*

communicated to Employees; b) Employer-determined deductions do not result in an Employee making less than the minimum wage; c) Any deductions for disciplinary purposes are governed by a Collective Bargaining Agreement and/or are permitted under Applicable Law.

Points to consider:

- Common legally-required deductions include taxes, health care and social insurance. It may also include lawful garnishments, where employers are required to deduct funds from employees' salary/wage before it is paid to the employee, for example to repay back taxes or an employee loan or purchase over which the employer has no control. These types of mandated deductions are subject to Applicable Law and fall outside the scope of the provision 15.4b.
- Common legally-permissible deductions include transportation, meals, medical assistance, child care, union fees, loan repayments and lodging, and such deductions must always comply with Applicable Law. If the employer *requires* these deductions, then they must not result in the employee earning less than the minimum wage. If the deductions are at the discretion of the employee, including for a loan they have voluntarily undertaken from the employer, they fall outside the scope of the provision. Written consent for voluntary wage deductions needs to be documented in employee records.
- PPE is not an allowable deduction as it must be provided to employees free of charge.
- Workers should have access to clear information on the terms and process for any disciplinary deductions, particularly under piece rate systems.

- **COP 15.5: Provisions:** *Members shall not force Employees to buy provisions from the Member's own business or Facilities.*

Points to consider:

- Being forced to buy provisions from your employer can be a form of bonded labour and can undermine the intent of proper remuneration practices.
- If employees buy provisions from the Member, check whether 15.4 on Deductions, above, may also be applicable.

- **COP 15.6: Loans:** *Members that provide wage advances or loans shall ensure that the interest and repayment terms are transparent and fair, and not deceptive to the Employee.*

Points to consider:

- Ensure that any wage advances or loans comply with the law.
- Interest rates and terms for repayments must be fair and not excessive – consider other available sources of credit for comparison.
- The repayment period for the loan should not exceed the term of the employee's employment contract, as this can be a form of bonded labour.
- Advanced written agreement to the terms and conditions of the loan and its repayment must be signed by both parties.

Check:

- ✓ Can you show the auditor that wages for all employees are the higher of minimum wage or prevailing industry standards?
- ✓ Is overtime paid in accordance with Applicable Law and/or a collective bargaining agreement?
- ✓ Are employee wage payments made regularly, by bank transfer/cash/cheque, and accompanied by a wage slip?
- ✓ Are employer-determined deductions only made with a documented due process, and do not result in less than minimum wages?
- ✓ Are employees forced to buy provisions from you?
- ✓ If you provide wage advances or loan, can you show the auditor that the repayment terms are transparent and fair?

E. Further information

The following websites have further information on remuneration:

- International Labour Organisation (ILO) Convention 100 – Equal Remuneration
www.ilo.org/ilolex/cgi-lex/convde.pl?C100
- International Labour Organisation (ILO) – Database of Conditions of Work and Employment Laws
www.ilo.org/dyn/travail/travmain.home
- International Labour Organisation (ILO) – Resource guide on minimum wages
www.ilo.org/public/english/support/lib/resource/subject/salary.htm
- Social Accountability International (SAI) – Social Accountability SA 8000 International Standard (2008)
www.sa-intl.org/_data/n_0001/resources/live/2008StdEnglishFinal.pdf
- Social Accountability International (SAI) - SA® 8000 Abridged Guidance: 2008 Standard
www.sa-intl.org/_data/n_0001/resources/live/SAI_AbridgedGuidance_SA8000_2008.pdf
- Verité – Conducting a Review of Documentation
www.verite.org/zh-hans/node/705