

China Insight



Raise of Statutory Retirement Age of Employees in China

On September 13, 2024, the Standing Committee of the PRC National People's Congress approved the *Measures of the State Council on Progressively Raising the Statutory Retirement Age* (the "Measures"), which will become effective on 1 January 2025. According to the Measures, China will take 15 years to progressively raise the statutory retirement ages of employees. The details are as follows:

1. The statutory retirement age of employees will be raised progressively.

In the past more than 60 years in China, the statutory retirement age of male employees was 60 while the statutory retirement age of female employees at blue collar positions was 50 and of female employees at managerial positions or technical positions was 55. Starting from January 1, 2025, the statutory retirement age of male employees and female employees whose original statutory retirement age is 55 shall be raised by one month for every four months and be progressively raised to 63 and 58 respectively. The statutory retirement age of female workers whose original statutory retirement age is 50 shall be raised by one month for every two months and be progressively raised to 55. The PRC Ministry of Human Resources and Social Security has released an official WeChat mini program for people's easy calculation of their statutory retirement ages under the new policy.

2. The minimum contribution years required for pension benefits will also be raised progressively.

Currently employees who have accumulatively paid pension contributions for 15 years are eligible to enjoy pension benefits after reaching statutory retirement age. Starting from January 1, 2030, the minimum contribution years for an employee to enjoy pension benefits will be gradually increased from 15 to 20 years with an increase of six months each year. If an employee, when reaching the statutory retirement age, has not yet fulfilled the minimum contribution years, he or she may continue to work and make contributions to the pension fund or make a lump-sum contribution to the pension fund to reach the minimum contribution years.

3. Employees have flexibility to choose their retirement age.

Notwithstanding the new policies, an employee, who has fulfilled the minimum contribution years of pension insurance as required by law, may voluntarily choose to retire early for a period of up to three years as long as he or she has reached the original statutory retirement age, i.e. 60 for male employees and 50 or 55 for female employees.

Further, an employee, who has reached the new statutory retirement age, may still choose to further postpone his or her retirement for a period up to three years upon reaching a consensus with the employer.

The same as in the past, employees engaged in special types of work, for example, working underground, at heights, under high-temperature or with particularly heavy physical labor, or working at high altitudes, are eligible for early retirement. In the past, the statutory retirement ages of these employees could be as early as 50 for male employees and 45 for female employees. Now under the new policies, such early retirement ages are not announced yet.

Impacts & Risks

Under PRC law, the employment contract of an employee will terminate automatically when the employee reaches statutory retirement age, or the employee starts to enjoy statutory pension benefits. Further, an employee who has consecutively worked for the employer for 15 years and is 5 years away from the statutory retirement age is protected from being unilaterally terminated by the employer due to the reasons of illness, incompetence, change of objective circumstances or mass layoff.

The raise of the statutory retirement age of employees will affect employers' daily HR management and bring challenges to employers due to the following reasons:

- (1) The retirement ages of employees will not be the same. Employees are entitled to decide their own retirement ages, either retire earlier, or upon consultation with the employer work even longer than the new statutory retirement age. According to the Measures, employers shall not force or implicitly force employees to decide their retirement ages against their wills.
- (2) As in the past, disputes may arise on the statutory retirement age of a female employee if no agreement can be reached between the employee and the employer on the nature of her work position, i.e. whether it is a blue-collar position or a managerial position or technical position because no statutory law provides clear definitions yet.

Recommendation

Companies may wish to, in consideration of their business needs and talent structure, formulate their own strategy and policies in dealing with the raise of statutory retirement age of employees in order to be able to handle the retirement issues of employees properly.

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