

China Insight



China Releases New Regulations for Implementing Its New Retirement System

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") in September 2024 and they took effect on January 1, 2025. According to the Measures, China will take 15 years to progressively raise the statutory retirement ages of employees and take 10 years as from 2030 to progressively raise the minimum contribution years required for employees to receive pension benefits. In addition, the Measures also allow employees flexibility in deciding their retirement ages to some extent. For detailed information about the Measures, please refer to our previous newsletter [Raise of Statutory Retirement Age of Employees in China](#).

Further, on December 31, 2024, the PRC Ministry of Human Resources and Social Security together with two other departments released the *Interim Methods for the Implementation of Flexible Retirement System* (the "Implementing Rules"). They provide more specific rules on handling employees' retirement procedures.

Based on the above, as from January 1, 2025, companies shall handle the retirement of employees under the new retirement system as follows:

1. Retirement

Under the new retirement system, 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 exact new statutory retirement age of an employee can be checked in the Tables of Raised Statutory Retirement Age for Males, Females with Current Statutory Retirement Age of 55 and Females with Current Statutory Retirement Age of 50 as announced by the Standing Committee of the PRC National People's Congress.

According to PRC law, an employee shall retire when reaching statutory retirement age and his/her employment relationship with the employer will terminate automatically. As required by the Implementing Rules, the employer shall promptly handle the retirement procedures for the employee, i.e. applying for retirement for the employee at the competent social insurance administrative institution by submitting application letter and supporting documents at the latest in the month when the employee retires. Upon approval from the social insurance administrative institution, the employee will start to receive pension benefits from the following month after the date of retirement.

2. Early retirement

Notwithstanding the raise of the statutory retirement age, under the new retirement system, an employee is still entitled to choose to retire early for a period of up to three years before reaching the new statutory retirement age, if the below conditions are fulfilled:

- The employee must have reached the original statutory retirement age, i.e. 60 for male employees and 50 or 55 for female employees and must have fulfilled the minimum contribution years as required by law to enjoy pension benefits. Please note that 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.
- The employee deciding to retire early shall notify the employer in writing about the expected date of retirement at least three months in advance. But no consent from the employer is required. Upon receiving the notification from the employee, the employer shall duly handle the retirement procedures for the employee.

According to PRC law, an employee's employment relationship with the employer will terminate automatically when the employee starts to receive pension benefits. Therefore, as long as the competent social insurance administrative institution approves the application for early retirement of the employee, the employee's employment relationship with the employer terminates accordingly.

3. Delayed retirement

Under the new retirement system, an employee having reached the new statutory retirement age may choose to further postpone his or her retirement for a period of up to three years upon reaching a consensus with the employer.

- For delayed retirement, an employee shall reach an agreement with the employer on the delayed period one month before the employee reaches the new statutory retirement age. Once the delayed retirement age of an employee is decided, it shall not be further extended. But during the delayed period, the employee may still retire at any time upon consent of the employer. In such case, the employer shall duly handle the retirement procedures for the employee.
- Until the employee reaches the delayed retirement age, employee will remain an employment relationship with the employer and the employer shall continue to provide social insurance for the employee. When the employee reaches the delayed retirement age, the employer shall duly handle the retirement procedures for the employee, and the employment relationship between the employer and the employee will terminate automatically.

4. Effectiveness and application of the new retirement system

The new retirement system has been implemented as of January 1, 2025. It is not applicable to individuals who have already reached the statutory retirement age before January 1, 2025.

Takeaways

The implementation of the new retirement system will affect employers' daily HR management and bring challenges to employers. To handle the employees' retirement matters properly and avoid potential labour disputes with employees, companies are advised to pay special attention to the following points:

- (1) In the future, employees will reach statutory retirement ages at different times due to their different dates of birth. Further, certain employees are entitled to retire early at their discretion, while certain employees may, upon consensus with the employer, further delay their retirement. Therefore, companies shall manage the retirement of employees as well as their employment contracts properly.
- (2) For the employees eligible for early retirement, the Implementing Rules are silent on the legal consequences of employee's failure to fulfill the obligation of three months' notice. It is also not mentioned in the Implementing Rules whether the employee will have the right to change his or her

mind to revoke the early retirement decision after serving the notification to the employer. Therefore, the employer may meet challenges when handling early retirement matters of employees.

- (3) After the employer and the employee have achieved consensus to delay the retirement age of the employee, according to the Implementing Rules, a further delay of the retirement age of the employee will not be allowed. Thus, it is advisable for the employer and employee to carefully consider and decide the delayed retirement age of the employee in advance.
- (4) The implementation of employees' early and delayed retirement shall follow the principle of employees' voluntariness. When discussing with employees about retirement matters, companies shall avoid forcing or implicitly forcing employees to decide their retirement against their free will.

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