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Korea Trade-Investment Promotion Agency

LABOR LAW GUIDE FOR FOREIGN INVESTORS

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KOTRA's Foreign Investor Support Office has been providing foreign investors with various assistances.

The "Labor Law Guide for Foreign Investors" is one of such assistances and intended for foreign investors who are considering opening a business in Korea.

For new foreign-invested businesses, hiring and maintaining qualified human resources and promoting harmonious labor relations are essential factors for successful establishment in Korea.

This publication will help them successfully manage such HR issues by offering essential information on Korean labor laws and systems covering hiring to retirement, such as hours of work, holidays, leave, wages, and the rules of employment.

I hope this booklet will contribute to successful investment and business activities of foreign investors in Korea.

November 2013

PARK Soon-kee
Head of Foreign Investor Support Office
KOTRA

Employment Contract

1. Signing a contract of employment

When a contract of employment is concluded or modified, the employer should draw up a written contract and hand it to the employee concerned. Especially, the employer should specify, in the written contract, the components of wage, the methods of calculation and payment of wage, contractual working hours, weekly holidays, and paid annual leave.

If a contract of employment contains provisions that are lower than the standards of the Labor Standards Act (LSA), those provisions are deemed invalid and replaced by the corresponding provisions of the LSA.

2. Effective period of the employment contract

An employer can conclude a contract of employment with an employee for a definite or an indefinite term. In the case where a contract of employment provides for a fixed term of contract, the contract period can be freely determined within the limit given for a fixed-term job (two years) under the Act on the Protection, etc. of Fixed-term and Part-time Employees. When a fixed-term contract is made, the employment relationship under the contract is automatically terminated upon maturity of the fixed term.

3. Probationary period

An employer is allowed to have a probationary period for a certain period of time for an employee after signing a contract of employment, during which the employee may improve his/her job competency and adaptability to the workplace.

An employer may not dismiss the probationary employee without a justifiable reason. However, before the elapse of three months during the probationary period, the employer may dismiss the employee without prior notice so long as there is a justifiable reason for such dismissal.

4. Hiring fixed-term workers

Fixed-term or part-time employees are subject to the Act on the Protection, etc. of Fixed-term and Part-time Employees, as long as their employment contract is in force.

An employer may not use a fixed-term employee for longer than 2 years. A fixed-term employee who has been hired for a term exceeding 2 years is deemed as having signed a contract of an indefinite term.

However, a fixed-term contract exceeding 2 years is exceptionally allowed for the following reasons.

- The employer has predetermined a period of time required to complete a particular business or task;
- Since an employee is on leave or dispatched to another workplace, there is a need to hire a substitute to replace the employee until he/she returns to work;
- An employee takes schooling or vocational training and he/she sets a period of time required to complete the schooling or training;
- The employer hires workers with professional knowledge or skills that are specified in the Presidential Decree of the Act*.

*The cases in which a job requires professional knowledge and skills as prescribed by the Presidential Decree of the Act are as follows:

A. Where a person holding a doctoral degree (including doctoral degrees earned in a foreign country) is engaged in the relevant field;

B. Where a person holding a national technical qualification of technician grade under the National Technical Qualifications Act is engaged in the relevant field;

C. Where a person holding a professional qualification such as lawyer, certified public accountant, medical doctor and etc. is engaged in the relevant field

Employment Contract

5. Using dispatched workers

An employer does not hire a “dispatched worker” but uses him/her based on a leasing contract between the employer and a temporary work agency that directly hired the worker.

Dispatched workers may be used in the following cases:

- In the case an employer wants to hire employees for jobs that are deemed - considering necessary professional expertise, skills, experiences and nature of work - appropriate for employee dispatching and designated by President Decree
- In the case there are job vacancies due to childbirth, illness or injury or there is a clear need to secure workforce on a temporary or intermittent basis
- Under no circumstances can an employer use dispatched workers for construction work, loading/unloading at ports and railways, seafaring, and harmful or dangerous work based on the Occupational Safety and Health Act

■ **Dispatched workers may be used for the following length of time**

Jobs requiring professional knowledge, skill or experience	1 year or shorter	Extensible for up to 1 year, with a three-party agreement ※In the case of aged workers (55 or older), dispatching period may be extensible for over 2 years.
When there is a clear and objective reason, such as childbirth, illness, injury, etc.	Period of time required to address the need	
When there is a temporary or intermittent need of more workforce	3 months or shorter	Renewable for 3 more months, with a three-party agreement

An employer should directly employ a dispatched worker in the following cases:

- In the case the employer continues to use the worker for over two years
- In the case the employer uses the worker for the work not permitted for dispatching

Employment Contract

■ Types of jobs for which dispatched workers can be used

Korean Standard Classification of Occupations (Notice No. 2000-2 of the Statistics Korea)	Types of jobs	Notes
120	Computer professionals	
16	Administrative, business management and financial professionals	Excluding administrative professionals(161)
17131	Patent professionals	
181	Record keepers, librarians and other related professionals	Excluding librarians(18120)
1822	Translators and interpreters	
183	Creating and performing artists	
184	Movie, play and broadcasting professionals	
220	Computer associate professionals	
23219	Other technicians in electronic engineering	
23221	Technicians in communications engineering	
234	Draftspersons and CAD operators	
235	Optical and electronic equipment operators	Limited to assistants. Medical and clinical laboratory technologists(23531), radiological technologists (23532) and other medical equipment operators(23539) are excluded
252	Associate professionals in other than formal school education	
253	Other educational associate professionals	
28	Associate professionals in arts, entertainment and sports	
291	Managerial associate professionals	
317	Office supporting workers	
318	Publication, postal and other related workers	
3213	Debt collectors and other related workers	
3222	Telephone switchboard and directory service workers	Excluding the cases where telephone switchboard and directory service is a core activity of the business concerned
323	Customer service workers	
411	Personal protection and other related workers	
421	Cooks	Excluding the cooks of tourist hotels under article 3 of the Tourism Promotion Act
432	Travel guides	
51206	Gas station attendants	
51209	Attendants in other retail stores	
521	Telemarketers	
842	Motor vehicle drivers	
9112	Building cleaning persons	
91221	Janitors and security guards	Excluding the security work under the subparagraph 1 of article 2 of the Security Service Act
91225	Parking lot attendants	
913	Delivery and transportation workers, metermen and other related workers	

Wage

1. Ordinary wage and average wage

The Labor Standards Act provides for two different concepts of wage: ordinary wage and average wage. Calculating the retirement pay or any other statutory allowance should be based on either of the two concepts.

- Ordinary wage
  - Wage to be paid for a certain job (contractual hours or days of work to be done) on a regular basis to all employees meeting certain qualifications
  - Used for calculation of overtime, holiday and nighttime work pay, and payment in lieu of notice of dismissal

- Average wage
  - The amount calculated by dividing the total amount of wage paid to a relevant employee during three months immediately before the day on which a cause for calculating his/her average wage occurred by the total number of days during those three months
  - Used for calculation of retirement pay, temporary shutdown allowance, and industrial accident compensation.

*Average wage or ordinary wage can be used to calculate allowance for unpaid annual leave.

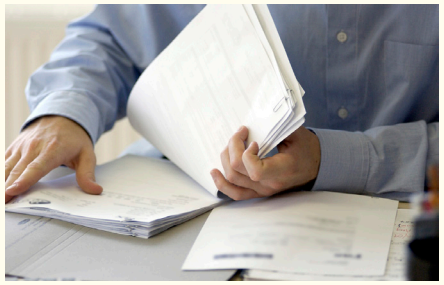
2. Minimum wage

The minimum wage is determined and made public on an annual basis by the Minister of Employment and Labor.

*Statutory minimum wage rate for the period of Jan. 1 to Dec.31, 2014
- 5,210 won per hour / 41,680 won per day (8-hour workday) / 1,088,890 won per month (40 hour workweek)

An employer should remunerate his/her employees at least at the minimum wage rate which is determined on an annual basis. When a contract of employment provides for a wage rate lower than the minimum rate, the provision is deemed invalid.

Regardless of the type of employment or nationality, minimum wage is applied to workers defined by the Labor Standard Act including temporary, daily, hourly workers and foreign workers.



3. Wage Statistics by Industry and Occupation

■ Monthly Wage by Industry (June 2012)

(Unit : 1,000 won)

Industry	Monthly Wage (won)
All Industries	2,567
Agriculture, Forestry and Fishing	2,584
Mining and Quarrying	2,803
Manufacturing	2,503
Electricity, Gas, Steam and Water Supply	3,873
Sewerage, Waste Management, Materials Recovery and Remediation Activities	2,400
Construction	2,636
Wholesale and Retail Trade	2,481
Transportation	2,356
Accommodation and Food Service Activities	1,705
Publishing, Broadcasting, Information and Communications	3,197
Financial and Insurance Activities	3,515
Real Estate Activities and Renting and Leasing	1,871
Professional, Scientific and Technical Activities	3,306
Business Facilities Management and Business Support Services	2,086
Education	2,991
Human Health and Social Work Activities	2,267
Arts, Sports and Recreation Related Services	2,209
Membership Organizations, Repair and Other Personal Services	2,039

1. Source : Ministry of Employment and Labor
2. The figures are based on a survey of regular employees in companies with five or more employees.
3. Monthly wage includes base pay, fixed allowances and statutory allowances such as overtime or holiday allowances. It does not include bonus.

■ Monthly Wage by Occupation and Years of Employment (June 2012)

(Unit : 1,000 won)

Occupation	All employees	Those with less than 1 year	Those with more than 1 year to less than 3 years	Those with 3 to less than 5 years	Those with 5 to less than 10 years	Those with 10 years or more
All occupations	2,567	1,739	1,973	2,192	2,573	3,439
Managers	4,944	3,976	4,165	4,151	4,510	5,172
Professionals and Related Workers	3,054	2,086	2,360	2,566	3,070	4,078
Clerks	2,805	1,839	2,085	2,356	2,714	3,658
Service Workers	1,710	1,284	1,451	1,635	1,962	2,492
Sales Workers	2,357	1,636	1,904	2,165	2,480	3,197
Agricultural, Forestry and Fishery Workers	2,018	1,621	1,663	1,846	2,062	2,452
Craft and Related Trades Workers	2,316	1,745	1,898	2,033	2,259	2,840
Equipment, Machine Operating and Assembling Workers	2,215	1,672	1,820	1,936	2,177	2,811
Elementary Workers	1,515	1,301	1,402	1,480	1,592	1,904

1. Source : Ministry of Employment and Labor

Working hours

1. Statutory working hours

Statutory working hours are eight hours a day and 40 hours a week. The 40 hours-per-week policy applies to businesses or workplaces hiring five or more employees.

2. Recess

An employer should provide recess time of 30 minutes or longer for four working hours, and one hour or longer for eight working hours, while the employee is at work. Recess time is not counted as working hours.

3. Overtime work

Overtime work refers to the work done in excess of the normal working hours. Overtime work is allowed up to 12 hours per week under an agreement between the employer and the employee.

- As an exception, the following businesses may have more than 12 hours of overtime work in a week as long as the employer has reached a written agreement with the employee representative.
  - Transportation
  - Goods sales and storage
  - Finance and insurance
  - Movie production and entertainment
  - Communication
  - Educational study and research
  - Advertising
  - Medical practice and sanitary services
  - Hotel and restaurant
  - Incineration and cleaning services
  - Barber and beauty parlor
  - Social welfare

- Restriction on overtime work of female employees
  - In principle, a pregnant employee may not work overtime.
  - A female employee within one year after childbirth may not work overtime longer than 2 hours a day, 6 hours a week or 150 hours a year.

4. Night work

Night work refers to the work done sometime between 10 pm and 6 am of the following day.

5. Premium pay

For overtime work in excess of statutory working hours, an employer should pay the worker 50% of hourly ordinary wage rate as premium pay. For night or holiday work, the worker concerned should be paid an additional 50% of the ordinary wage rate. When overtime work, night and holiday work overlap, premium pay should be separately calculated and paid for each type of work.

*** Overtime work at workplaces with 5 to 19 workers**

The 40 hours-per-week policy was extended to include businesses or workplaces hiring 5 or more and less than 20 employees starting from July 1, 2011.

In these workplaces, overtime work is allowed up to 16 hours per week for three years from July 1, 2011, the date on which the 40 hours-per-week policy took effect. Also, employers in those workplaces may pay 25% of the hourly ordinary wage rate instead of 50% as premium pay for the first four hours of overtime work during the same three years period.

Working hours

6. Flexible working hour system (Flextime)

The flexible working hour system is designed to increase efficiency in using workforce by adjusting the length of working hours to seasonal, monthly or daily fluctuations in workload. Under the system, a worker may work more than eight hours a day or 40 hours a week and an employer may not pay premium pay for the overtime work on condition that his/her average working hours per week of a certain period do not exceed 40 hours per week.

- Flextime on a maximum two-week basis
  - The system may be adopted by modifying the rules of employment.
  - The working hours in a particular week may not exceed 48 hours.

- Flextime on a maximum three-month basis
  - The system may be adopted by reaching a written agreement with the employee representative.
  - The working hours in a particular week and on a particular day may not exceed 52 hours and 12 hours, respectively.

7. Discretionary working hours system

Under the discretionary working hours system, for a job whose nature makes it necessary for the employer to authorize the job holder to determine how the work is performed, the range of working hours or the working hours that the employee chooses is deemed the hours worked, so long as the employer and the employee representative have reached a written agreement.

The system can be applied to the following jobs:

- R&D of new products or new technology
- Research of human and social studies or natural science
- Design or analysis of an information processing system
- Coverage, composition or editing of newspaper articles, broadcasting or publication
- Designing of costumes, interior space, manufactured products and advertisement materials
- Producing and directing TV programs and movies

CHAPTER
04

Holidays and leave

1. Contractual holidays

The statutory holidays that should be granted to workers by law are weekly holidays and Labor Day (May 1st).

Additionally, an employer may provide his/her employees with contractual holidays by specifying them in a collective agreement or the rules of employment. Examples of such contractual holidays are Company Foundation Day, public holidays, etc. Whether those additional holidays will be paid or unpaid is determined in an agreement reached by the employer and employees.

2. Weekly holidays

An employer should grant a weekly holiday with pay at least once a week on average, provided that the employee concerned has worked all of the contractual working days (as determined in the rules of employment, etc.) for the week. An employee who was absent from work on a working day may use the weekly holiday without pay.

It is advisable that weekly holidays, which are not necessarily Sundays, should be stated in the rules of employment or other forms of company rules. An employee who has worked on a weekly holiday shall be paid an additional 50% of the ordinary wage rate for the hours worked.

3. Annual leave with pay

An employer shall grant 15 days of annual leave with pay to an employee who has recorded 80% or higher in attendance in the previous year.

An employer shall grant one day of leave with pay per month of full attendance to his/her employees who have worked less than one year since joining the company. The number of leave days that was already used in the first year should be deducted from 15 days that an employee is entitled to in the second year.

For an employee who has worked for three years or longer, the employer shall grant an additional one day in paid leave on the fourth year, and shall add one additional day every two years thereafter, and the number of annual leaves with pay shall be limited to 25 days.

An employer shall grant his/her employees annual leave on the days that the employee wants to use for his/her annual leave. However, when the employer believes that allowing the use of annual leave on the days wanted would do great harm to his/her business, he/she may reschedule the timing of annual leave

4. Promotion for use of annual leave

When an employee has not used the leave days within one year after he/she became entitled to use them, he/she shall be paid for the unused days of leave based on average or ordinary wage.

If employees have not used their annual leave despite the employer's commitment to promoting the use of annual leave, the employer is exempted from the obligation to provide monetary compensation for the unused annual leave.

- To qualify for such exemption, the employer should inform individual employees of the number of leave days unused within 10 days from the last three months before the one-year period for use of leave is exhausted, and call on the employees, in writing, to schedule the use of leave and make a written notice on the schedule to him/herself.

- In the case that an employee, after receiving the employer's call for the use of unused leave, fails to make a written notice on the scheduled use of leave no later than 10 days, the employer should schedule the use of leave and make a written notice on the schedule no later than two months before the one-year period for use of leave is exhausted.

5. Menstruation leave

An employer shall grant a female employee one day of menstruation leave per month upon her request. Menstruation leave may be unpaid.

6. Maternity leave

An employer shall grant a pregnant employee 90 days in maternity leave with pay. As the '90 days' above refers to 90 calendar days, it includes weekly holidays and other kinds of holidays that fall during the period.

An employer shall pay wages for the first 60 days of the leave period, while the employment insurance fund will cover the wages for the remaining 30 days.

Even when a pregnant employee has used more than 45 days in the pre-natal period, she shall be able to use at least 45 days in the post-natal period. The days used in excess of 90 days may be given without pay.

Maternity leave shall be granted even in the case of miscarriage or stillbirth, as follows:

- 16~21 weeks into pregnancy:30 days of leave from the date of miscarriage or stillbirth
- 22~27 weeks into pregnancy:60 days of leave from the date of miscarriage or stillbirth
- 28 weeks or longer into pregnancy:90 days of leave from the date of miscarriage or stillbirth

7. Childcare leave

An employer should grant childcare leave, if a worker asks for leave to take care of his/her child aged six or under who is not enrolled into elementary school. The period of childcare leave should be one year or less and be included in the worker's continuous service period.

An employer should not dismiss or give any other disadvantageous treatment to a worker on account of taking childcare leave, nor dismiss the worker during the childcare leave period. After the end of the leave, the employer should restore the worker to the same work as before leave or any other work paying the same level of wages as the previous work.

	Employers obligated	Insurance contribution	Payment of contribution
National pension	Employers with one permanent employee or more	[Employer] Standard monthly pay [1] × 4.5% [Employee] Standard monthly pay × 4.5%	Monthly
Health insurance		[Employer] Monthly income [2] of an employee × 2.945% [Employee] Monthly income of an employee × 2.945%	
Employment insurance		[Employer] * Unemployment benefit : Average monthly cash earnings [3] × 0.65% [Employee] * Unemployment benefit : Average monthly cash earnings × 0.65% * An employer should also pay additional contribution for employment security and vocational ability development program. The rate of contribution differs depending on the number of employees. The rate for companies with less than 150 employees is 0.25% of total wage. [4]	
Industrial accident compensation insurance		[Employer] Total wage × 0.006~ 0.354 (varies depending on industrial sector)	

1. Standard monthly pay: monthly salary x (12 months/365 days) x 30 days
2. Monthly income: earned income that is taxable based on the Income Tax Act
3. Average monthly cash earnings are calculated based on the total cash earnings of individual workers in the previous year.
4. Contribution rate for employment security and vocational ability development program: 0.25% for companies with less than 150 employees, 0.65% for those with 150 to 999 employees, and 0.85% for those with 1,000 or more.

CHAPTER
06

Retirement benefit systems

1. Retirement benefit

Each and every employer should adopt either retirement pay or retirement pension, in order to pay retirement benefit to retiring employees.

The employer has no obligation to pay retirement benefit to an employer who has worked for less than a year or whose given working hours per week averaged over four weeks is less than 15 hours.

2. Retirement pay

An employer who adopts a retirement pay scheme shall provide a retiring employee with 30 days' average wage for every year of consecutive service. If an employer does not determine which retirement benefit system to adopt, he/she will be deemed as having chosen a retirement pay system.

Retirement pay shall be given in any case when the employment contract is terminated due to the employee's resignation, the company's extinction, the arrival of the retirement age or disciplinary dismissal.

In the event of an employee's death or retirement, his/her employer shall pay wage and retirement pay and any other claims that have occurred under the employment relationship, within 14 days from his/her death or retirement. When an employer delays paying wage or retirement pay for longer than 14 days to an employee whose employment relationship is discontinued by reason of retirement, etc., the employer should pay deferral interests for the unpaid wage or retirement pay at an annual rate of 20%. However, if the employer and the employee have agreed, within the 14 days, to extend the grace period over to a particular date, the employer may delay the payment until that date.

3. Retirement pension

Under a retirement pension program, the employer entrusts an outside financial institution to manage a fund from which a retiring employee receives an annuity or a lump-sum pay.
There are two different plans of retirement pension: defined benefit (DB) and defined contribution (DC). An employer should choose at least one among DB retirement pension, DC retirement pension or retirement pay.

- Defined benefit (DB) plan : The amount of pension benefit payable to the employee is predetermined, while the contribution to be covered by the employer may vary depending on the outcome of the fund management. The amount of pension benefits is the same as retirement pay (average wage of 30 days for one year of service). Pension benefits are paid as an annuity or as lump-sum payment.
- Defined contribution (DC) plan : The amount to be covered by the employer is predetermined, while the amount of pension benefit payable to the employee may vary depending on the outcome of the fund management. The amount of the contribution is 1/12 of the annual total wage. Pension benefits are paid as an annuity or as lump-sum payment.

Before adopting a retirement pension program, the employer should obtain the employee representative's consent, draw up the rules of retirement pension and report it to the competent labor office. The rules of retirement pension, which is a retirement pension plan at the level of individual companies, should be set up autonomously by the employer and employees within the limits of statutory standards.

In order to apply a retirement pension program, the employer should sign a contract with a retirement pension provider (financial institution) which is to perform the work of retirement pension (operating the program and managing the fund).

CHAPTER
07

Dismissal

1. The need for justifiable reasons

An employer may not dismiss an employee or take a disciplinary measure against him/her, without giving reasonable justification.

An employer may dismiss an employee or take a disciplinary measure against an employee, only when he/she can give a societally acceptable reason for doing so. For example, an employee has failed to comply with the contract of employment or the employee has caused a disturbance in the management.

It is advisable that justifiable reasons for dismissal and other disciplinary measures should be stated in the rules of employment or collective agreements.

Examples of justifiable reasons for disciplinary dismissal are as follows:

- Failure to follow instructions on job or personnel management
- Unauthorized absence
- Early-leaving without approval, negligence
- Poor performance at work
- Irregularities at work
- Physical or verbal violence at work
- Criminal offences outside workplace
- Obstruction of business, violation of the company rules
- Causing financial damage to the company
- Undermining the company's reputation
- Violating work rules and safety rules
- Forging educational or professional attainment

2. Procedures for dismissals

An employer who intends to dismiss his/her employee should make a written notice on the reason for dismissal, the date of dismissal, etc. If the employer dismisses the employee without giving such written notification, the dismissal shall be rendered null and void.

If the rules of employment or collective agreement specify a set of procedures for disciplinary measures, the employer should follow the procedures when he/she dismisses an employee. A dismissal or disciplinary measure may be invalidated, if the required procedures are not fully observed.

3. Dismissal notice

An employer who intends to dismiss his/her employee shall give a 30-day notice to the employee or pay him/her 30 days' ordinary wage (payment in lieu of notice of dismissal).

However, the employer is not obligated to give the above mentioned prior notice to the following employees:

- Daily-paid employees who have worked for three months or shorter
- Monthly-paid employees who have worked for six months or shorter
- Employees who are hired for a fixed period of two months or shorter
- Employees in the probationary period (of three months or shorter)
- Employees who are hired for seasonal work for a fixed period of six months or shorter

An employer is exempted from the obligation to give prior notice in the following cases:

- It is impossible for the employer to continue his/her business due to national disaster, war or any other unavoidable reason.
- An employee has caused the employer a severe business problem or a massive property loss on purpose by taking actions prescribed in the Article 4 of the Enforcement Rules of the Labor Standards Act such as disclosing business secrets to competitors, stealing products or materials, etc.

4. Dismissal for economic reasons

In order to justify dismissal for an economic reason, the employer should meet the following conditions.

1) There is an urgent economic need.
- Bankruptcy or other similar business emergencies
- Business transfer, M&A, etc. to avoid financial deterioration

2) The employer has made every effort to avoid dismissal.
- Restrictions on extended work, and promotion for simultaneous use of leave
- Labor cost reduction by cutting working hours or wage
- Recruitment freeze
- Ceasing to renew contract for temporary employees
- Redeployment, dispatch
- Temporary suspension of work
- Early retirement
- Reduction in office size
- Management wage freeze

3) Reasonable and fair criteria are used to select employees to be dismissed
- Gender discrimination is banned in setting dismissal standard and in the selection process.

4) The employer has consulted employee representatives in good faith.
- A 50-day notice to the employee representative on measures to avoid dismissal and criteria to select employees to be dismissed and good-faith consultation on the measures and criteria

The rules of employment is a set of rules that are unilaterally devised by an employer and concern contractual working conditions or work behaviors generally binding to his/her employees. A company employing 10 persons or more should set the rules of employment.

When an employer intends to devise or revise the rules of employment, he/she should consult a trade union representing a majority of his/her employees or, if there exists no such union, a majority of his/her employees. In the case the rules of employment are to be revised to the disadvantage of the employees, the employer must obtain the consent of the majority union or a majority of the employees.

The employer should report the rules of employment to the competent local labor office. When reporting the rules of employment, the employer should submit a statement or a written consent signed by his/her employees.

The rules of employment may not contradict the legislation or collective agreement that is applicable to the business or workplace concerned. If a contract of employment contains provisions that are short of the standards prescribed in the rules of employment, those provisions are deemed invalid and shall be replaced with the corresponding provisions in the rules of employment.

CHAPTER 09

Prohibition of discrimination

The Labor Standards Act and the Equal Employment Act prohibit the following discrimination:

- An employer may not discriminate against his/her employees in determining their working conditions, on the ground of gender, nationality, religion or social origin.
- An employer may not discriminate against a job applicant on the ground of gender. An employer may not present certain conditions that are not necessary for performance of the job offered, such as appearance, height, weight, or the status of being unmarried, especially when female employees are recruited.
- An employer should give the same rate of pay for the work of equal value at the same workplace.
- When the employer provides his/her employees with cash, other valuables or loans in addition to their wage to support their living, he/she shall not discriminate based on their gender.
- No employer may discriminate his/her employees based on their gender with respect to training/education, job deployment, promotion, retirement age, retirement or dismissal.
- No employer may enter into a contract of employment with a female employee which stipulates marriage, pregnancy or delivery as a cause of her dismissal.
- When an employer decides to dismiss his/her employees for an urgent economic reason, he/she should create reasonable and fair criteria for such dismissal and select the employees to be dismissed in accordance with the criteria, making no discrimination based on gender in the process.

The Act on Prohibition of Age Discrimination in Employment and Aged Employment Promotion prohibits discrimination in recruitment, employment, payment of wage and other valuables, welfare, training and education, deployment, transfer, promotion, retirement, and dismissal based on age without justifiable reasons.

CHAPTER 10

Sexual harassment at work

An employer, a higher-ranking employee or an employee should not commit sexual harassment at work. An employer, a higher-ranking employee or an employee sexually harasses an employee when the former takes advantage of his/her position at work or a job-related activity to commit physically or verbally sexual acts which may take the latter feel sexually humiliated, or takes any measures to the occupational disadvantage of the latter on the ground that he/she has not accepted such acts or other related requests. The victims of sexual harassment at work include both men and women. Job applicants who are sexually harassed in the process of recruitment and hiring are also covered.

An employer should educate his/her employees to prevent sexual harassment at work, at least for one hour and once a year. The employer may provide this education using in-house materials or personnel or commissioning such education to an outside training provider designated by the Minister of Employment and Labor.

When sexual harassment is committed at work, the employer should discipline the offender or take another proper action against the offender, in consideration of the intensity and continuity of sexual harassment.
An employer should not dismiss a victim of sexual harassment or take any measure to the disadvantage of the victim.

When an employer receives a complaint on sexual harassment at work from his/her employee, he/she should resolve the case him/herself or bring the complaint before the labor-management council for settlement no later than 10 days from the date of the reception of the complaint.

CHAPTER
11

Labor-management council

1. Establishment of the labor-management council

The labor-management council should be established at a workplace or business employing 30 persons or more.

The labor-management council should be composed of employee members and employer members, with 3 to 10 members from each side. It should have a regular meeting once every three months.

The employer members should include the representative of the business (or workplace) and those who are appointed by the representative. The employee members should be elected in a secret and direct vote by the employees. If there is a trade union composed of a majority of employees, the representative of the trade union and persons appointed by the trade union should be employee members.

The hours spent to attend the meetings of the labor-management council should be counted in the hours worked.

2. Agenda of the labor-management council

There are three types of agenda at the labor-management council: consultation, resolution and reporting.

● Matters for consultation

- Productivity improvement; employee welfare promotion; improvement of working conditions for employees, including occupational safety and health; employee grievance handling; improvement of personnel management and other labor affairs systems
- Hiring, posting, education and training of workers; administration of working hours and recess hours; introduction of new machines and technologies or improvement of work processes; establishment or revision of work rules; matters concerning the maternity protection of female workers and reconciliation between work and family life; and other matters concerning labor-management cooperation

● Matters for resolution

- Establishment of a basic plan for employee training and ability development; establishment and management of employee welfare facilities; establishment of the company welfare fund; matters not resolved by the grievance handling committee; and establishment of various labor-management cooperative committees

* The employee members may ask the employer to provide information on the matters for consultation or resolution, prior to the relevant meeting of the labor-management council. The employer may choose not to provide the information requested, if the information relates to business secrets or personal details.

● Matters for reporting

- Overall business plan and performance; quarterly production plan and performance; personnel policy; and economic and financial conditions of the enterprise.

* When an employer has failed to report or explain about a matter for reporting, the employee members can request information on the matter.

Appendix:Investment Consulting Center

The Investment Consulting Center (ICC) provides investment consulting services free of charge to foreigners who wish to invest in Korea. In order to provide systematic and professional consultation services, the center is staffed by consultants, comprising private-sector experts recruited from key investment-related fields, and civil servants seconded from other major government agencies and ministries.

To Receive ICC's Investment Consultation Services

- Walk-in consultation : reservations available
- Telephone consultation : including consultation via fax
- On-line consultation : questions submitted to the ICC homepage are answered within 48 hours (www.investkorea.org - Online consulting)

Contacts

- Tel : (82-2) 1600-7119
- Fax : (82-2) 3497-1611
- Hours : Mon. to Fri. 9:00~18:00 (Lunch Break : 12:00~13:00)
- Languages Spoken : English, Japanese, Korean
- Address : IKP Building, 2nd Fl., 7, Heolleungno, Seocho-gu, Seoul

Services

- Investment Consulting
  - Initial Consulting (Consulting on general foreign investment regime such as investment procedures, requirements, and incentives)
  - Professional Consulting by Investment Field(Consultation in each field of taxation, accounting, and legal affairs provided by professional consultants)
  - Reserved Consultation with External Specialized Agencies
    (Arrangement of free or paid consulting with legal and accounting firms after professional consulting with the ICC)
- Administrative Assistance
  - Foreign investment notification (including consultation)
  - Registration of foreign-invested companies (including the declaration of change)
  - Application for the review of the specification of imported capital goods
  - Consultation on tax exemption and reduction programs
  - Business tax ID registration
  - Issuance of certificate of the completion of in-kind investment of capital goods
  - Customs-related consultation
  - Guidance and support for the application and registration of foreign-invested companies
  - Issuance of residence permits to investors (D-8) and their accompanying dependents (F-3) and household assistants (F-1)
  - Alien registration; declaration of change of residence
  - Consulting on personnel and labor relations for foreign-invested companies
  - Assistance for business location search
- Investor Settlement Service
  - Provision of information and consulting on life in Korea, including housing, education, medical services, and getting a driver's license
  - Proxy services for reserving hospital appointments, restaurants, and art performances
  - One-day Secretary Service
    (On-site administrative assistance provided by the ICC consultants)
  - Appointment of a designated coordinator for settlement assistance
    (One-on-one assistance for foreign-invested companies' executives and employees as well as their family members for the first one-year period)

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