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LABOR LAW GUIDE

FOR FOREIGN INVESTORS

September
2017
Edition

kotra
Korea Trade-Investment Promotion Agency

This guide is intended to acquaint foreign investors with the major points of the Korean employment law. For further information regarding the contents of this guide, please contact the Investment Consulting Center of KOTRA.

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Contents

Chapter 01 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. For a contract of a definite term, the maximum contract period is two years as prescribed by the Act on the Protection, etc. of Fixed-term or Part-time Employees. Under a fixed-term contract, the employment relationship 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 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 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 two years. A fixed-term employee who has been hired for a term exceeding two years is deemed as having signed a contract of an indefinite term.

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

- The employer has pre-determined 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 returns to work
- An employee takes schooling or vocational training and he 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:*

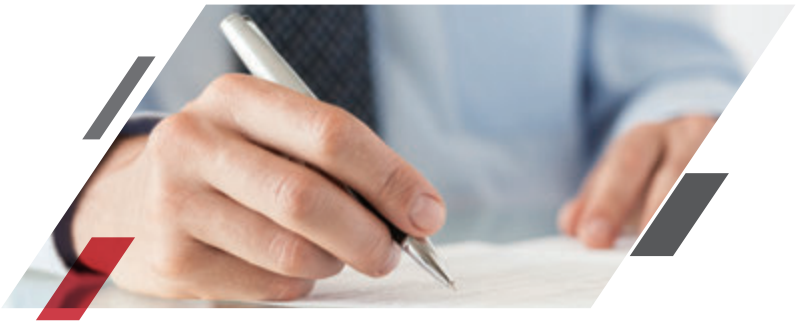
- Where a person holding a doctoral degree (including doctoral degrees earned in a foreign country) is engaged in the relevant field
- Where a person holding a national technical qualification of technician grade under the National Technical Qualifications Act is engaged in the relevant field
- Where a person holding a professional qualification such as a lawyer, certified public accountant, medical doctor, etc. is engaged in the relevant field

5. Using dispatched workers

An employer does not hire a "dispatched worker" but uses him 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 the Enforcement Decree of the Act on the Protection of the Dispatched Workers except for those directly related to production in the manufacturing industry.
- 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, dispatched workers can be used for jobs allowed by the Enforcement Decree of the Act and also for those not specified by the same Enforcement Decree except for the jobs prohibited for worker dispatch as shown in the next paragraph. Worker dispatch is also allowed for jobs directly related to production in the manufacturing industry in the case of the above-mentioned job vacancies.
- 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

Type of Jobs	Duration	Extension or Renewal
Job 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
Where 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 a work not permitted for dispatching

Types of jobs for which dispatched workers can be used

Korean Standard Classification of Occupations (Notice No. 2000-2 of Statistics Korea)	Type of job	Note
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 andclinical 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	

Korean Standard Classification of Occupations (Notice No. 2000-2 of Statistics Korea)	Type of job	Note
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 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 Subparagraph 1 of Article 2 of the Security Service Act
91225	Parking lot attendants	
913	Delivery and transportation workers, metermen and other related workers	

Source: Table 1 of the Enforcement Decree of the Act on the Protection of the Dispatched Workers

Chapter 02 Wage

1. Ordinary wage and average wage

The Labor Standards Act provides for two different concepts of wage: ordinary wage and average wage. They are used for calculation of various types of wages and allowances.

Ordinary wage

- Definition: 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

- Definition: 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 the allowance for unused annual leave. For more details, read Section 5 (Promotion for use of annual leave) of Chapter 4.

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, 2018
- 7,530 won per hour / 60,240 won per day (8-hour workday) / 1,573,770 won per month (40 hour workweek)

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

Minimum wage is applied to “a worker” as defined by the Labor Standard Act, regardless of the type of employment or nationality. Therefore, the minimum wage rate applies not only to regular workers but also to temporary, daily, hourly workers and foreign workers.

Chapter 03 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 worka

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 businesses

▶ 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.

6. Flexible working hours 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 hour system, an employer authorizes a worker to determine how and when to perform his work. The worker, regardless of actual hours worked, is deemed to have worked such working hours as determined by a written agreement between the employer and the workers' representative.

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 the rules of employment or a collective agreement. Examples of such contractual holidays are company foundation day, public holidays, etc. Whether those additional holidays will be paid or unpaid is determined by the rules of employment or a collective agreement.

Most companies adopt public holidays as contractual holidays by referring to the Regulation on Closure Days for Public Offices. The list of public holidays based on the regulation is as follows:

- January 1st (New Year's Day)
- December 31st, January 1st and 2nd on the lunar calendar (Lunar New Year's Day holiday)
- March 1st (Independence Movement Day)
- May 5th (Children's Day)
- April 8th of the lunar calendar (Buddha's Birthday)
- June 6th (Memorial Day)
- August 15th (Independence Day)
- August 14th, 15th and 16th on the lunar calendar (Chuseok Holiday)
- October 3rd (National Foundation Day)
- October 9th (Korean Alphabet Day)
- December 25th (Christmas)
- Election days based on the Public Official Election Act
- Other days temporarily designated by the government

2. Substitute holiday system

The Regulation on Closure Days for Public Offices stipulates substitute holidays for Lunar New Year's Day holiday (Dec.31, Jan. 1 and 2 on the lunar calendar), Chuseok holiday (August 14, 15 and 16 on the lunar calendar), and Children's Day (May 5).

Based on the system, the overlapping of Lunar New Year's Day holiday (three days) or Chuseok holiday (three days) with Sunday or other public holidays shall make the first working day immediately following the successive holidays as a substitute holiday. The overlapping of Children's Day with Saturday, Sunday, or other public holidays shall make the first working day immediately following May 5 as a substitute holiday.

3. Weekly holidays with pay

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.

Weekly holidays, which are not necessarily but usually 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 150% (including 50% as premium wage for holiday work) of the ordinary wage for the hours worked in addition to 100% of the ordinary wage that an employee is already entitled to because weekly holidays are paid holidays regardless of whether an employee worked or not on those holidays.

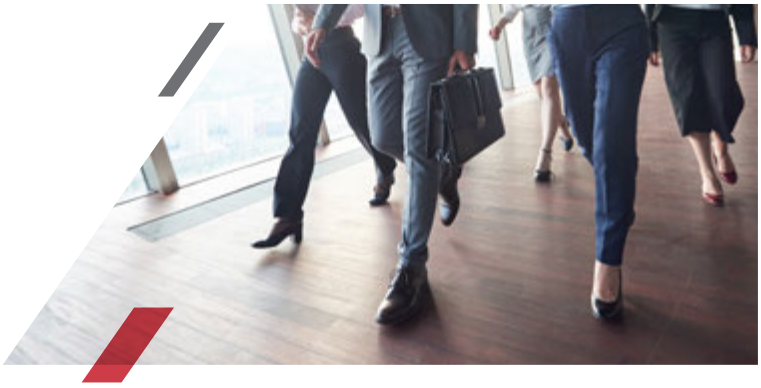
4. Annual leave with pay

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 of paid leave on the fourth year, and shall add one additional day every two years thereafter. The total 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 requested by the employee would do great harm to his/her business, he/she may reschedule the timing of annual leave.



5. 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 six months before the one-year period for use of leave is exhausted, and ask the employees, in writing, to submit to the employer a written plan on when the unused leave days will be used.

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 send a written notice on the schedule to the employee no later than two months before the one-year period for use of leave is exhausted.

6. Menstruation leave

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

7. 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 benefits for the remaining 30 days.

However, with the “Preferentially Supported Enterprises” listed in Table 1 of the Enforcement Decree of the Employment Insurance Act, the Employment Insurance Fund covers the benefits for the whole 90 days. In such a case, the maximum amount of wages

covered by the Fund for the 90 days is 4.05 million won (1.35 million won for 30 days). An employer is exempted from the obligation to pay wages for the first 60 days to the extent that the Fund covers the employee's wages. Therefore, if an employee's monthly wage is higher than the maximum monthly benefits covered by the fund (1.35 million won), the employer should pay the employee the balance for the first 60 days.

** "Preferentially Supported Enterprises" Under the Enforcement Decree of the Employment Insurance Act*

Industrial classification	Classification code	Number of ordinarily employed workers
Manufacturing [Maintenance and repair of industrial machinery and equipment are deemed other industries]	C	500 or fewer
Mining	B	300 or fewer
Construction	F	
Transportation	H	
Publishing, motion picture, broadcasting, telecommunications & information services	J	
Business facilities management & business support services [Rental and leasing except real estate are deemed other industries]	N	
Professional, scientific & technical services	M	
Health & social work services	Q	
Wholesale & retail trade	G	200 or fewer
Accommodation & food services	I	
Financial & insurance activities	K	
Arts, sports & recreation related services	R	
Other industries		100 or fewer

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:

- Within 11 weeks into pregnancy: Five days of leave from the date of miscarriage or stillbirth
- 12~15 weeks into pregnancy: 10 days of leave from the date of miscarriage or stillbirth
- 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

8. Childcare leave

An employer should grant childcare leave, if a worker asks for leave to take care of his/her child who is aged not more than eight years or in the 2nd or lower grade of an 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.

Social insurances contribution for 2018

	Employers obligated	Insurance contribution	Payment of contribution
National pension	Employers with one permanent employee or more	[Employer] Standard monthly income of an employee × 4.5% [Employee] Standard monthly income of an employee × 4.5%	Monthly
Health insurance		[Employer] Monthly remuneration of an employee × 3.12% [Employee] Monthly remuneration of an employee × 3.12%	
Employment insurance		Employer] Unemployment benefit: average monthly remuneration × 0.65% [Employee] Unemployment benefit: average monthly remuneration × 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. 1)	
Workers' compensation insurance		[Employer] Average monthly remuneration × 0.007 ~0.34 (The rate varies depending on industrial sector)	

1) 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 a retirement pay system or a retirement pension system as retirement benefit for employees.

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

Although officially called the retirement benefit system, the system not only applies to a worker who stops working completely but also to those who terminate employment relations after working more than one year.

2. Retirement pay

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

Retirement pay shall be given to an employee regardless of how his/her employment contract is terminated. For example, the causes for termination necessitating retirement pay may include the employee's resignation, the company's extinction, and arrival of the retirement age or even disciplinary dismissal.

In the event of termination of an employment contract, an employer shall pay the employee wage and retirement pay and any other claims that have occurred under the employment relationship, within 14 days from the termination. When an employer delays paying wage or retirement pay to an employee for longer than 14 days after termination, 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 departing employee receives an annuity or a lump-sum pay. An employee who is aged 55 or over and has subscribed to the pension for 10 years or longer can receive an annuity. An employee who does not meet the above-mentioned requirements can receive a lump-sum pay. Those who meet the requirements for annuity can still opt for 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 consent of a majority union or a majority of the employees if there is no such union, 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 offenses 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
- Falsifying educational or professional attainment

2. Procedures for dismissal

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 30-day advance notice in the following Section 3 is given in writing and includes the date of dismissal and the reason for dismissal, it is deemed that the employer has given a written notice of dismissal.

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. Advance notice of dismissal

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

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

- A worker who has been employed on a daily basis for less than three consecutive months
- A worker who has been employed for a fixed period not exceeding two months
- A worker who has been employed for seasonal work for a fixed period not exceeding six months
- A worker in a probationary period not exceeding three months

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 and dispatch of employees
- Temporary suspension of work
- Early retirement incentive program
- Reduction of office size
- Salary freeze for executives

3) Reasonable and fair criteria are used to select employees to be dismissed.

Gender discrimination is banned in setting dismissal standards and in the selection process.

4) The employer has consulted employee representatives in good faith.

A 50-day advance notice is given to a majority union or a representative of a majority of the employees on measures to avoid dismissal and criteria to select employees to be dismissed, and good-faith consultation is held on the measures and criteria.

Chapter 08 The Rules of employment

The rules of employment is a set of rules that are unilaterally devised by an employer and concern contractual working conditions or work rules 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.
- An employer may not discriminate his/her employees based on their gender with respect to training/education, job deployment, promotion, retirement age, retirement or dismissal.
- An employer may not 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 establish 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

1. Definition of sexual harassment at work

An employer, higher-ranking employee or co-employee should not commit sexual harassment at work. An employer, higher-ranking employee or co-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 included in the definition of victim.

2. Education for prevention of sexual harassment at work

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.

3. Discipline against sexual harassment at work

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
- General rules for employment adjustment, such as assignment and transfer, retraining and dismissal of workers for managerial or technological reasons; improvement of wage payment methods, wage structure, and wage system; employees' stock ownership plans and other supports for the creation of workers' wealth; matters concerning rewards given to workers for their work-related inventions; installation of employee surveillance equipment within a workplace; 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

Matters for reporting

- Matters concerning overall management plans and results; matters concerning quarterly production plans and results; matters concerning manpower plans; and economic and financial conditions of the enterprise

When an employer has failed to report or explain about matters for reporting, the employee members can request documents concerning the matters and the employer should comply with such request in good faith.

Chapter 12 Industrial safety and health

A business owner should fulfill the following obligations with regard to industrial safety and health:

A business owner should draw up an industrial accident report and submit it to a local labor office within one month when an employee dies due to an industrial accident or an employee has an injury or a disease that requires a leave of three days or more. However, when a serious industrial accident occurs, a business owner should immediately report the accident to a local labor office by telephone or fax.

Serious industrial accident

- An industrial accident where one or more person died
- An industrial accident where two or more persons had an injury that requires a leave of three months or longer
- An industrial accident where 10 or more persons had an injury or a job-related disease

A business owner should inform employees about the major points of the Industrial Safety and Health Act and the Enforcement Decree of the Act by posting them in workplaces.

A business owner should set up or post a safety and health sign to warn employees about harmful and dangerous facilities and places within the workplace, to inform employees about emergency measures, and to raise employees' awareness of safety.

A business hiring 100 or more employees should appoint a safety and health manager and draw up safety and health management regulations. A business in the manufacturing industries listed in the table 1-2 of the Enforcement Decree of the Industrial Safety and Health Act hiring 50 or more employees should appoint a safety and health manager.

Where there exists imminent danger that an industrial accident may occur, or a serious accident has occurred, the relevant business owner should take necessary measures for health and safety, such as the immediate suspension of operations and evacuation of workers from the workplace, after which work may resume.

Appendix:

Foreign Investor Support Office

Appendix:

Foreign Investor Support Office

1. Foreign Investor Support Office

The Foreign Investor Support Office (FISO) provides consulting, administrative support and grievance resolution to foreign investors to support Invest KOREA's foreign investment attraction activities. FISO is composed of two departments - Investment Consulting Center and Investment Aftercare Division

2. Investment Consulting Center

The Investment Consulting Center (ICC) provides one-stop consulting services free of charge to foreigners who wish to invest in Korea. The services span throughout the entire investment process, from consulting services in the early stage of investment to administrative assistance in the investment implementation stage and post-investment settlement support.

At the ICC, private sector experts and government officials provide consulting on taxation, accounting and law, assist in visa application, and issue certification of completion of investment-in-kind and business registration certificate. Also, the Center provides personalized settlement consultations and the one-day secretary service.

Investment Consulting

- Consulting in the early investment stage
- Consultations by experts in various fields
- In-depth professional consultation

Telephone.

- Tax 82-2-3497-1962
- Law 82-2-3497-1963
- Accounting 82-2-3497-1961
- Labor 82-2-3497-1740

Administrative Assistance

- Ministry of Trade, Industry & Energy (ICC)
  - Foreign investment notification
  - Registration of foreign-invested companies
  - Application for the review of specification of imported capital goods
- National Tax Service
  - Consultation on tax incentives, business registration
- Korea Customs Service
  - Issuance of the confirmation of the completion of the investment in kind
  - Consultation on customs duty
- Ministry of Justice
  - 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
- Ministry of Employment & Labor
  - Consultation on labor relations for foreign-invested companies
- Korea Industrial Complex Corp.
  - Assistance for business location search
- Korea Transportation Safety Authority
  - Exchange of a foreign driver's license into a Korean one

Telephone.

- Ministry of Trade, Industry & Energy (ICC) 82-2-3497-1965
- National Tax Service 82-2-3497-1059
- Korea Customs Service 82-2-3497-1061
- Ministry of Justice 82-2-3497-1062~4
- Ministry of Employment & Labor 82-2-3497-1734
- Korea Industrial Complex Corp. 82-2-3497-1956
- Korea Transportation Safety Authority 82-2-3497-1052

Settlement Service

- Provision of information and consultation on life in Korea, including housing, education, medical services and getting a driver's license
- Reservation service for hospital appointments, restaurants and art performances

Telephone. : English 82-2-3497-1056 | Japanese 82-2-3497-1055

How to Receive ICC's Services

- Walk-in (reservation available)
- Phone consulting (including consultation via FAX)
- On-line consulting (www.investkorea.org (http://www.investkorea.org))

3. Investment Aftercare Division

Grievance Resolution Support Service for Foreign Investors

- One-on-one, on-site 'Home Doctor' Service
- Customized consulting service
- Regular meetings on issues concerning foreign-invested companies' grievances

Grievance Resolution Process

- Foreign-invested company files grievance
- Home Doctors (experts) analyze grievance
- A solution is developed through cooperation with ICC and related government ministries

Consultants by Field of Expertise

Phone no. : (82-2)3497-(Ext. no)

Field	Extension no.
Finance	1685, 1686
Taxation	1687
Intellectual property	1689
Labor	1693
Accounting	1688

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