Practical Legal Guidebook for foreigners

# **Employment Legal Guide**

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# **Employment Legal Guide**

#### Issued by Protection Policy Division, Crime Prevention Policy Bureau

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## **Labor contract**

#### **Definition of a worker**

- A worker, or an employee, means a person providing labor (work) to a business or a workplace for the purpose of earning wages regardless of type of occupation.
- A part-timer and a daily contract worker are also deemed as a worker.

#### Labor contract

- A labor contract is a document that stipulates the details of the agreement between a worker and an employer.
- A worker shall sign a labor contract with his or her employer.
- A worker may file a claim for wages, severance pay, or other benefits or even the payment of medical expenses for any occupational injury or disease that you suffered in the course of providing service under the labor contract.



#### **Learn more**

#### **Content of labor contract**

		■ 외국인근로	1의 고용 등에 관한 법률 시행규칙 (벌지 제6호시식) <개정 2019. 0. 00.> 표준근로계약서 Standard Labor Contract
		아래 당사지 The followin	(알목 한는 다음과 같이 근로계약을 체결하고 이를 성실히 이행할 것을 약정한다 . sg parties to the contract agree to fully comply with the terms of the contract stated hereinafte 업체명 Name of the enterprise 전화번호 Phone number
	-	사용자 Employer	소재지 Location of the enterprise 성명 Name of the employer 사업자등록번호 (주민등록번호 )
		근로자	성명 Name of the employee 성명 Name of the employee 본국주소 Address(Home Country)
		Employee	- 신규 또는 재입국자: ( ) 개월
		<ol> <li>근로계약기</li> </ol>	
			※ 신규 또는 재압국자의 근로제약기간은 임국일반터 기산형(대단, 「외국인근로자의 고용 등에 관한 법률」제 18조의 4제1회에 따라 재압국(성실재압국)한 경우는 입국하여 근로를 시작한 날부터 기산형).
Name, address, phone	一.		Newcomers or Re-entering employee: ( ) month(s)     Employee who changed workplace: from ( YY/MM/DD) to ( YY/MM/DD)
number, and business		Term of Labor contract	Probation period: [ ] Included (for [ ] 1 month [ ] 2 months [ ] 3 months from entry date – or specify other:
registration number of a		Contrac	* The employment term for newcomers and re-entering employees will begin on their date of arrival in Korea, while the employment of those who re-entered through the committee workers' system will commence on their first day of work as stipulated in Article 18-4 (1) of Act on Foreign Workers' Employment, etc.
employer		2. 근로장소	※ 근로자를 이 계약서에서 정한 장소 외에서 근로하게 해서는 안 됨.
employer		Place of employn	* The undersigned employee is not allowed to work apart from the contract enterprise.  - 兒奈:
	+	3. 업무내용	- 남동· - 사업내용: - 직무내용: (외국인근로자가 사업장에서 수행할 구체적인 업무를 반드시 기제)
Name, date of birth, ————		Descript     of work	
and address of a worker		OI WOIL	Job description: (Detailed duties and responsibilities or the employee must be stated)
(employee)		4. 근로시간	
			- 교대제 ([ ]2조2교대, [ ]3조3교대, [ ]4조3교대, [ ]기타)  from ( ) to ( )
Contract period		4. Working hours	average daily over time: hours     (changeable depending on the condition of a company): up to hours)     shift system ([] 2groups 2shifts, [] 3groups
	П.		3shifts, [ ]4groups 3shifts, [ ]etc.)
Workplace and job description		5. 幕게시간 5. Recess ho	1일 분
. , , .		6. 휴일	[]일묘일 []공휴일([]유급 []무급) []매주 투요의 []건주 투요의 []기타(
- Ward Sambaran and access	一	6. Holiday	Sunday [ ]Legal holiday([ ]Paid [ ]Unpaid)   Every saturday [ ]Every other Saturday [ ]etc.( )
Working hours and recess	'  ∟		210mm×297mm[백상지(90g/㎡) 또는 중찰지(80g/㎡)]
		_	[1] 월 통산의금 ( )원
Holidays ————————————————————————————————————	-	7. 임금	1) 월 통성임급 - 그렇지 수당: (원, 주)급 (원) (원 수당: 원) - 상위급 (원) (원) (원) (부당: 원) - 상유기간 중 임급 (원) 원, 수습시작일부터 3개월 이내 근무기간 (원)
			<ol> <li>건성, 마간, 유월근도에 내매서는 동성임급의 50%을 가진하여 우당 사급(상시 근로자 4인 이하 사업장에는 해당되지 않음)</li> </ol>
		-	Monthly Normal wages   work   work   wage   work
		7. Paymer	t * Bonus: ( ) won  * Wage during probation period: ( ) won, but for up to the first 3 month of probation period: ( ) won
Wages, including date and	Д.	8. 임금지급	2) Overtime, night shift or holiday will be paid 50% more than the employee' regular rate of pay(not applied to business with 4 or less employees). 일 매일 ()일 또는 매주 ()요일. 다만, 임금 지금일이 공휴일인 경우에는 전설에 지금함.
method of wage payment		-8. Paymen	
method of wage payment		9. 지급방법	day before the holiday.  [ ] 직접 지금, [ ] 통장 임금  ※ 사용자는 근로자 영외로 턴 에금통장 및 도장을 관리해서는 안 됨.
		9. Paymen	※ 사용자는 근로자 영외로 된 예금통장 및 도장을 권리에서는 안 됨. t [ ] In person, [ ] By direct deposit transfer into the employee's account 5 을 The employer will not retain the bank book and the seal of the employee.
Whether meals and		method	S In employer will not retain the bank book and the seal of the employee.  1) 숙박시설 제공 - 숙박시설 제공 여보 [ ] 제공 [ ] 미제공
accommodations are			1) 숙마시설 개항 - 숙마시설 개형 (기계공 [ 미제공 - 숙마시설 개혁 (비) [ 기계공 [ ] 오라스템, [ ] 숙마시설 (미리, 호스템, 범선 등), [ [ 한테이너, [ 15일에 개념, [ ] 시작의 전설, 기대 주역형에 시설 ( - 숙마시설 개공 시 근로자 부임금에 대접 된 2) 식사계 개공 시 근로자 부임금에 대접 된
provided and related		10. 숙식제	명 2) 식사 제공 2) 식사 제공 여부: 제공([ ]조식, [ ]중식, [ ]석식) [ ]미제공 - 식사 제공 여부: 제공([ ]조식, [ ]중식 [ ]
•			<ul> <li>식사 제공 사 근로자 부당님역: 매월 원</li> <li>프로자의 비용 부담 수준은 사용자와 근로자 간 협의(신규 또는 재압국자의 경우 압국 이후)이 따라 별도로 결정.</li> </ul>
information	Ш.		Provision of accommodation
			Studio flats,     Lodging facility (such as a motel, hostel, pension hotel, let
		10. Accommo - dations and Meal	business building – or specify other housing or boarding facilities
			Provision of meals: [ ] Provided( ] breakfast, [ ] lunch, [ ] dinner], [ ] Not provided      Cost of meals paid by employee: won/month  With a provided and a second control of the provided by the provi
			# The amount of costs paid by employee, will be determined by mutual consultation between the employer and employee (Newcomers and re-entering employees will consult with their employers after arrival in Korea).
		11. 사용자오 11. Both er	i 근로자는 각자가 근로계약, 취임규칙, 단체협약을 지키고 성실하게 이행하여야 한다. pployees and employers shall comply with collective agreements, rules of employmen ns of labor contracts and be obliged to fuffill them in good faith.
		and ter 12. 이 계약	ms of labor contracts and be obliged to fulfill them in good faith. 에서 정하지 않은 사항은 '근로기준법, 에서 정하는 바에 따른다. 스셉 및 제인간병인에 중사하는 의국인근로자의 경우 근로시간, 유일·유가, 그 밖에 모든 근로조건이 3자와 자유롭게 계약을 체결하는 것이 가능합니다.
		12. Other n	satters not regulated in this contract will follow provisions of the Labor Standards Act.
		# The term decided	is and conditions of the labor contract for employees in domestic help and nursing can be freely through the agreement between an employer and an employee.
			(YY/MM/DD)
			사용자 : (서명 또는 연) Employet: (영pature) 근로자 : (서명 또는 연) Employee: (영pature)



# **Employment Permit System (EPS)**



• EPS allows an employer in need of a foreign (non-Korean) worker to obtain an employment permit from the Korean government (Ministry of Employment and Labor) so that the employer can legally hire a forieng worker

### **Duration of Employment Permit**

- In principle, a foreign worker may find a job and work for 3 years from the date of entry into the Republic of Korea (initial working period).
- The labor contract may be renewed upon the employer's request.
- The renewal shall be made only once, and the contract period may be extended up to 1 year and 10 months (second working period).

### **Changing workplace**

• In principle, a foreign worker is not allowed to transfer to a different workplace (find a different job from the original one). However, certain cases are subject to exemption.

#### Learn more Cases wherein a foreign worker may find a new job

- 1 If an employer wants to terminate a labor contract or refuses to renew the old contract after it expires on legitimate grounds
- 2 If the terms of a labor contract are violated, or a worker is unfairly treated
- 3 If a business closes temporarily, shuts down, or files for bankruptcy
- A foreign worker may find a new job up to 3 times during the initial working period of the first 3 years of working following entry into Korea. A foreign worker is allowed to find a new job up to 2 times during the second working period of 1 year and 10 months.
  - Cases of ② and ③ above are not be included.



## **Working hours and** recess

### **Working hours**

- The statutory working hours are 8 hours per day, 40 hours per week.
- At least 30 minutes of break time shall be given for every 4 hours of work and/or at least 1 hour of break time for every 8 hours of work.

## Molidays

- A paid holiday is a day for which a worker is entitled to take a leave while getting paid.
  - 1 day out of 7 days is given out as a weekly paid holiday. It generally falls on Sunday but may be any other day of a week upon the agreement between an employer and a worker.
  - Labor Day (May 1) is deemed an annual paid holiday.

### Leave

- 15~25 days of paid holiday per year are granted as an annual paid leave.
  - A worker who has been worked less than 1 year and worked less than 80% of that year shall be granted with one day of paid holiday for each month provided the worker has worked for a full month without absence.
  - An employer shall provide annual paid leave consisting of 15 paid holidays to the worker who worked for 80% or more of the working period of a year. By adding one day of paid holiday for every 2 years, up to 25 days of paid leave shall be granted.



#### **Protection for female workers**

#### Monthly menstrual leave

- A female worker is granted 1 day of menstrual leave per month.

#### **Protection of pregnant workers**

- Upon request, an employer shall transfer the pregnant worker to a less demanding work.
- In principle, a pregnant worker is prohibited from working overtime, taking night shift (from 22:00 to 06:00), and on holidays.
- A pregnant worker in the 12th ~ 36th weeks of pregnancy is allowed to request that her daily working hours be reduced by 2 hours. (However, if the daily working hours under the original labor contract are fewer than 8 hours, the hours shall be only reduced to 6 working hours)

#### Pre/Post-birth leave

- An employer shall provide 90 days of pre-/post-birth leave to a female worker (120 days if twins or more babies are born).

#### Parental leave (applies to both male and female workers)

- Any male or female worker raising a child younger than 8 years old (second grade in elementary school) are entitled to parental leave.
- Working parents are entitled to 1 year of parental leave for each child.







#### **Wages**

- Wages are the compensation an employer provides to a worker as remuneration for work. (Example: Monthly, weekly, daily wages, etc.)
- Minimum wages: KRW 9,160 per hour as of year 2022

### Deadline for filing a claim for the payment of delayed wages

• A worker may claim the delayed wages in which case a 3-year statue applies.

## How to file a complaint for overdue wages

File a complaint to the Ministry of Employment and Labor (251350)



Visit the customer support team of the Regional Employment and Labor Administration in person, or file a compliant online through the website of the ministry (https://minwon.moel.go.kr/)



## 05 Industrial Accident **Compensation Insurance**

(in case occupational injury occurs)



#### What is Workers' Compensation Insurance (WCI)?

- WCI is a social insurance system providing compensation to a worker for any undue damage including injury, disease, or death in the course of employment.
- -Type of WCI: Medical care benefits (including hospital bills for treatment, tests, and diagnosis), temporary layoff benefits, disability benefits, Injury-disease compensation annuities, nursing, the bereaved funeral expenses, rehabilitation expenses





#### How to file a WCI claim

#### File a claim to Korea Workers' Compensation & Welfare Service (21588-0075)



Online filing: Visit the website of Korea Workers' Compensation & Welfare Service (www.kcomwel.or.kr) and click "ENG" in the upper middle of the website → Refer to the relevant menu for Application for WCI claim





# **Public institutions that** may be helpful to you

#### Ministry of Employment and Labor (☎1350, www.moel.go.kr)

- Provides assistance on how to file a claim for payment of overdue wages (Petition), how to penalize an employer for overdue wages (Lawsuit)
- Business hours: 09:00~18:00 on weekdays (telephone counseling service available)

#### Korea Workers' Compensation & Welfare Service (21588-0075, www.kcomwel.or.kr)

- Provides assistance on how to filie a WCI claim if you suffer damage occupational injury or disease
- Business hours: 8:30 AM~18:00 on weekdays (telephone counseling service available)

#### **Korea Support Center for Foreign Workers** (251644-0644, http://k.migrantok.org)

- Provides counseling on delayed wages, getting a new job, or claiming WCI payment
- Supported languages: 9 languages including Mongolian, Urdu, Sinhala, Thai, Vietnamese, Uzbek, Burmese, Khmer, and Chinese
- Business hours: 09:00~18:00 on weekdays(telephone counseling service available)

#### Comprehensive Foreigner Help Center (Hi Korea) (☎1345)

- Provides information regarding immigration and entry, stay, and life guide in Korea
- Supported languages: 20 languages including Korean, Chinese, English, Vietnamese, Thai, Japanese, Mongolian, Indonesian, French, Bengali (language of Bangladesh), Urdu, Russian, Nepalese, Khmer, Burmese, German, Spanish, Filipino, Arabic, Sinhala, etc.
- Business hours: 09:00~22:00 on weekdays (Korean, Chinese, and English languages supported available only from 18:00 to 22:00)

#### Korea Legal Aid Corporation (☎132, www.klac.or.kr)

- Provides information on legal aid, related forms and documents, precedents, and online reservation and in-person counseling
- Business hours: 09:00~11:50 AM, 13:00~17:50 on weekdays (telephone counseling service available)