

2023 A Notebook on the Labor Rights of Foreign Worker

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A Notebook on the Labor Rights of Foreign Workers

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2023 A Notebook on the Labor Rights of Foreign Worker

Protect the Valuable Rights of Foreign Workers



영어
(english)

서울특별시

2023
A Notebook
on the Labor
Rights of Foreign
Workers



 서울특별시

* You can also find this information from the Seoul Metropolitan Government e-book at <http://ebook.seoul.go.kr>.

* This document was produced based on the legal terms defined in the Labor Standards Act.

Major Amendments to Labor Laws in 2023



○ Increase in the minimum wage: Hourly rate of KRW 9,620 (effective from Jan. 1, 2023)

Classification	Hourly rate	Daily rate (8 hours)	Monthly wage (209 hours)
Living wage (A)	₩11,157	₩89,256	₩2,331,813
Minimum wage (B)	₩9,620	₩76,960	₩2,010,580
Comparison (A-B)	₩1,537	₩12,296	₩321,233

○ Increase in tax-exempt for meal allowance (Existing) KRW 100,000 → (Revision) KRW 200,000 (effective from Jan. 1, 2023)

○ Expiration of the effective period of the eight-hour overtime work system (effective from Jan. 1, 2023)

- The eight-hour per week overtime work system applied to workplaces with less than 30 employees was expired

※ However, to address concerns at the site, a grace period is granted (Jan. 1 – Dec. 31, 2023), and the applicable workplaces are exempted from periodic labor inspections

○ Stricter standards for workplaces that are required to assign at least two safety managers (effective from Feb. 19, 2023)

- 1,000 or more full-time employees → 500 or more but less than 1,000 full-time employees

○ Expansion of the scope of labor providers subject to occupational accident insurance

(effective from Jul. 1, 2023)

- The exclusive employment requirement is abolished to expand the scope of application of occupational accident insurance to include workers in special employment types and platform employees
- Insurance premiums are levied and collected based on the actual income of labor providers, and the employer and the labor provider each pay 50% of the insurance premium

○ Expansion of the scope of workplaces subject to the installation and management standards for rest facilities (effective from Aug. 18, 2023)

- **(Existing)** Workplaces with 50 or more full-time employees. For the construction industry, workplaces with the total construction cost worth KRW 5 billion or more
- **(Revision)** Workplaces with less than 50 but more than 20 full-time workers. For the construction industry, workplaces with a total construction cost worth less than KRW 5 billion but more than KRW 2 billion. Among the workplaces in certain occupations* with at least two full-time employees, those with less than 20 but more than 10 full-time employees

* Occupations: Call center agents, care service workers, telemarketers, delivery workers, janitors and environmental sanitation workers, and apartment or building security guards



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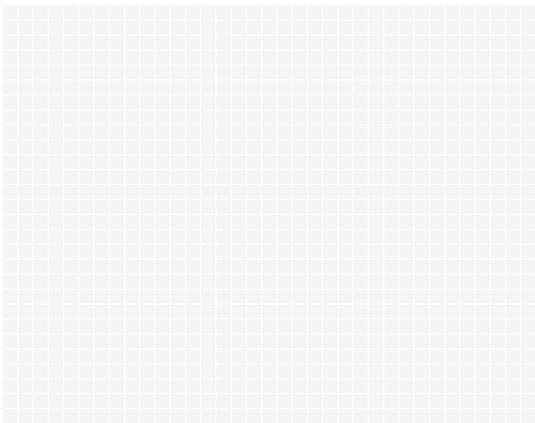
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Check Point



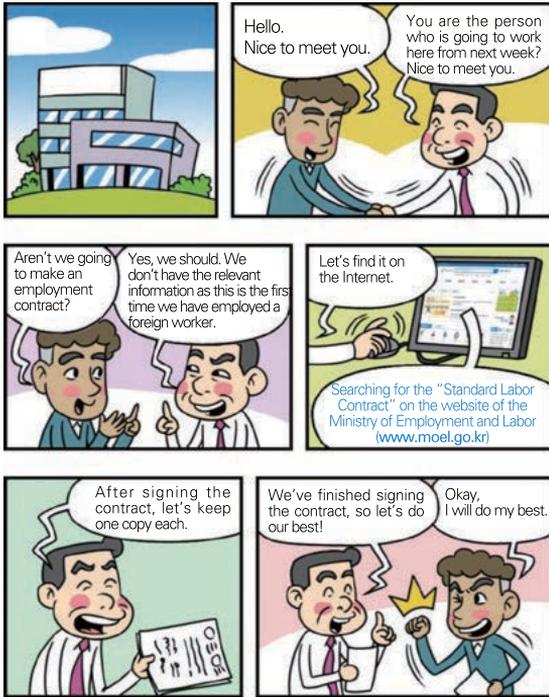
part 1

Labor Contract

- Writing and Issuing an Employment Contract
- Major Contents of an Employment Contract
- Regulations on Employment



An employment contract shall be written before the employee begins the job, and after making two copies, the employer and employee shall keep one copy each.



Labor Contract

Writing and Issuing an Employment Contract

An employment contract shall be written before the employee begins the job, and after writing two copies, the employer and employee shall keep one copy each.

-  Since foreign workers receive wages for their work, the relevant legislation on labor relations such as the Labor Standards Act applies.
-  As the Labor Standards Act stipulates the minimum standards for working conditions such as wages and working hours, an employment contract shall not contain anything that violates the Labor Standards Act.
-  According to the Labor Standards Act, an employer shall not engage in the following behavior.
 - An employer shall not discriminate against workers on the basis of nationality.
 - An employer shall not coerce labor through the use of violence, intimidation, confinement or any other means.
 - An employer shall not enter into any contract that sets a penalty or indemnity for possible damages caused by the breach of the contract.
 - An employer shall not enter into any contract incidental to a labor contract that provides for compulsory savings or management of savings deposits.

Q&A

According to the employment contract, I am supposed to earn a monthly wage of 2 million won with an additional allowance for extended work. I worked two extra hours every day for a month, but after a month, my monthly wage was only 2 million won. How can I solve this problem?

Your employer did not pay your allowance for working two hours extra every day. First, you need to state how this is inconsistent with your contract and request your employer to pay the allowance for the extended work. If he or she does not pay the allowance despite your efforts, you can report it to the Ministry of Employment and Labor.

Q&A

On what date does a labor contract for foreign workers take effect?

The date that a labor contract takes effect depends on the qualifications for the foreigner's stay.

- Regular foreign workers (E-9): Date of entry (on the individual's first visit to Korea)
- Overseas Koreans with foreign nationality (H-2): Date when the individual started working
- Workers changing their workplace: Date when the labor contract began
- Re-employed workers: The day after the period of employment activity came to an end



Major contents of employment contract

For foreign workers who acquire a job through the Employment Permit System, a standard labor contract should be written before they enter Korea, and this contract contains their working conditions.

Major contents of employment contract

- Workplace and work description
- Working hours
- Break time: at least 30 minutes of break time per four working hours and at least one hour of break time for eight working hours
- Working days and holidays
- Wages
- Information about dormitory
 - Whether the dormitory is provided by the employer and various expenses are paid



표준근로계약서

Standard Labor Contract

아래 당사자는 다음과 같이 근로계약을 체결하고 이를 성실히 이행할 것을 약정한다.
The following parties to the contract agree to fully comply with the terms of the contract stated hereinafter.

사용자 Employer	업체명 Name of the enterprise	전화번호 Phone number
	소재지 Location of the enterprise	
근로자 Employee	성명 Name of the employer	사업자등록번호(주민등록번호) Identification number
	성명 Name of the employee	생년월일 Birthdate
본국주소 Address(Home Country)		
1. 근로계약기간	- 신규 또는 재입국자: ()개월 - 사업장변경자: 년 월 일 ~ 년 월 일 * 수습기간: []월(입국일부터 []개월 []개월 []개월 []개월) * 수습 또는 재입국자의 근로계약기간은 입국일부터 기산함(다만, 외국인근로자의 고용 등에 관한 법률 제18조의4제1항에 따라 재입국(성실재입국)한 경우는 입국하여 근로를 시작한 날부터 기산함).	
1. Term of laborcontract	- Newcomer or Re-entering employee: () month(s) - Employee who changed workplace: from (YY/MM/DD) to (YY/MM/DD) * Probation period: [] included (for [] 1 month [] 2 months [] 3 months from entry date - or specify other: . [] Not included ※ 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 committed workers' system will commence on their first day of work as stipulated in Article 18-4 (1) of Act on Foreign Workers' Employment, etc.	
2. 근로장소	* 근로자를 이 계약서에서 정한 장소 외에서 근로하게 해서는 안 됨	
2. Place of employment	* The undersigned employee is not allowed to work apart from the contract enterprise.	
3. 업무내용	- 업종: - 사업내용: - 직무내용: ※ 외국인근로자가 사업장에서 수행할 구체적인 업무를 반드시 기재	
3. Description of work	- Industry: - Business description: - Job description: ※ Detailed duties and responsibilities of the employee must be stated	
4. 근로시간	시 분 ~ 시 분 - 1일 평균 시간외 근로시간: 시간(사업장 사정에 따라 변동 가능; 시간 이내) - 교대제 ([]조2교대, []3조3교대, []4조3교대, []기타)	* 가사사용인, 개인간병인의 경우에는 가시를 생략할 수 있음. * Employers of workers in domestic help, nursing can omit the working hours.
4. Workinghours	from () to () hours = average daily over time: (changeable depending on the condition of a company): up to hour(s) - shift system ([]2groups 2shifts, []3groups 3shifts, []4groups 3shifts, []etc.)	
5. 휴게시간	1일 분	
5. Recess hours	{ } minutes per day	
6. 휴일	[]일요일 []공휴일 []유급 []무급 []매주 토요일 []각주 토요일 []기타()	
6. Holidays	[] Sunday [] Legal holiday [] Paid [] Unpaid [] Every saturday [] Every other Saturday [] etc.()	

Employment regulations

An employer who ordinarily employs 10 or more workers shall prepare and post the rules of employment. Since the employment regulations stipulate working conditions just as in the employment contract, the employee shall check this information.



Employment regulations refer to the document that gives definite information about working conditions such as wages, working hours, and workplace rules with which workers are required to comply.

- The employer shall acquaint workers with the rules of employment by posting or keeping them in a place that is readily accessible to workers at all times.
- If a labor contract includes any term or condition of employment that fails to meet the standards of labor as provided for in the rules of employment, that part of the contract shall be null and void.
- The employer shall, with regard to the preparation or alteration of the rules of employment, hear the opinion of a trade union if there is such a trade union representing the majority of the workers in the business or workplace concerned, or otherwise hear the opinion of the majority of the said workers if there is no trade union representing the majority of the workers: Provided, that in case of amending the rules of employment in a manner that is unfavorable to workers, the employer shall obtain their consent thereto.

Standard Employment Agreement

This employment agreement is entered into and made effective by and between

_____ (hereinafter referred to as the "Employer") and _____ (hereinafter referred to as

the "Employee") under the terms and conditions set forth below.

1. Term of agreement: From _____ until _____
2. Place of work:
3. Job description:
4. Prescribed working hours: From ___:___ until ___:___ (break time: from ___:___ until ___:___)
5. Working days/days off: Work ___ days per week (or daily basis), work is off on ___day every week
6. Wage
 - Wage per month (day and hour): KRW
 - Bonus: Yes () KRW, No ()
 - Extra pay (e.g. fringe benefits) : Yes (), No ()
 - KRW
 - KRW
 - Payday: st/nd/rd/th day of every month (week or day) (if it falls on a public holiday, paid the day before)
 - Payment method: Paid directly to the employee (), Wire transferred to the bank account in the employee's name ()
7. Annual paid leave
 - Annual paid leave is given as specified in the Labor Standards Act
8. Applicability of social insurance (tick applicable boxes)
 - National insurance Occupational accident insurance
 - National pension Health insurance
9. Issuance of employment agreement
 - The Employer shall provide the Employee with a copy of this agreement upon execution, regardless of whether or not the Employee asks for it (pursuant to Article 17 of the Labor Standards Act).
10. The duty to fulfill in good faith the employment agreement, employment rules, etc.
 - The Employer and the Employee shall each comply with and execute in good faith the employment agreement, employment rules, and collective agreement.
11. Miscellaneous
 - Any matters not addressed in this agreement shall be governed by labor standard laws and regulations.

Date signed:

(Employer) Company name: _____ (Contact: _____)

Address: _____

Representative: _____ (Signature)

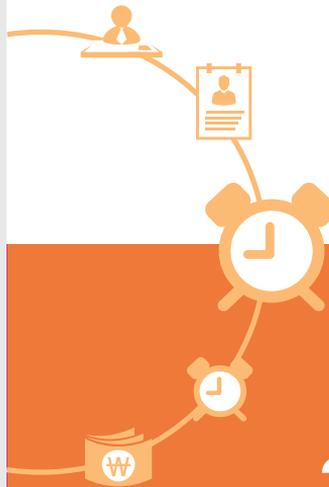
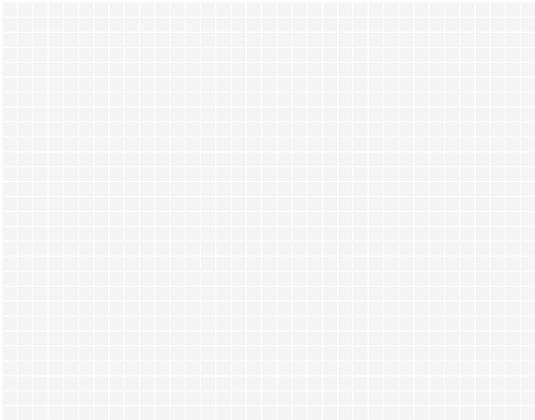
(Employee) Address: _____

Contract: _____

Name: _____ (Signature)

7. 임금	1) 월 통상임금 ()원 - 기본급(월, 시간, 일, 주급) ()원 - 고정적 수당: () 수당: ()원, () 수당: ()원 + 수습기간 중 임금 ()원 수습시작일부터 3개월 이내 근무기간 ()원 2) 연장 야간 휴일근로에 대해서는 통상임금의 50%를 가산하여 수당 지급(상시근로자 4인 이하 사업장에는 해당되지 않음)
7. Payment	1) Monthly Normal wages ()won - Basic pay(Monthly, hourly, daily, weekly) wage: ()won - Fixed benefits: () benefits: ()won, () benefits: ()won - Bonus: ()won + Wage during probation () won, but for up to the first 3 months of probation period: ()won 2) Overtime, night shift or holiday will be paid 50% more than the employee's regular rate of pay(This is not applicable to business with 4 or less employees).
8. 임금지급일	매월 ()일 또는 매주 ()요일 다만, 임금 지급일이 공휴일인 경우에는 전날에 지급함.
8. Payment date	Every ()th day of the month or every () day of the week. If the payment date falls on a holiday, the payment will be made on the day before the holiday.
9. 지급방법	[] 직접 지급, [] 통장 입금 ※ 사용자는 근로자 명의로 된 예금통장 및 도장을 관리해서는 안 됨.
9. Payment methods	[] In person, [] By direct deposit transfer into the employee's account ※ The employer must not keep the bankbook and the seal of the employee.
10. 숙식제공	1) 숙박시설 제공 - 숙박시설 제공 여부: [] 제공, [] 미제공 제공 시 숙박시설의 유형: [] 주택, [] 고시원, [] 오피스텔, [] 숙박시설(여관, 호텔, 펜션 등), [] 컨테이너, [] 조립식 패널, [] 사립장 건물, 기타 주택형태 시설() - 숙박시설 제공 시 근로자 부담금액: 매월 원 2) 식사 제공 - 식사 제공 여부: 제공 [] 조식, [] 중식, [] 석식 [] 미제공 - 식사 제공 시 근로자 부담금액: 매월 원 ※ 근로자의 비용 부담 수준은 사용자와 근로자 간 협의산규 또는 재입국자의 경우 입국 이 후에도 따라 별도로 결정
10. Accommodations Meals	1) Provision of accommodations - Provision of accommodations: [] Provided, [] Not provided (If provided, accommodation types: [] Detached houses, [] Goshiwans, [] Studios-tels, [] Lodging facilities(such as motels, hostels and pension hotels, etc.), [] Container boxes, [] SSP panel constructions, [] Rooms within the business building - or specify other housing or boarding facilities () - Cost of accommodation paid by employee: won/month 2) Provision of meals - Provision of meals: [] Provided[] breakfast, [] lunch, [] dinner, [] Not provided - Cost of meals paid by employee: won/month ※ 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. 사용자와 근로자는 각자가 근로계약, 취업규칙, 단체협약을 지키고 성실하게 이행해야 한다.	
11. Both employees and employers shall comply with collective agreements, rules of employment, and terms of labor contracts and be obliged to fulfill them in good faith.	
12. 이 계약에서 정하지 않은 사항은 「근로기준법」에서 정하는 바에 따른다. ※ 가시서비스업 및 개인간병인에 종사하는 외국인근로자의 경우 근로시간, 휴일·휴가, 그 밖에 모든 근로조 건에 대해 사용자와 자유롭게 계약을 체결하는 것이 가능하다.	
12. Other matters not regulated in this contract will follow provisions of the Labor Standards Act. ※ The terms and conditions of the labor contract for employees in domestic help and nursing can be freely decided through the agreement between an employer and an employee.	
	년 월 일 (YY/MM/DD)
사용자: Employer:	(서명 또는 인) (signature)
근로자: Employee:	(서명 또는 인) (signature)

Check Point



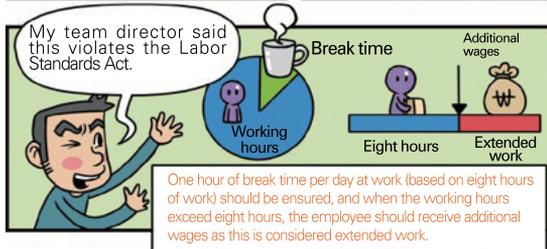
part 2

Working Hours, Break Time, Holidays and Leave

- Working Hours
- Break Time
- Weekly Holidays
- Leave



Work hours shall not exceed 40 hours a week, eight hours a day, excluding break time.



Working Hours, Break Time, Holidays and Leave

Work hours

Work hours shall not exceed 40 hours a week, eight hours a day, excluding break time
 ※ Applies to business sites with at least five full-time workers

 The legal working hours are 40 hours per week. When an employee works for more hours than the stipulated working hours, this is considered extended work.

Cases that are included in working hours

- Time spent preparing before work begins
- Time spent cleaning up after work is over
- Working days and holidays
- Time spent waiting for customers
- Mandatory training programs
- Whether the dormitory is provided by the employer or various expenses are paid



Break time

At working hours, at least 30 minutes of break time should be given for four hours of work, and at least one hour of break time for eight hours of work.



Workers must be able to use their break time freely without any restrictions by their employer.

- A one-hour meal break is considered break time. (O)
- Time spent waiting for customers and phone calls at the office is considered break time. (X)



Break times are not included in the working hours, and wages are not paid for those times.

Q&A

I work for ten hours a day. During that time, I don't have any break time, and my lunch break is only 30 minutes long. As the time for lunch is so short, it is very hard to have a proper lunch. How can I deal with this situation?

Since you work for ten hours a day, you should be given at least one hour of break time. You should ask your employer to give you one hour of break time, and if he or she does not guarantee you that much time, you can report it to the Ministry of Employment and Labor.



If a person works for 60 hours or more per month or 15 hours or more per week, he or she should be granted at least one day of paid leave a week (weekly holiday, allowances for holiday)





Weekly holiday

If an employee works for 15 hours or more per week for four weeks on average, he or she should be granted a paid leave (weekly holiday) for at least one day per week.



Paid leave: a holiday when wages are paid

- Weekly holiday is paid leave (workers are paid without working). Even if there is no specific agreement between labor and management, the law stipulates that weekly holidays and workers' day (May 1) are paid leave.
- From January 1, 2020, national holidays defined in 「REGULATIONS ON HOLIDAYS OF GOVERNMENT OFFICES」, are recognized as paid day-offs. However, recognition of national holidays as paid day-offs will be implemented in different stages according to the company size.
 - * Businesses and public institutions with 300 or more employees: January 1, 2020
 - * Businesses and public institutions with 30 or more and less than 300 employees: January 1, 2021
 - * Businesses and public institutions with 5 or more and less than 30 employees: January 1, 2022
- Agreed holidays are specific days that are defined as holidays in the collective agreement, employment regulations, and labor contract. The wages for agreed holidays depend on the clauses in these documents.



If an employer does not guarantee weekly holidays and workers' day, workers may report the employer to the Ministry of Employment and Labor, and the employer may receive a punishment.



Q&A

After I changed companies, I found that the holiday is not Sunday, but Saturday. I prefer to have my day off on Sunday. Is there any way I can change this?

..... The law stipulates that employers shall grant every worker one day of paid leave each week. However, the regulations do not require that this leave must be on a Sunday. Therefore, if your employer has granted one paid off-day per week, it is not in breach of the regulation even if the given off-day does not fall on Sunday. If you really want to take leave on Sunday, you will need to discuss this with your employer.

Leave

Leave includes leave that has been agreed upon other than paid leave and maternity leave before and after childbirth. Employees are allowed to take leave.

 A worker who has been employed for at least one year and worked at least 80 percent of that year shall be granted a paid leave of 15 days. A worker who has been employed for less than a year or who has been employed for at least one year but has worked for less than 80 percent of that period shall be granted one day of paid leave for each month during which he or she worked without missing a single day.

 A pregnant woman shall be granted a 90-day maternity leave before and after childbirth. In such a case, at least 45 days of the leave shall be allotted after childbirth. A pregnant woman giving birth to twins or more children shall be granted a 120-day maternity leave before and after childbirth. At least 60 days of the leave shall be allotted for after childbirth.

 Agreed leave can be granted according to what is stated separately in the employment regulations.



part 3

Wages

- Four Principles of Paying Wages
- Minimum Wages
- Allowances for Extended Work, Night Work, and Holiday Work
- Shutdown Allowance



Payment of wages shall be made in full directly to workers in currency at least once per month on a fixed day.



*Article 43 of the Labor Standards Act (Payment of Wages)



Wages

The Four Principles of Paying Wages

Payment of wages shall be made in full directly to workers in currency at least once per month on a fixed day.

01

Wages should be given on a fixed day. An employer cannot give wages on a different day at his or her will.

02

Wages should be paid to workers. Wages can be directly paid to workers in cash or to designated deposit accounts.

03

Wages should be paid in available currency. An employer cannot pay wages with gift certificates or products produced by the company.

04

Wages should be paid in full.

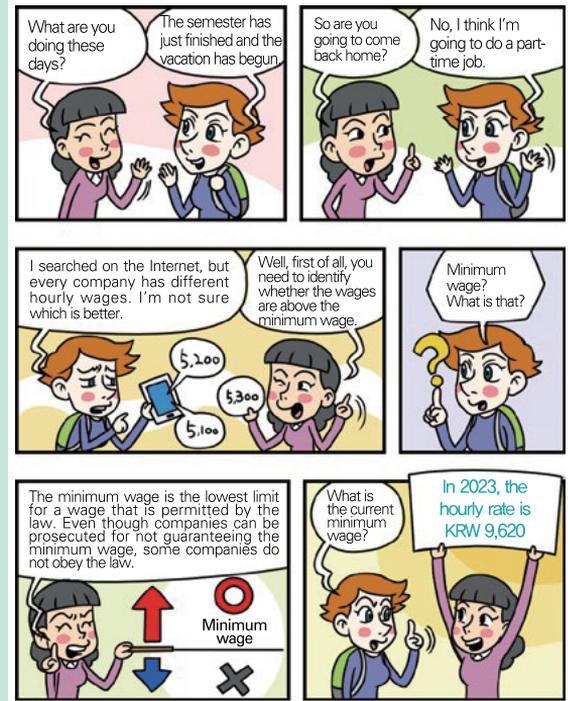
Q&A

My boss said that the company does not have enough money and asked me to have clothes and products that the company made instead of my monthly wage. What can I do?

In accordance with the Labor Standards Act, wages should be paid regularly and directly on a specific day at least once a month and in currency. To pay the wages in a form other than currency, the company needs to justify the decision through legislation or a collective agreement. It is illegal for companies to unilaterally pay their workers in the form of product. Therefore, a worker can request his or her employer to pay wages in currency if the employer pays the wages in company product. If the employer continues to ask you to accept products instead of currency, you can report the case to the Ministry of Employment and Labor.



In 2023, the minimum wage is KRW 9,620



Minimum wage

In 2023, the minimum wage is KRW 9,620

Current status of the minimum wage

Year	Hourly wage	Daily wage (eight hours)	Monthly wage (working 40 hours a week)
2023	KRW 9,620	KRW 76,960	KRW 2,010,580

People whose wages can be reduced by 10%

- A probationary worker who has been working for less than three months from the date when the probationary period began. (However, deduction of wage during a probation period is prohibited for short-term contract workers whose labor contract period is less than one year, and workers engaging in simple labor jobs designated and notified by the Ministry of Employment and Labor.)

Q&A

Korea has a minimum wage system in place. What is it?

..... Korean law stipulates that the wages paid to foreign workers shall equal or exceed the minimum wage, which also applies to foreign workers who find jobs through the Employment Permit System or whose actual work can be recognized even if the worker has a training visa.

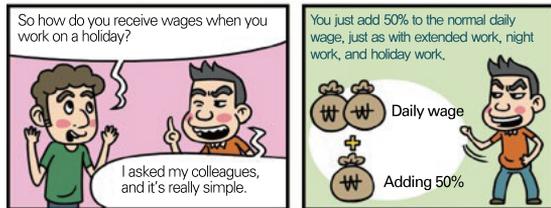
Duty of notifying employees

- Employers should post information about the minimum wage or wages not included in the minimum wage in a place that is readily accessible to workers or inform workers by other appropriate methods.





Allowances for Extended Work, Night Work, and Holiday Work



<p>Eight hours</p>	<p>Night work</p>	<p>Holiday work</p>
<p>Extended work</p>	<p>Night work</p>	<p>Holiday work</p>
<p>Overtime work that exceeds eight hours a day</p>	<p>Work between 10 pm and 6 am</p>	<p>Holiday work</p>



Allowances for Extended Work, Night Work, and Holiday Work

Workers should be paid an additional 50% on top of their regular hourly wage when they do extended, night, or holiday work.

- Extended work is often called extra or overtime work. When an employee works for more than eight hours a day, 40 hours a week, he or she is considered to have done overtime work and should be paid a wage that is 50% more than his or her ordinary wage.

• Ex: the hourly wage is 10,000 won and you work for nine hours a day: (10,000 won x 8 hours) + (10,000 won x 1 hour x 1.5 times) = 95,000 won

- Night work refers to work that is done between 10 pm and 6 am. Workers who do night work should be paid 50% more than their normal wage.

- Holiday work refers to work on legal holidays (weekly holiday and workers' day) or agreed holidays. Similar to extended and night work, workers should be paid 50% more than their regular wage.

 When extended, night, and holiday work overlap, workers' final pay should be calculated by adding the premiums for each of the categories that apply.

- Ex: the hourly wage is 10,000 won and you work for nine hours a day (from 9 at night to 7 the next morning, with one hour of break time during the night work):
 $(10,000 \text{ won} \times 8 \text{ hours}) + (10,000 \text{ won} \times 1 \text{ hour} \times 1.5 \text{ times}) + (10,000 \text{ won} \times 7 \text{ hours} \times 0.5 \text{ times}) = 130,000 \text{ won}$



Q&A

I do extended work for two hours every day at my company and receive an allowance of 8,000 won. What wages are the basis for calculating this allowance?

..... Ordinary wages are the wages used as the basis for calculating various allowances (extended, night, holiday work, etc.). Ordinary wages are calculated by adding the basic wages paid every month to regular, fixed, and collective allowances and dividing these added wages by 209 hours (assuming 40 hours of work a week), which are the fixed hours of work each month. But since foreign workers receive few allowances other than their basic wages, ordinary wages are calculated by dividing the basic wages by the monthly working hours (209 hours).

Shutdown allowance

When a business shuts down due to a cause attributable to the employer, he or she shall pay the workers concerned an allowance of not less than 70 percent of their average wages during the period of shutdown.

 In the event that the employees cannot work due to an insufficient amount of work, a breakdown of machinery at the factory or the suspension of business, workers can receive a shutdown allowance.

 In the event that the employer is unable to continue with the business for unavoidable reasons and has received the approval of the labor relations commission, the employer can pay a shutdown allowance that is less than 70 percent of the workers' average wage.

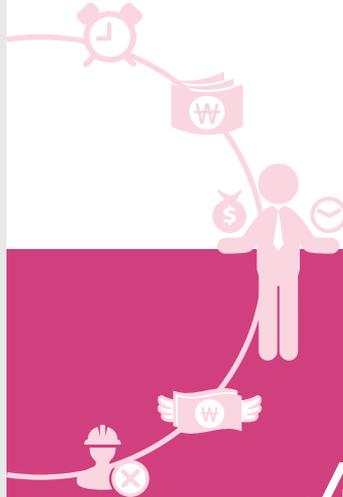
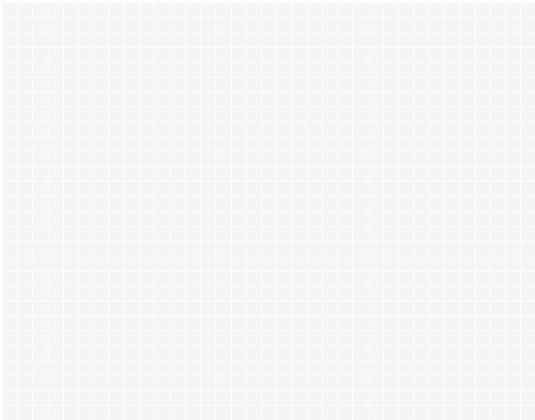
- Shutdown: Business, sales or work is temporarily suspended and workers take leave for one day or for a period of time.

Q&A

Due to problems at the company, I was suspended from work for ten days. But the company told me they would not pay me wages for those ten days because I did not work during that time.

..... When workers take leave and the employer is at fault, the employer must pay 70% or more of the average wages.

Check Point



part 4

Severance Pay



When an employee has worked for one year or more, he or she must be given severance pay upon leaving the company.



Severance Pay

Severance Pay

If an employee has worked for a company for more than 15 hours a week and has been employed there for more than a year, he or she must be given severance pay upon leaving the company.

For each year of employment, workers can receive severance pay equal to their average wages for at least 30 days.

- Calculating severance pay = average wages for 30 days x years of employment (days employed ÷ 365 days)
- Average wages refer to all of the wages paid by an employer, including basic wages for the three months before the day of severance pay and other allowances, divided by the total days during those three months.

In the case of the Employment Permit System

- Severance pay is partly paid by the departure guarantee insurance, but in the event that this amount is less than the severance pay, the difference must be paid by the employer.

Q&A

I worked as a part-time worker for more than one year. Can I get severance pay?

If you were hired as a part-time worker, and have worked for an average of 15 or more hours per week for at least one year, you are entitled to receive severance pay.

Q&A

I stopped working for a while after I was injured at work and then started working again after receiving treatment. If my two months of sick leave are not included, I was only working at the company for 11 months. In this case, will I get severance pay?

When an employee takes leave because of an industrial accident, this is not considered quitting the job. Therefore, as long as you worked for at least one year including the two months of medical treatment, you are still entitled to receive severance pay.

Q&A

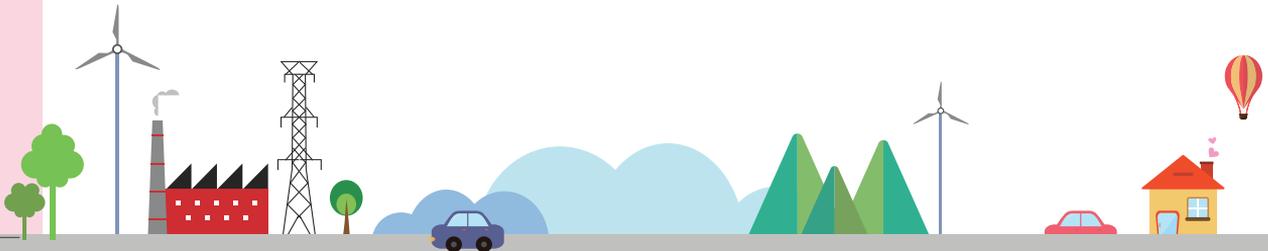
The company that I worked for has shut down. Since I worked there for two years, I should receive severance pay. Is there any way to get this?

There is a **paid statutory severance program** in which the government pays back wages on behalf of an employer. Since the application for this program is complicated, it would be best to visit a consultation center and inquire about your situation.

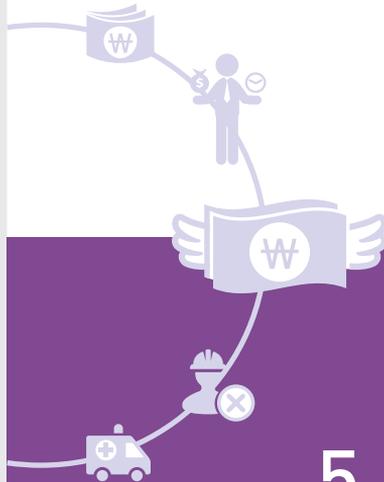
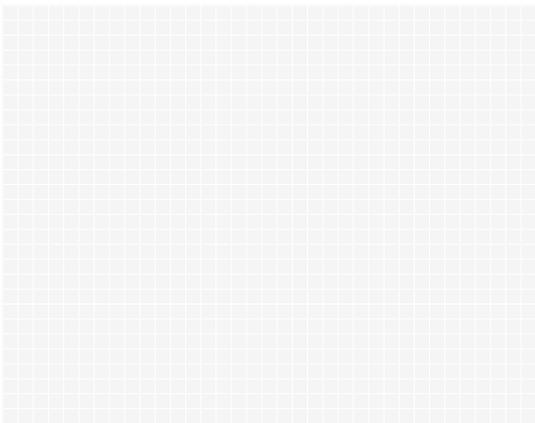
Q&A

I made an employment contract that made no mention of severance pay. Am I unable to receive any severance pay?

Since severance pay is stipulated in the Employment Retirement Benefit Security Act in accordance with the Labor Standards Act, you are still allowed to request severance pay. Under the Labor Standards Act, your work contract is invalid.



Check Point



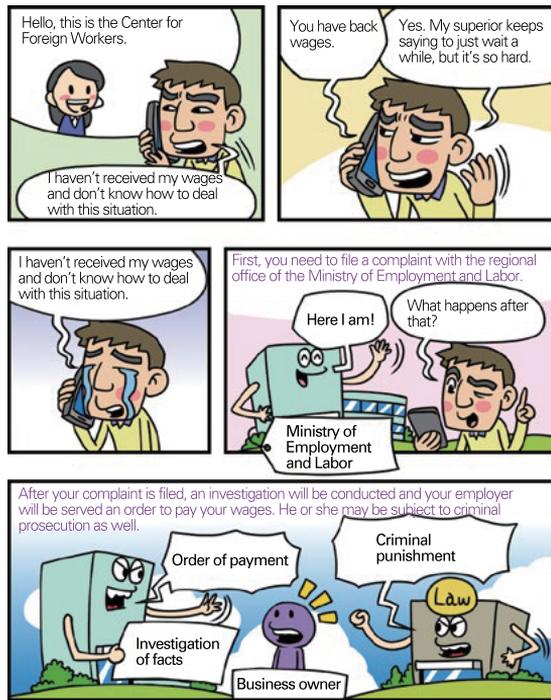
part 5

Delayed Payment of Wages

- Solutions for Delayed Payment of Wages



If you have not been paid your wages, you can report the case.



Delayed payment of wages

Solutions for delayed payment of wages

In the case of back wages, the employee can report the case to the Ministry of Employment and Labor or file a lawsuit. If the company goes bankrupt, the employee can apply for a substitute payment.

The Ministry of Employment and Labor is a Korean government agency protecting the rights and interests of workers. When there is delayed payment of wages or an industrial accident, workers can get help from the Ministry to resolve the issue.

Category	Complaint or accusation	Relief through civil suit
Procedure	The labor supervisor orders the employer to pay wages by submitting a letter of complaint or petition to the Ministry of Employment and Labor, and the problem of back wages can be addressed by threatening the employer with criminal prosecution.	This is a method for filing a lawsuit with the court. When filing a lawsuit, one can secure one's claim for wages in advance through preventative measures such as provisional attachment.
Advantages	<ul style="list-style-type: none"> • Possible to resolve the issue swiftly • Simple and inexpensive 	As compulsory execution can be taken to secure claims for wages, the payment of back wages is relatively certain.
Disadvantages	When the employer does not have the means to pay the wages, it would be difficult to resolve the issue. (When the employer goes bankrupt, the situation could be improved by applying for a substitute payment guarantee.)	It takes a long time and incurs costs.

Documents required for back wages

- Information about the company (company address, contact number, name of employer, etc.)
- Labor contract, wage statement (pay slip), record of wage payments in bankbook
- Testimony of colleagues, records of working hours, etc.

Complaint or accusation for the Ministry of Employment and Labor

Complaint Request to receive back wages

Accusation Request to prosecute an employer for violating the Labor Standards Act

Procedure for dealing with this issue



Q&A

I left the company only two months after I started working at the factory. The employer said that the company has a period of probation and that wages cannot be paid during that period. What can I do?

In accordance with the Labor Standards Act, wages must be paid even during a probationary period. Therefore, you can file a request for back wages.

Q&A

My wages are delayed and the company is arguing that it owes me a different amount. What can I do?

In this case, you should collect evidence by making an accurate record of your working hours, holidays, and wages. It is also necessary to check with colleagues who are in a similar situation.

Q&A

I have back wages from a company where I worked four years ago. Can I receive these wages?

After three years have passed, there is no legal solution even if your employer did not pay the wages. Workers must ask their employers to pay the wages before three years have passed.

Temporary wage payment system

• The government may provide up to KRW 10 million for unpaid wages on behalf of businesses

1. Eligibility

- Requirements for employers: (a) (for former employees) those who are subject to the Industrial Accident Compensation Insurance Act and have conducted business for at least six months until the retirement date of the pertinent employee, or (b) (for current employees) those who are subject to the Industrial Accident Compensation Insurance Act and have conducted business for at least six months until the date on which the unpaid wages were incurred, including the latest wage, prior to the filing of a lawsuit or petition
- Requirements for employees: (a) (for former employees) those who apply for the power of execution (e.g. filing a lawsuit, requesting order for payment), such as judgment, within two years or file a petition within a year, starting from the day following the retirement date or (b) (for current employees) those who apply for the power of execution (e.g. filing a lawsuit, requesting order for payment), such as judgment, within two years or file a petition within a year, starting from the day following the date on which the latest unpaid wages arose, and whose regular wage, such as the latest wage, is less than 110% of the minimum wage at the time when the unpaid wages were incurred

* To be eligible for temporary wages, former or current employees must obtain an employer's confirmation of unpaid wages after October 14, 2021.

2. Amount to be paid

Category	Upper limit
Wages and maternity leave benefits while on the pre- and post-natal leave	₩7 million
Severance pay and other benefits upon retirement	₩7 million

※ Total upper limit of KRW 10 million

3. How to apply

- Deadline: Within one year from the date on which the final and conclusive decision is rendered or within six months from the date on which the employer's confirmation of unpaid wages is first issued
- Where to apply: A regional headquarter or a branch of the Korea Workers' Compensation & Welfare Service having jurisdiction over the relevant workplace
- Documents required: Temporary wage payment application form, a copy of the employer's confirmation of unpaid wages, a certified copy or a copy of the power of execution such as the court decision, a certified copy of final decision, and a copy of bank statement



Report for requesting back wages (sample)

Information on requestor

Name	Hong Gil-dong	Alien registration number	880808-1234567
Address	56, Euncheon-ro, Gwanak-gu, Seoul		
Telephone number	02-123-4567	Cell phone number	010-123-4567
Email	hong@samplemail.com		
Verification of reception	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No You can receive information about the progress of dealing with complaints by text message and email.		

Information about respondent

Name	Kim No-dong	Contact number	02-555-4567
Address	9999, Yeongdeungpo-ro, Yeongdeungpo-gu, Seoul		
Business type	<input checked="" type="checkbox"/> Place of business <input type="checkbox"/> Construction site		
Company name	Korea company		
Company address (actual workplace)	8888, Yeongdeungpo-ro, Yeongdeungpo-gu, Seoul		
Company telephone number	02-777-8888	Number of employees	30 workers

Details of complaint

Date of entry	March 15, 2009	Date employee left the company	
Total amount of back wages	3,000,000 won	Whether employee has left the company	<input checked="" type="checkbox"/> Working <input type="checkbox"/> No longer working
Overdue severance pay	Won	Misc. amount of severance pay	Won
Type of work	Sales		
Date of wage payment	The 25 th of each month	Type of labor contract	<input checked="" type="checkbox"/> Verbal <input type="checkbox"/> Written
Title	Back wages		
Details (500 or less Korean characters)	The requestor, after joining Korea Company, Inc. on March 15, 2016 and working for seven months, did not receive wages for two months in the amount of 3,000,000 from September 2016 due to financial difficulties of the company.		



part 6

Dismissal

- Restrictions on Dismissal
- Solutions for Unfair Dismissal

Dismissal

Restrictions on Dismissal

An employer shall not dismiss a worker without a justifiable cause.

 An employer shall not dismiss a worker if there are no justifiable reasons that are the fault of the worker such as absence; tardiness; rejection of work; illegal, unfair or unethical behavior; etc.

 An employer shall not dismiss a worker during the following periods. If he or she does, the worker can seek redress as this is considered unfair dismissal.

- A period of leave for medical treatment for an occupational injury or disease and the 30 days immediately thereafter
- The period of leave for pregnancy and the 30 days immediately thereafter
- The period of parental leave

 Dismissal due to circumstances at the company, or in other words dismissal for managerial reasons, must adhere to specific procedure and requirements.

 When an employer intends to dismiss a worker (including dismissal for managerial reasons), he or she shall give the worker notice of dismissal at least 30 days in advance of such dismissal. If the employer fails to give such advance notice, he or she shall pay that worker ordinary wages for not less than 30 days.

Employers are exempt from the notification of dismissal if

- The worker has been working continuously for less than 3 months
- It is impossible to continue the business due to natural disasters, accidents, or other unavoidable reasons
- The worker has deliberately caused enormous disruption to the business or damage to the property, which falls under the reasons specified in the Ordinance of the Ministry of Employment and Labor.

Q&A

The company terminated my employment status without my consent during marriage leave. How can I address this issue?

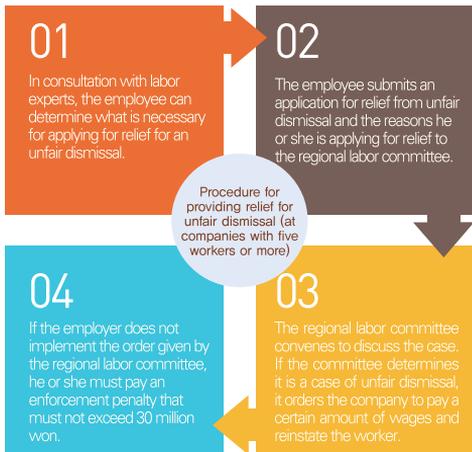
As the company terminated your employment status unilaterally, there is no justifiable reason for dismissal, and the company did not give you written notice about the time of dismissal. Due to these procedural problems, your termination can be considered unfair dismissal, so you can file for redress with the local labor relations commission.



Solutions for unfair dismissal

When a worker at a company with five or more employees is unfairly dismissed, he or she may request remedy from a labor relations commission. Workers at companies with fewer than five employees may file a lawsuit.

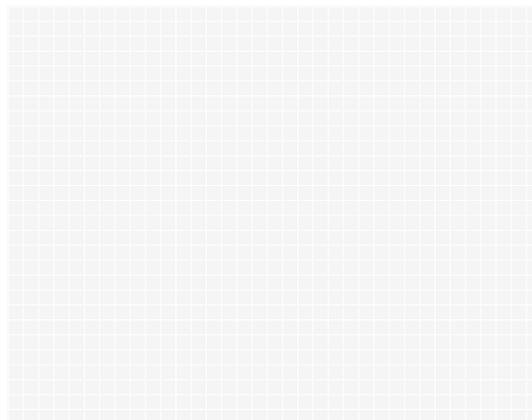
-  An employee who has been unfairly dismissed shall request redress from a labor relations commission within three months of the date of the dismissal.
-  When the dismissal is recognized as an unfair dismissal, the worker may return to the previous company. If the worker does not wish to be reinstated in his or her former company, he or she may choose to be paid the amount of wages that he or she would have been paid if he or she had been working during the period of dismissal (monetary compensation program).



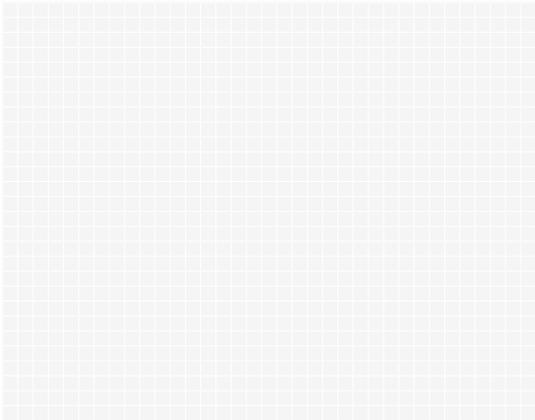
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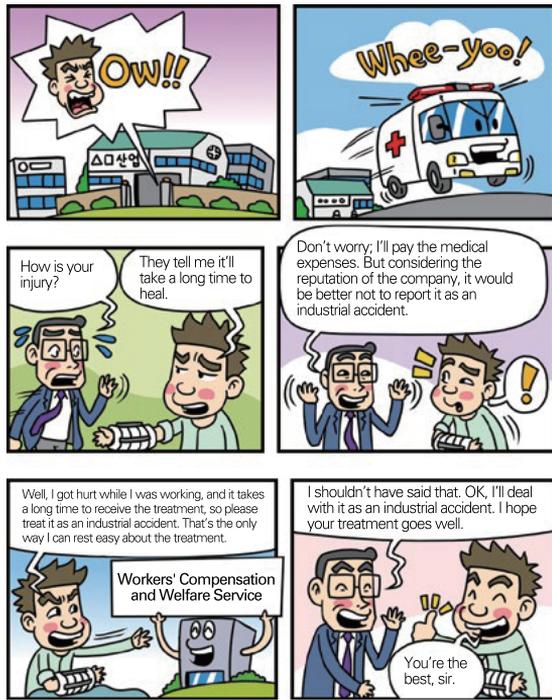
part 7

Occupational Accidents

· Compensation for Industrial Accidents



When you are injured on the job, the cost of your treatment can be covered by industrial accident compensation insurance



Industrial accident

Compensation for industrial accidents

In the event that an employee needs four days of treatment or more or dies after receiving an injury, disease, or disability on the job, the employee may be eligible to receive compensation from the industrial accident compensation insurance.

-  An industrial accident refers to a case in which a worker is injured or contracts a disease while working for a company.
-  In the event of an industrial accident, an employee can receive various forms of compensation such as pay for medical treatment, suspension from work, etc. When an employee receives four days or more of treatment, the accident shall be regarded as an industrial accident.

Types of payments made by industrial accident compensation insurance

Pay for medical treatment	Payment of medical expenses until treatment is complete for the industrial injury
Pay for work suspension	Payment to maintain an employee's livelihood in the event that he or she cannot work because of treatment
Injury and disease compensation pension	Payment instead of suspension of work allowance in the event that an employee cannot fully recover two years after treatment has begun
Pay for disability	Payment of wages in the event that an employee remains disabled even after treatment for an industrial accident
Pay for nursing	Payment in the event that an employee needs nursing after finishing treatment
Pay for the bereaved	Payment to maintain the livelihood of the bereaved in the event that an employee passes away due to an industrial accident
Funeral expenses	Payment of funeral expenses for a deceased employee



When an industrial accident takes place, an employee can submit an application for industrial accident compensation to the Workers' Compensation and Welfare Service responsible for his or her place of business.

- The right to apply for industrial accident compensation belongs to employees, not to the employer. Even if the employer does not handle or even consent to the application for compensation, workers can apply for compensation themselves.
The employer cannot fire or give disadvantages to a worker because the worker requested insurance benefits.
- For an accident to be recognized as an industrial accident, an employee must gather objective evidence in support of the claim.



Tips for dealing with industrial accidents

- Record the time, cause, and on-site situation for the industrial accident (use a voice recording if a written record is impossible)
- If an employee is seriously injured, call 119 and transfer him or her to the hospital (the records for using emergency vehicles can serve as evidence)
- If the employee is treated at a hospital, explain the situation accurately and emphasize the fact that the employee was injured at work
- Secure other data such as on-site photos and witness statements



Q&A

I hurt my hand when I pulled the wrong switch at work. Can I receive benefits for an industrial accident?

Many accidents happen due to incorrect safety equipment. Such cases are considered industrial accidents even if the worker makes a mistake.

Q&A

I got injured at work, but the employer said that I can't receive benefits for an industrial accident because the company did not register for industrial accident compensation insurance. What should I do about this?

Even if the company has not applied for industrial accident compensation insurance, an injured worker can still file an industrial accident compensation claim. A company that employs one worker or more is required to apply for industrial accident compensation insurance. If your company did not register for insurance, it must pay a penalty.

Q&A

I would like to apply for industrial accident insurance benefits. Some say that the company should apply for this, but others say that the hospital should. What is the correct answer?

In accordance with the Industrial Injury Compensation Insurance Act, employees are the ones who apply for and receive industrial accident benefits. At the company, the employer should stamp or sign the verification form for the nursing application. Since you can also apply for industrial accident benefits at the hospital, you may want to discuss the matter with the staff member in charge of industrial accidents at the hospital's administration department.

Occupational accidents



- An accident that occurs during the course of employment
- An accident that occurs during the use of facilities provided by an employer outside the office space, such as staff lounges, restrooms, and stairs
- An accident that occurs during an event (or during the preparation for one) that an employee has participated in at the employer's request
- An accident that occurs during break time, which can be deemed to be under the management of the employer
- Other accidents related to work
 - An accident resulting from basic human needs, such as bowel movement, and actions incidental to work, such as preparing for work
 - An accident resulting from defects in facilities, inadequate maintenance, or snow piled up at building entrances
 - An accident that occurs while on the transportation means provided by an employer (accidents that occur while moving to the location where the company shuttle bus waits)
 - Traffic fatality on the way back home after attending an event, and an alcohol-related accident during a company dinner
 - An accident that occurs while playing soccer, badminton, and other sports during break time

Occupational diseases

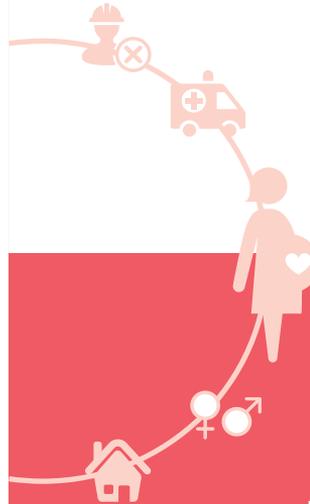


- A disease that occurs while handling or being exposed to factors that may harm the health of workers during the course of their employment
- A disease caused by occupational injuries or other factors
- Other diseases caused by work
 - Death of a worker with hypertension from cardiovascular disease caused by overwork
 - Musculoskeletal disorders of standing workers and other diseases caused by exposure to toxic substances
 - A disease caused by abnormal atmospheric pressure while diving or working at height
 - Depression caused by workplace stress (e.g. pressure to resign, workplace bullying, job-related emotional trauma)

Commuting accidents



- An accident that occurs while commuting under the employer's direction and control, including the use of the means of transportation provided by the employer or equivalent thereto
- An accident that occurs while commuting by usual routes and methods



part 8

Protection of Female Workers (Pregnant Workers)

- Prohibition on Employment in Hazardous and Dangerous Work Areas
- Restriction on Extended and Holiday Work
- Monthly Menstrual Leave



Female workers shall receive special protection.



Protection of female workers (pregnant women, etc.)

Prohibition of employment in hazardous and dangerous work areas

An employer shall not employ pregnant women in any work area that is detrimental to morality or health or that is physically dangerous. Furthermore, the employer shall not employ women 18 years or over who are not pregnant in any work area that is harmful and dangerous to pregnancy or delivery.

Work areas in which pregnant women may not be employed

Work dealing with hazardous substances such as lead, mercury, chrome, arsenic, white phosphorus, fluorine (hydrofluoric acid), chlorine (acid), hydrogen cyanide (cyanic acid), 2-bromopropane, aniline, potassium hydroxide, phenol, ethylene glycol monomethyl ether, ethylene glycol monomethyl ether acetate, vinyl chloride, benzene, etc.

Work areas in which women that gave birth to a child less than a year ago may not be employed

Work dealing with lead and arsenic (with the exception of women who are not breastfeeding and inform the employer of their willingness to do the work), work in which employees deal with or can be exposed to 2-bromopropane, etc.

※ For more detailed information, please refer to Appendix 4, Enforcement Ordinance of the Labor Standards Act.

Work areas in which non-pregnant female workers who are 18 years and older may not be employed

Work in which employees deal with and can be exposed to 2-bromopropane, etc. (Women who are medically incapable of becoming pregnant are an exception to this rule)

Prohibited Occupations for Pregnant Women, etc. (related to Article 40)

Classification	Prohibited occupations
Pregnant women	<ol style="list-style-type: none"> 1. Works involving nuclear energy and radiation that exceed the radiation dose under Article 91(2) of the Nuclear Safety Act 2. Works involving the handling of hazardous substances, including lead, mercury, chromium, arsenic, tetraphosphorus, fluorine (hydrofluoric acid), chlorine (acid), hydrogen cyanide (cyanic acid), 2-bromopropane, aniline, potassium hydroxide, phenol, ethylene glycol monomethyl ether, ethylene glycol monoethyl ether, ethylene glycol monoethyl ether acetate, vinyl chloride, and benzene 3. Works that put employees at a high risk of infection by pathogens like Cytomegalovirus or Hepatitis B virus. However, those who hold a license as doctors, nurses, or radiologic technologists, or who are undergoing training to obtain such qualifications, are exempt from this requirement 4. Works requiring excessive stretching or bending of the body, or continuously squatting or forward-bending posture 5. Works requiring employees to handle weights of 5 kilograms or more continuously, or weights of 10 kilograms or more intermittently 6. Works closely associated with the safety and health of pregnant women as prescribed under the Ordinance of the Ministry of Employment and Labor 7. Other works designated and notified by the Ministry of Employment and Labor through deliberation by the Industrial Accident Compensation Insurance and Prevention Deliberation Committee under Article 8 of the Industrial Accident Compensation Insurance Act (hereinafter referred to as the "Industrial Accident Compensation Insurance and Prevention Deliberation Committee")

Classification	Prohibited occupations
Women who gave birth in less than a year	<ol style="list-style-type: none"> 1. Works involving the handling of lead or arsenic: provided that women who do not breastfeed and provide written notice of their intention to be employed to their employer are exempt from this requirement 2. Works involving the handling of or exposure to 2-bromopropane 3. Other works designated and notified by the Minister of Employment and Labor after deliberation by the Industrial Accident Compensation Insurance and Prevention Deliberation Committee
Non-pregnant women aged 18 or older	<ol style="list-style-type: none"> 1. Works involving the handling of or exposure to 2-bromopropane: provided that women who are medically impossible to become pregnant are excluded 2. Other works designated and notified by the Minister of Employment and Labor after deliberation by the Industrial Accident Compensation Insurance and Prevention Deliberation Committee
Those who are less than 18 years of age	<ol style="list-style-type: none"> 1. Occupations or industries involving the operation or control, for which those under the age of 18 are restricted from acquiring a license, pursuant to the Construction Machinery Management Act, the Road Traffic Act, and other laws and regulations 2. Occupations or industries, for which the employment or access of those under the age of 18 is restricted, under other laws and regulations, including the Youth Protection Act 3. Works in correctional facilities or mental hospitals 4. Works involving incineration or slaughter 5. Works involving the handling of petroleum products (excluding jobs at gas stations) 6. Works involving the handling of or exposure to 2-bromopropane 7. Works closely associated with the safety and health of those under the age of 18 as prescribed under the Ordinance of the Ministry of Employment and Labor 8. Other works designated and notified by the Minister of Employment and Labor after deliberation by the Industrial Accident Compensation Insurance and Prevention Deliberation Committee



Restriction on Extended and Holiday Works



Restriction on Extended and Holiday Work

An employer shall not have a pregnant female worker assigned to overtime work. An employer shall not have a woman who gave birth less than a year prior to do extended work For two hours a day, six hours a week or 150 hours a year or to have night shift or holiday work.

 In the event that an employer asks a pregnant female worker to do overtime work, she can reject this request and ask the employer to transfer her to an easy type of work. The employer must accept such a request.

 In the event that an employer has pregnant women doing extended work, he or she can be criminally prosecuted. In such a case, the workers must be given an allowance for their overtime work.



Q&A

The company I work for has a day-and-night shift system regardless of gender. As a woman, it's very hard to work the night shift, but I just keep putting up with it. Can I ask my employer to change my shift?

To have a female worker aged 18 or over work between 10 PM and 6 AM or on public holidays, an employer must obtain her consent: provided that pregnant women and workers aged under 18 are not allowed to work between 10 PM and 6 AM or on public holidays. However, exceptions apply if authorized by the Minister of Employment and Labor. Therefore, those who fall under this category should request the employer to work during daytime only.



Monthly menstrual leave

An employer shall grant a female worker one day of menstrual leave per month when she files a claim for menstrual leave.

※ This applies to businesses with at least five full-time workers.



Monthly menstrual leave is a leave given to women due to a physiological phenomenon.

For women without this physiological phenomenon, such as pregnant women, monthly menstrual leave is not granted.



Although an employer is not required to pay a woman who takes a monthly menstrual leave an allowance for her time off, she may be paid if this is stipulated in an agreement between labor and management.

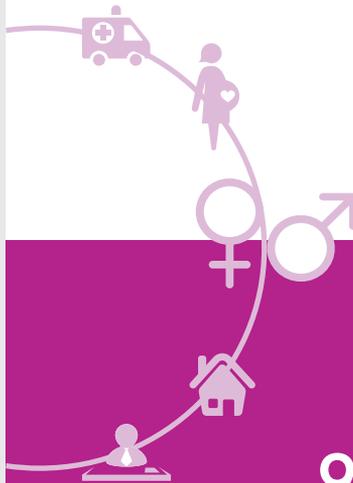
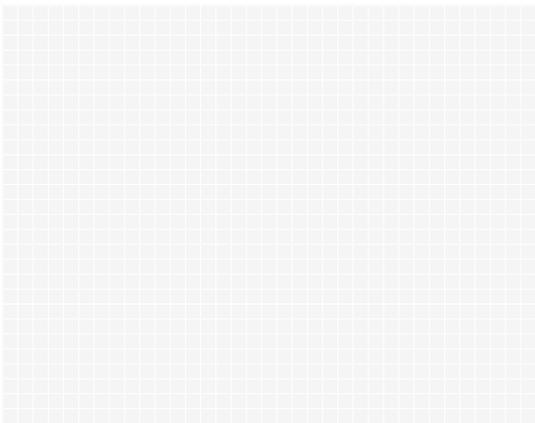
Since the Labor Standards Act only describes the minimum labor standards, such an allowance may be provided for in the collective agreement, employment regulations, or labor contract.

Q&A

During my period, I often get sick and want to take some time off. However, my boss really doesn't like it when employees are absent from work. What can I do?

Businesses with 5 or more employees must provide menstrual leave upon the request from a female worker regardless of the age, employment type (temporary or short hours), job title, or attendance for the agreed working days.

Check Point



part 9

Sexual Harassment

· Prohibition of Sexual Harassment in the Workplace



Do not just put up with sexual harassment



Sexual harassment

Prohibition of sexual harassment in the workplace

An employer, superior, or colleague should not take advantage of their position in the workplace to subject other employees to sexual humiliation or disadvantage.

- With sexual harassment, the feelings of the victim (including humiliation and hatred) are given priority. Behavior outside the workplace (including get-togethers, excursions, etc.) can also represent sexual harassment.



Examples of sexual harassment

Physical sexual harassment



- Physical contact such as kissing, hugging, and grabbing from behind
- Touching specific parts of the body including the breasts and buttocks
- Forcing an employee to massage or caress one

Verbal sexual harassment



- Lewd jokes and filthy talk
- Sexual comparison or assessment of one's dress, body, and appearance
- Repeatedly asking for a sexual relationship or deliberately sharing sexual information about an individual
- Forcing or enticing people to have a sexual relationship
- Having obscene conversations on the phone
- Forcing an individual to sit next to you at a company dinner and to pour you some booze

Visual sexual harassment



- Posting or showing lewd pictures, photos, drawings, or publications
- Sending lewd messages, photos, or pictures in person or by fax or computer
- Intentionally exposing or touching certain parts of one's body in a suggestive manner
- Intensely staring at a certain part of another person's body

Tips for dealing with sexual harassment

- Explicitly express rejection
- Gather evidence
 - Record various information in detail, such as the date, time, place, details of what happened, witnesses, testimony, how you felt about the sexual language and behavior, etc.
- If there are no designated officers at the company for dealing with complaints of this sort, such as a supervisor for equal employment or for addressing grievances, you can have a consultation with your boss and take measures to stop the behavior
- Consult with or report the case to the regional office of the Ministry of Employment and Labor

How to avoid being guilty of sexual harassment

- Don't post lewd pictures or photos or have filthy conversations
- Don't intrude on another person's privacy or take an undue interest in their appearance and don't touch another person's body unless it is necessary
- Stop your behavior immediately when the other person expresses discomfort
- Don't use your status to force another person to have a private meeting
- Don't force another person to pour alcohol for you at a company meal or excursion
- Actively participate in programs designed to prevent sexual harassment

Q&A

What should I do when I am sexually harassed?

First, explicitly express your rejection. You can try to prevent other employees from becoming victims by informing them about the incident so that they can know how to deal with a similar situation. An employer has the legal duty to take measures and prevent sexual harassment at the workplace. In the event of sexual harassment, you should let your employer know about it. If the company has a labor union, you can have the union take the necessary measures. You can ask it to report the case to the Ministry of Employment and Labor or to take legal measures by filing a legal complaint with the police. You may consider reporting the employer to the Regional Office of Employment and Labor or filing a complaint or pressing charges to the prosecution for legal punishment. You may also want to consult with relevant organizations (Seoul Foreign Resident Center +82-2-2229-4900 or Seoul Labor Center +82-1661-2020).



part 10

Dormitory Life

· Guarantees for Dormitory Life





An employer shall not interfere in the private life of workers staying at a dormitory.



Dormitory Life

Guarantees for Dormitory Life

An employer shall not interfere in the private lives of workers lodging in a dormitory connected to the workplace concerned.

- An employer shall comply with the regulations stated in the Labor Standards Act in establishing a dormitory, such as avoiding a place with a lot of noise and vibration.
- An employer who intends to lodge his or her workers in a dormitory connected with his business or workplace shall prepare dormitory rules.

- Rules about getting up and going to sleep, going out and sleeping elsewhere
- Rules about events
- Rules about meals
- Rules about safety and health
- Rules about maintaining the buildings and facilities
- Other rules that apply to all workers lodging at the dormitory

Q&A

I am living at a dormitory. Since the company interrupts the employees' privacy so much, there are so many complaints about the company. What should I do about this?

..... An employer should not infringe upon the privacy of employees who are living at the company's dormitory. The best approach is for the employees to decide upon their own rules and to comply with those rules.

Q&A

I am living at a dormitory provided by my company. As the dormitory is not that big, the rooms for men and women are too close together. Since the workers have to use the same toilets and shower rooms, it is very uncomfortable.

..... The rooms for men and women at the dormitory should be separate. But even if the rooms themselves are separate, it would be very uncomfortable for everyone involved if the men's and women's rooms were next to each other and if they had to use the same facilities regardless of gender. This could even lead to sexual harassment and assault. Although the best option would be to house male and female workers in separate stories or buildings, the company might not be able to afford this. In this case, female workers can explain the issue to the company and request that their dorm rooms be relocated to another building. If the company cannot afford this, either the men or women should ask the company to find them accommodations elsewhere.



part 11

Insurance for Foreign Workers

Insurance for foreign workers

Insurance for foreign workers

The four major social insurances (health, national, employment and industrial accident compensation insurance) apply to foreign workers as well as Koreans. However, national pension follows the principle of reciprocity, while employment insurance is covered compulsorily or voluntarily according to visa type.

	National health insurance	Industrial accident compensation insurance	National pension	Employment insurance
Coverage	Prevention, diagnosis, treatment, recovery from disease and injury, childbirth, death, and improving health	Compensation, nursing, and recovery for industrial accidents	Guaranteeing the livelihood of workers and the bereaved with no income due to aging, disability, and death	Preventing unemployment, promoting employment, developing job capability, stabilizing livelihood and supporting reemployment by paying unemployment benefits
Legal foundation	National Health Insurance Act	Industrial Accident Compensation Insurance Act	National Pension Act	Employment Insurance Act
Insured	Foreign workers	Foreign workers	Foreign workers	Foreign workers
Applicable places of business	Registration is mandatory	Registration is mandatory	Principle of reciprocity	*Compulsory or voluntary coverage
Method of paying premiums	Money set aside every month	One time per year	Every month	Every month (for foreign workers)
Person paying premium	Business owner (50%) foreign worker (50%)	Business owner (100%)	Business owner (50%) foreign worker (50%)	Business owner foreign worker
Premium paid by worker	Monthly amount of remuneration x premium rate	None	Amount of monthly income x premium rate	Total wages x premium rate for unemployment benefits

* Foreign workers on E-9 and H-2 visas are required to enroll in the employment insurance program (employment stability and occupational skills training programs), and Chapters IV and V of the Employment Insurance Act (unemployment benefits and child care leave benefits) are applicable to those who apply although they are not required to enroll.



Insurance only provided under Employment Permit System: employers register for departure guarantee insurance and guarantee insurance, while foreign workers register for accident insurance and return cost insurance.

Classification	Departure guarantee insurance	Return cost insurance	Guarantee insurance	Casualty insurance
Purpose of introduction	To prevent illegal stay and alleviate the burden of employers to provide severance pay all at once	To cover the necessary expenses for return to home country	To hedge the risk of non-payment of wages for foreign workers	To anticipate the risk of death or illness unrelated to work accidents
Grounds	Article 13 of the Act on the Employment of Foreign Workers and Article 21 of the Enforcement Decree of the same Act	Article 15 of the Act on the Employment of Foreign Workers and Article 22 of the Enforcement Decree of the same Act	Article 23 of the Act on the Employment of Foreign Workers and Article 27 of the Enforcement Decree of the same Act	Article 23 of the Act on the Employment of Foreign Workers and Article 28 of the Enforcement Decree of the same Act
Parties required to enroll	Employers	Foreign workers	Employers	Foreign workers
Applicable workplaces	Employers who hire foreign workers with remaining employment periods of one year or more	-	- Businesses that fall under any of the following: Workplaces not subject to the Wage Claim Guarantee Act, or Workplaces that hire less than 300 full-time employees	-
Insured or beneficiaries	Foreign workers	Foreign workers	Foreign workers	Foreign workers
Open enrollment period and penalty provisions	A fine not exceeding ₩5 million within 15 days from the effective date of the employment agreement	An administrative fine not exceeding ₩5 million within 3 months from the effective date of the employment agreement	A fine not exceeding ₩5 million within 15 days from the effective date of the employment agreement	A fine not exceeding ₩5 million within 15 days from the effective date of the employment agreement
How to pay for premiums	8.3% of the ordinary monthly salary is deducted every month	Lump-sum payment or divided payment in up to three installments, ₩400,000-500,000, depending on the country	Lump-sum payment by each employee: ₩15,000/year	Lump-sum payment of approx. ₩20,000 in 3 years (varies by gender and age)
Circumstances for insurance payout	Departures of foreign workers who have worked at the workplace for at least 1 year (excluding temporary departures) and changes in their visa status	Departures of foreign workers (excluding temporary departures)	Principles of payment when an employer fails to pay wages	In the event of death or disability of foreign workers not resulting from work-related accidents
Amount	100.5-102.3% of the principal is paid after 12 months from the initial payment for those who have worked for at least 1 year	101-107.4% of the principal is paid after 12 months from the initial payment	Up to ₩4 million as notified by the Minister of Employment and Labor (for each employee)	- Death or disability resulting from an accident: Up to ₩30 million- Death or severe disability: ₩15 million from

How to find out whether you are enrolled in a departure guarantee insurance and return cost insurance, and how to inquire about insurance benefits

-Inquiries: +82-1600-0266 (Samsung Fire & Marine Insurance)

How to find out whether you are enrolled in a surety insurance for unpaid wages, and how to inquire about insurance benefits

-Inquiries: +82-2-777-6689 (Seoul Guarantee Insurance)

-Website: eps.sgcok.or.kr / Inquiries available through the employment permit number of a foreign worker

	Departure Guarantee Insurance	Return Cost Insurance	Unpaid Wage Guarantee Insurance,	Accidental Insurance
Insurance premium	8.3% of the ordinary monthly wages on the "Employment Permission for Foreign Workers" document issued by the employment center (However, for places of business with four regular workers or fewer, the monthly premium is 4.15% of the ordinary monthly wages in accordance with the employment permission from August 1, 2011 to December 31, 2012, and 8.3% of the ordinary monthly wages from 2013)	- China, the Philippines, Thailand, Vietnam, Indonesia: 400,000 won - Mongolia and other regions: 500,000 won - Sri Lanka: 600,000 won	15,000 won a year per foreign worker (subject to change) ※ Insurance fee may differ depending on the labor contract period	Depends on gender and age
Reasons for paying claim	When a foreign worker who has worked for one year or more without leaving the place of business departs Korea (not including temporary trips overseas)	When a foreign worker departs Korea (not including temporary trips overseas)	Principle of payment in case of delayed payment of wages	Death or trauma other than industrial accidents

Q&A

I am currently registered with industrial accident insurance. I would like to apply for injury insurance for foreign workers. Is there any difference between these insurances?

Industrial accident insurance and injury insurance are mandatory, and you have to apply for these insurances separately.

- **Industrial accident insurance** : when a worker suffers an accident, disease, death, or disability that is connected with his or her work, he or she will be compensated for the cost of treatment, hospitalization, nursing, and recovery
- **Injury insurance** : when a worker suffers an accident, disease, death, or disability that is not connected with her or her work, he or she will be compensated for the cost

☎ Telephone number

: Call Center of Samsung F&M (02-2119-2400)

Q&A

Do foreign workers have to apply for employment insurance?

All workplaces with one or more employees must automatically enroll their foreign workers (on E-9 and H-2 visas) in the employment insurance program (employment stability and occupational skills training programs), and if a foreign worker wishes to receive unemployment benefits or child care leave benefits, his or her employer needs to file an application for enrollment in the employment insurance program with mutual agreement of the employer and employee.

Q&A

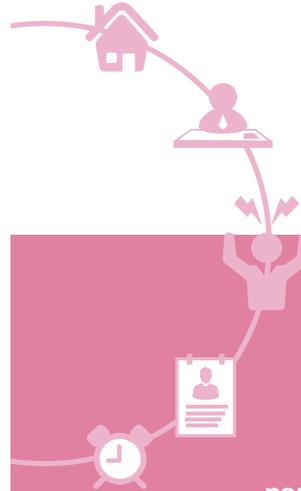
How is the injury insurance premium calculated for foreign workers?

Since the premium for injury insurance is determined by the individual's date of birth, gender, and the period of insurance application, the amount of the premium will be different in each case. The premiums for individual workers are stated in the policy that they sign.

Q&A

Can I make a claim for an injury in the case of outpatient treatment or hospitalization due to a non-serious accident?

Accident insurance does not cover the cost incurred from outpatient or inpatient care resulting from a simple accident. An insurance claim can be made only in the event of death or diagnosis with a residual disability for reasons other than occupational accident. In the event of death or residual disability from an accident, up to KRW 30 million is paid out, while in the event of death or severe disability from a disease, KRW 15 million is paid out.



part 12

Workplace anti-bullying



Workplace anti-bullying

Workplace anti-bullying

Employers or workers must not take advantage of their position or relationship in the workplace to inflict physical or mental pain to other workers or to deteriorate the working environment beyond a reasonable scope required for work.

 Workplace bullying refers to actions that may cause physical or mental distress or deterioration of the working environment as it can be objectively perceived by an average person who is placed in the same situation as the victim.

- Bullying include incidents that occur online as well as business sites.

 Ostracizing a person in group, intentionally excluding a person from work-related processes, forcing participation in after-work company dinners, forcibly recommending alcohol that the person does not wish to drink, and repeated verbal abuse are considered workplace bullying.

Examples of workplace bullying

- Disapproving of, or mocking, the performance of a person without a justifiable reason
- Discriminating in training, promotion, compensation, and general treatment without a justifiable reason
- Repeatedly giving specific workers a difficult task that is not specified in the labor contract that everyone is reluctant to do
- Giving orders to do chores that are not specified in the labor contract or giving very little work only to specific workers
- Excluding specific workers from important work-related information or the decision-making process without a justifiable reason
- Exercising pressure to prevent specific workers from using leave, sick leave, and various welfare benefits without a justifiable reason
- Excessively monitoring how specific workers are working or resting unlike other workers
- Continuously and repeatedly instructing specific workers to do things related to their personal life, such as personal errands
- Forcing workers to move to other department or leave the company without a justifiable reason
- Spreading gossips or rumors about personal life
- Inflicting physical threats or violence
- Swearing or using violent language
- Producing speech and behavior that are insulting in front of others or in online media
- Forcing participation in drinking/smoking/dinner regardless of the personal opinion
- Bullying in group
- Not providing essential equipment for work (e.g. computers, telephones, etc.), or blocking the Internet or internal network access.



Business proprietor's obligations for workplace bullying prevention and measures are as follows:

- Must indicate in employment rules regarding workplace bullying prevention and measures
- Take immediate and appropriate measures upon receiving a report
- Hear from victim's opinion regarding bullying perpetrator to take further measure such as disciplinary, change of work place, etc.



When suffering from workplace bullying, respond with the following remedies:

Workplace bullying remedies

- ① If you are bullied, firmly express your rejection.
 - The most important thing is to acknowledge the issue when you experience bullying.
 - Make the perpetrator recognize the issue, and ask him/her to stop
 - Collect evidence
 - If you are having a conversation in person, prepare so you can clearly communicate your position to the perpetrator
 - It is legally allowed to record conversations with the other party
 - If it is difficult to meet the perpetrator in person, bring a trusted person such as family or friends

- ② Use the company's internal procedures to resolve the conflict such as grievance settlement organization (Labor-Management Council, human resource/auditing departments, and business proprietor, etc.).
 - When making a report, make a detailed statement about the perpetrator's actions (in 5W1H)
 - Propose an ideal solution to the company for the victim's protection and relief
 - Request for separation, such as annual paid leave, etc., if it is difficult for the victim to endure the situation in which the victim has to work with the perpetrator during the resolution process.
 - ③ Report (file a complaint) to the Ministry of Employment and Labor (Employment and Labor Office) and the National Human Rights Commission.
 - If the employer fails to fulfill the employer's obligations to prevent and resolve workplace bullying, the case is transferred to the Ministry of Employment and Labor (Employment and Labor Office) → The employer may face punishment if he/she fails to report the employment rules and treats the reporter unfavorably.
 - It is also possible to file a complaint to the National Human Rights Commission → It does not hold the authority to punish the employer, etc., and it can only recommend correction.
- ※ Request a remedy to the Labor Committee if the victim was subject to adverse measures such as unfair dismissal.

Does workplace bullying apply to a case where a junior staff is the perpetrator and a senior staff is the victim?

..... Workplace bullying refers to cases when business proprietors or workers ① use their advantages such as position or relationship in the workplace ② to inflict physical or mental pain to other workers or to deteriorate the working environment ③ beyond a reasonable scope required for work. Here, “advantages” not only refers to job position but also “advantages in relationship” such as personal attributes-age, educational level, gender, place of origin, region-, work-related capacity-years of service in the workplace, level of expertise-, and influence within the workplace including the human resource and internal auditing departments. Accordingly, it can be defined as workplace bullying if a junior staff uses his/her relative position or relationship against a senior staff.



Appendix

- Overview of the Employment Permit System
- Major Services and Contact Numbers for Institutions Working with Foreign Workers
- Major revisions of Labor Relations Act, 2022
- Wage Calculation



Overview of the Employment Permit System

For businesses that have difficulty finding employees, foreign workers can be legally employed under certain conditions. This system has been operated by the Ministry of Employment and Labor since 2004 in accordance with the Act on Foreign Workers' Employment, etc.

Eligible countries

The Philippines, Mongolia, Sri Lanka, Vietnam, Thailand, Indonesia, Uzbekistan, Pakistan, Cambodia, China, Bangladesh, Nepal, Kyrgyzstan, Myanmar, East Timor, Laos (16 countries)

Business types

manufacturing, construction, agriculture and stockbreeding, fishery, some sectors of the service industry

Industry size

Determined each year by the committee on policy for foreign workers

Employment period (employment permit period)

Three years from the date of initial entry into Korea

However, if the employer requests the Minister of Employment and Labor to renew the employment permit before the three-year employment period expires and the worker leaves the country, the period may be extended by up to one year and 10 months.

Extension of the employment permit period

■ After a foreign worker's entry into the country, if the term under his or her employment agreement expires and the employer hiring the foreign worker wishes to extend the employment permit period along with the renewal of the employment agreement.

Re-employment system

If an employer wishes to rehire a foreign worker whose three-year employment period has expired, he or she can apply for a re-employment permit to extend the employment period by up to one year and 10 months.

■ Application period: Between 90 days and seven days from the expiration of the employment period of the relevant foreign worker

Special re-entry permit system

A system allowing skilled foreign workers who have worked continuously in the same workplace to re-enter and return to their previous workplace after one month of their departure from Korea, provided that their employer has obtained a special re-entry permit

Workplace change system

Foreign workers are allowed to change their workplace up to three times during their initial employment period of three years and up to two times during their re-employment period of one year and 10 months if permitted under the law.

■ How to apply for change: File a workplace change application to the local employment center

Procedure for employing foreign workers

- 01 Implementing TOPIK
- 02 Preparing and sending a list of foreign job seekers
- 03 Signing an employment contract (using the standard labor contract)
- 04 Employment education before entering Korea
- 05 Entering the country and receiving employment education (three days)
- 06 Assigning foreign workers to a place of business

Major Services and Contact Numbers of Institutions Working with Foreign Workers



Ministry of Employment and Labor

Files complaints about various violations of labor legislation such as not issuing a written contract, back wages, violence, unfair labor practices, etc.

Website (reporting center) www.minwon.moel.go.kr

Phone number for consultation 1350 (without area code)

	Regions of jurisdiction	Contact number
Seoul regional office of the Ministry of Employment and Labor	Jongno-gu, Jung-gu, Seocho-gu, Dongdaemun-gu	02)2231-0009
Seoul Gangnam branch	Gangnam-gu	02)584-0009
Seoul Dongbu branch	Songpa-gu, Seongdong-gu, Gwangjin-gu, Gangdong-gu	02)403-0009
Seoul Seobu branch	Mapo-gu, Seodaemun-gu, Yongsan-gu, Eunpyeong-gu	02)713-0009
Seoul Nambu branch	Gangseo-gu, Yangcheon-gu, Yeongdeungpo-gu	02)2639-2100-7
Seoul Bukbu branch	Gangbuk-gu, Nowon-gu, Dobong-gu, Seongbuk-gu, Jungnang-gu	02)950-9880-1
Seoul Gwanak branch	Gwanak-gu, Guro-gu, Geumcheon-gu, Dongjak-gu	02)3281-0009



Korea Workers' Compensation and Welfare Service

Handles inquiries and applications for employment insurance and industrial accident compensation insurance, handles applications for industrial accident insurance benefits, and provides support for compensation, relief, and workers' welfare (including loans for stabilizing workers' livelihood, etc.)

Website (reporting center) www.kcomwel.or.kr

Phone number for consultation 1588-0075 (without area code)

	Regions of jurisdiction	Contact number
Head office in Seoul	Jongno-gu, Jung-gu, Dongdaemun-gu	02)2230-9482
Seoul Gangnam branch	Gangnam-gu	02)3459-7250
Seoul Seocho branch	Seocho-gu	02)6250-7278
Seoul Dongbu branch	Songpa-gu, Gangdong-gu, Gwangjin-gu	02)3433-1422
Seoul Seongdong branch	Seongdong-gu	02)3409-4900
Seoul Seobu branch	Yongsan-gu, Mapo-gu, Seodaemun-gu, Eunpyeong-gu	02)3273-1852
Seoul Nambu branch	Yeongdeungpo-gu, Gangseo-gu, Yangcheon-gu	02)2637-2895
Seoul Bukbu branch	Seongbuk-gu, Dobong-gu, Gangbuk-gu, Jungnang-gu, Nowon-gu	02)944-8164
Seoul Gwanak branch	Gwanak-gu, Guro-gu, Geumcheon-gu, Dongjak-gu	02)2109-2390

Institutions for supporting foreign workers

Provides comprehensive support for foreign workers to help them adapt to Korean society and culture through consultation and education

Classification	Key functions	Contact
Seoul Foreign Resident Center	Multilingual counseling and specialized counseling for foreign residents (Labor attorneys and attorneys at law)	+82-2-2229-4900
Seongdong Global Migrant Center	Support system for foreign workers residing or working in Seoul	+82-2-2282-7974
Seongbuk Global Migrant Center	Support system for foreign workers residing or working in Seoul	+82-2-911-2884
Geumcheon Global Migrant Center	Support system for foreign workers residing or working in Seoul	+82-2-868-5208
Gangdong Global Migrant Center	Support system for foreign workers residing or working in Seoul	+82-2-478-0126
Yangcheon Global Migrant Center	Support system for foreign workers residing or working in Seoul	+82-2-2643-0808
Eunpyeong Global Migrant Center	Support system for foreign workers residing or working in Seoul	+82-2-388-6343
Korea Support Center for Foreign Workers	Mandatory training for foreign workers, etc.	+82-1644-0644
Seoul Regional HQ, Human Resources Development Service of Korea	Support for the residency and employment training of foreign workers	+82-1644-8000

Embassies in Korea

	Address	Contact number
U.S.	32 Sejong-ro, Jongno-gu	397-4117
Japan	22 Yulgok-ro 2-gil, Jongno-gu	2170-5200
China	70 Jahamun-ro, Jongno-gu	756-7300
Vietnam	123 Bukchon-ro, Jongno-gu	738-2318
Philippines	12 Hoenamu-ro 42-gil, Yongsan-gu	796-7387
Ecuador	47 Jong-ro, Jongno-gu	739-2401
Russia	43 Seosomun-ro 11-gil, Jung-gu	752-0630
Sri Lanka	39 Dongho-ro 10-gil, Jung-gu	735-2966
Mongolia	95 Dokseodang-ro, Yongsan-gu	798-3464
Malaysia	129 Dokseodang-ro, Yongsan-gu	2077-8600
Thailand	42 Daesagwan-ro, Yongsan-gu	790-2955
East Timor	14 Hannam-daero 27-gil, Yongsan-gu	797-6151
Cambodia	12 Daesagwan-ro 20-gil, Yongsan-gu	3785-1041
Myanmar	723-1 Hannam-dong, Yongsan-gu	790-3824

National Human Rights Commission of Korea

Reports and files complaints about human rights violations, sexual harassment, and discrimination against the disabled

Website www.humanrights.go.kr

Contact number 02)2125-9700

Korea Legal Aid Corporation

Provides free legal support to combat the violation of labor rights and interests

Website www.klac.or.kr

Contact number 132 (without area code)

Telephone numbers to increase your quality of life

Category	Major services	Contact number
120 Dasan Call Center	Deal with questions and complaints about Seoul with a single phone call	120
Information Center for Foreigners	Provides information for foreigners on topics including foreigners visiting Korea, nationality, foreigner registration, reporting address, extending period of stay, and immigration tasks	1345
BBB Korea for Interpretation Voluntary Service	Interpretation available anywhere in the world	1588-5644
Tour Interpretation Hotline	Tour guide, tour interpretation, grievance report, etc. (Languages: Korean, English, Chinese, Japanese)	1330
Emergency, disease, and hospital information hotline	Call this hotline to report fires, emergencies, rescue, and accidents and to get information about emergency medical institutions	119



Major amendments of 2021 Labor Relations Act

Classifications	Details	Page
Expanded business applicability for 52-hour work week	Businesses with 50 employees or more → 5 employees or more	15
Expanded business applicability for statutory holidays	Businesses with 300 employees or more → 30 employees or more	18
Increased minimum wage	KRW 8,590 (2020) → KRW 8,720 (2021)	26
Expanded workers' compensation applicability for special employment workers	Compulsory insurance subscription unless inapplicable for legal reasons	55
Expanded employment insurance applicability for some migrant workers	Compulsory coverage for workers with E-9 or H-2 visa	80

Wage Calculation

Month _____

Date	Day	Start time	Finish time	Break time
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Total Working Hours				
Hourly rate				
Amount				
Total Wage amount				

Wage Calculation

Month _____

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Total Working Hours				
Hourly rate				
Amount				
Total Wage amount				

Wage Calculation

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Total Working Hours				
Hourly rate				
Amount				
Total Wage amount				

Wage Calculation

Month _____

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Total Working Hours				
Hourly rate				
Amount				
Total Wage amount				

Wage Calculation

Month _____

Date	Day	Start time	Finish time	Break time
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2		:	:	:
3		:	:	:
4		:	:	:
5		:	:	:
6		:	:	:
7		:	:	:
8		:	:	:
9		:	:	:
10		:	:	:
11		:	:	:
12		:	:	:
13		:	:	:
14		:	:	:
15		:	:	:
16		:	:	:
17		:	:	:
18		:	:	:
19		:	:	:
20		:	:	:
21		:	:	:
22		:	:	:
23		:	:	:
24		:	:	:
25		:	:	:
26		:	:	:
27		:	:	:
28		:	:	:
29		:	:	:
30		:	:	:
31		:	:	:
Total Working Hours				
Hourly rate				
Amount				
Total Wage amount				

Wage Calculation

Month _____

Date	Day	Start time	Finish time	Break time
1		:	:	:
2		:	:	:
3		:	:	:
4		:	:	:
5		:	:	:
6		:	:	:
7		:	:	:
8		:	:	:
9		:	:	:
10		:	:	:
11		:	:	:
12		:	:	:
13		:	:	:
14		:	:	:
15		:	:	:
16		:	:	:
17		:	:	:
18		:	:	:
19		:	:	:
20		:	:	:
21		:	:	:
22		:	:	:
23		:	:	:
24		:	:	:
25		:	:	:
26		:	:	:
27		:	:	:
28		:	:	:
29		:	:	:
30		:	:	:
31		:	:	:
Total Working Hours				
Hourly rate				
Amount				
Total Wage amount				

2023년 외국인 근로자

노동권리 안내서

외국인 노동자들의 소중한 권리를 지켜주세요.

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