

# Labor

## 1. Labor Laws

Labor laws refer to the laws and regulations that govern employment, working conditions and labor relations with the aim of ensuring workers' dignity and equal employer-employee relations.

- Background and Objectives
- Labor Law Categories and Application

### 1-1 Background and Objectives

When employing workers in Korea, the laws regarding recruitment, salary, and dismissal should be observed. Korea's labor laws have been legislated and enacted in order to provide workers with adequate protection, to protect the basic structure of business activities, and to build a solid and stable economy based on the principles of capitalism.

### 1-2 Labor Law Categories and Application

Korea's labor laws are largely divided into four categories: individual employment-related laws, collective labor relations laws, cooperative labor relations laws and employment-related laws. Labor laws set the standards for labor contracts and labor relations, enable the voluntary resolution of disputes between labor and management by guaranteeing workers' right to organize a union, and ensure mutual benefits to labor and management by promoting the participation and cooperation of employers and workers.

Category	Act	Applicable workplaces	Note	
Individual labor relations laws	Labor Standards Act	5 or more employees	<ul style="list-style-type: none"> <li>• Certain provisions apply to workplaces with four or less employees.</li> <li>• Where the employer employs 10 or more workers, the rules of employment should be prepared.</li> </ul>	
	Minimum Wages Act	All workplaces	<ul style="list-style-type: none"> <li>• Minimum hourly wage in 2018: KRW 7,530</li> </ul>	
	Occupational Safety and Health Act	General	All workplaces	<ul style="list-style-type: none"> <li>• Only some provisions apply to certain businesses and workplaces with less than five employees.</li> </ul>
		Persons in charge of safety and health management	100 or more employees	<ul style="list-style-type: none"> <li>• 50 or more employees for certain businesses</li> </ul>
		Appointment of a safety manager	50 or more employees	
		Appointment of a health manager	50 or more employees	
	Establishment of an occupational health and safety committee	100 or more employees	<ul style="list-style-type: none"> <li>• Also applicable to certain businesses with 50-99 employees</li> </ul>	
Industrial Accident Compensation Insurance Act	All workplaces	<ul style="list-style-type: none"> <li>• Not applicable to certain businesses such as agriculture, forestry and fishery industries with less than five employees</li> </ul>		
Equal Employment Opportunity Act	All workplaces	<ul style="list-style-type: none"> <li>• Certain provisions do not apply to workplaces with less than five employees.</li> </ul>		
Collective labor-management relations law	Trade Union & Labor Relations Adjustment Act	All workplaces		
Cooperative labor-management relations laws	Act on the Promotion of Workers' Participation and Cooperation	30 or more employees	<ul style="list-style-type: none"> <li>• Regardless of the existence of a labor union, all businesses or workplaces vested with the right to determine working conditions should establish a labor-management council.</li> <li>• Workplaces with 30 or more employees should appoint a representative to the grievance settlement committee.</li> </ul>	
Employment-related laws	Employment Insurance Act	All workplaces	<ul style="list-style-type: none"> <li>• Not applicable to certain businesses such as agriculture, forestry and fishery industries with less than five employees</li> </ul>	
	Employment Promotion and Vocational Rehabilitation of Disabled Persons Act	50 or more employees	<ul style="list-style-type: none"> <li>• Businesses should hire disabled persons above the mandatory employment ratio, within the extent of 5/100 of the total number of employees.</li> <li>• Companies should pay contributory charges in the case of non-compliance, but will receive incentives in cases where they hire disabled persons above the required minimum ratio.</li> </ul>	
	Act on the Prohibition of Age Discrimination in Employment and the Promotion of Employment of Senior Citizens	300 or more employees	<ul style="list-style-type: none"> <li>• Efforts should be made so that the percentage of senior citizens among the total workforce remains at or above a certain level. (2% for the manufacturing industry, 6% for the transportation and real estate industries, and 3% for other industries)</li> </ul>	

## 2. Labor Management

Employees' working conditions should be agreed upon by free will under equal employer-employee relations. Even if working conditions have been agreed upon by free will, any aspect of the working conditions that fails to meet the standards set by law shall not be legally effective.

- Wages
- Working Hours
- Holidays and Leaves
- Dismissal
- Retirement Benefits
- Labor –Management Council
- Social Insurance Policy

### 2-1 Wages

Wages refer to money or other valuables paid to employees in exchange for their services, regardless of how they are called (wage, salary, bonus, etc.). Wages shall be paid at or above the minimum wage set by the Minister of Employment and Labor every year. The minimum wage for 2018 is set at KRW 7,530 per hour, and KRW 60,240 per day (8 hour workday).

The Labor Standards Act classifies wages into ordinary wage and average wage, and retirement payment and other allowances set by law are to be calculated based on one of these two wage categories. 'Average wage' refers to the total amount of wages paid to a worker during the three months prior to the event (e.g. retirement) necessitating the calculation of the average wage, divided by the total number of days during the same period. Average wage is used to calculate retirement payments, business suspension allowances, and industrial accident compensation. 'Ordinary wage' refers to wages by hour, day, week, or as otherwise outlined in an employment contract for certain work performed, or for the total number of working hours. Allowances for extended work, nighttime work, holiday work, annual paid leave, and advance notice of dismissal all fall into this category.

### 2-2 Working Hours

The standard working hours set by the Labor Standards Act are eight hours per day and 40 hours per week. The working hours prescribed by the Act should not be exceeded. If carried out by the order of the employer, work preparation hours, waiting hours, training hours and organizing hours outside the standard working hours shall all be counted as working hours.

Work beyond the standard working hours should be agreed upon by the employer and employee. However, even when agreed upon by both parties, at least 50 percent of the ordinary wage should be paid in addition to the standard wages for extended work, nighttime work (22:00-06:00), or holiday work.

However, when a flexible work hour system is introduced based on the rules of employment (two-week unit) or a written agreement with the employee representative (three-month unit), the company

may have employees work in excess of eight hours a day or 40 hours a week within the extent that the average weekly work hours do not exceed 40 hours for a given period (two weeks or three months). The company is not required to pay overtime allowance for such work hours in excess of the given work hours per day or week. However, the weekly maximum number of work hours should not exceed 48 hours per week under a two week-based flexible work hour system. And, the weekly maximum number of work hours should not exceed 52 hours per week under a three month-based flexible work hour system. The maximum daily number of work hours should not exceed 12 hours. Flexible work hours shall not be imposed upon pregnant women or minors.

Workers	Standard Working Hours		Extended Work	Nighttime Work	Holiday Work
	1 Day	1 Week			
Male workers	8 hours	40 hours	12 hours per week	Allowed	Allowed
Female workers	8 hours	40 hours	12 hours per week	As agreed by the person concerned	As agreed by the person concerned
Female workers less than one year after childbirth	8 hours	40 hours	As agreed between the parties concerned; 2 hours per day, 6 hours per week, 150 hours per year	<ul style="list-style-type: none"> <li>In principle: Not applicable</li> <li>Exception: As agreed by the persons concerned and approved by the Minister of Employment and Labor</li> </ul>	<ul style="list-style-type: none"> <li>In principle: Not applicable</li> <li>Exception: As agreed by the persons concerned and approved by the Minister of Employment and Labor</li> </ul>
Pregnant workers	8 hours	40 hours	Not applicable	<ul style="list-style-type: none"> <li>In principle: Not applicable</li> <li>Exception: Upon an explicit request approved by the Minister of Employment and Labor</li> </ul>	<ul style="list-style-type: none"> <li>In principle: Not applicable</li> <li>Exception: Upon an explicit request approved by the Minister of Employment and Labor</li> </ul>
Minors (under the age of 18)	7 hours	40 hours	As agreed between the parties concerned; 1 hour per day, 6 hours per week	<ul style="list-style-type: none"> <li>In principle: not applicable</li> <li>Exception: As agreed by the persons concerned and approved by the Minister of Employment and Labor</li> </ul>	<ul style="list-style-type: none"> <li>In principle: Not applicable</li> <li>Exception: As agreed by the persons concerned and approved by the Minister of Employment and Labor</li> </ul>
Workers in hazardous conditions (high pressure environment)	6 hours	34 hours	Not applicable	-	-

### 2-3 Holidays and Leaves

Generally, there are two types of holidays and leaves: “Legal” holidays and leaves, for which the details, conditions, and effects are decided by law, and “agreed” holidays and leaves, for which such matters are decided autonomously by management and labor. Legal holidays and leaves include weekly holidays, Labor Day, monthly leave, annual leave, menstruation leave, and maternity leave. Agreed holidays and leaves may include public holidays, company foundation anniversaries, summer leave, and congratulatory & condolence leave.

### **Paid Weekly Holidays**

An employer should give an average of one paid-leave day or more per week if an employee has worked for the prescribed number of consecutive working days. The weekly holiday does not have to be a Sunday. Where an employee works on a weekly holiday, 50/100 of the ordinary wage shall be paid in addition to the standard wages for the work performed on that day.

### **Annual Paid Leave**

An employer shall provide workers who have come to work for more than 80 percent of one working year with 15 days of paid leave. For workers who have worked for three or more consecutive years, one more day of paid leave shall be provided for every two years of consecutive work after the initial year, up to a total of 25 days. Annual leave shall be granted upon the request of a worker, and the worker shall be paid an ordinary or average wage for the period of leave in accordance with the employment regulations. However, the employer may change the time of leave in cases where granting the leave at the requested time would cause a major disruption to business operations. If the days of leave expire and the worker does not take the leave despite the employer's encouragement, the employer shall not be obligated to compensate the worker for the unused leave.

### **Paid Maternity Leave**

Pregnant workers shall be given 90 days of maternity leave before and after childbirth, with 45 days or more to be allocated after childbirth. Wages for the first 60 days of the period of leave are to be paid by the employer, and wages for the remaining 30 days are covered by employment insurance (the government). In cases where a business is eligible for preferential support (Article 12 of the Enforcement Decree of the Employment Insurance Act), wages for the 90 days shall be covered entirely by employment insurance.

### **2-4 Dismissal**

An employer cannot dismiss, lay off, suspend or transfer a worker, reduce a worker's wages, or take punitive measures against a worker without justifiable cause. Such punitive measures shall be taken on reasonable grounds that are generally accepted by society at large. In general, the reasons for punitive measures such as dismissal are stipulated in the employment regulations or the collective agreement, and the procedures set forth in the concerned employment regulations or collective agreement shall be followed. When dismissing a worker, the worker shall receive notice of the dismissal at least 30 days prior to actual dismissal. If not, the employer shall be obligated to pay at least 30 days' worth of advance notice of dismissal pay. Dismissal of an employee is effective only when a written notice stating the cause and date of dismissal is sent to the employee concerned.

### **2-5 Retirement Benefits**

In order to pay retirement benefits to retiring workers, the employer shall choose from either the retirement allowance system or the retirement pension plan. In choosing the retirement benefit scheme or changing the chosen retirement benefit scheme to another type, the employer shall obtain the consent of the majority of the labor union if a labor union consisting of the majority of workers exists, or the majority of workers if a labor union does not exist.

## Retirement Allowance System

The employer should pay the average wage for 30 days or more per year of continuous service period as retirement allowance when an employee dies or retires. The employer may pay retirement allowance prior to an employee's retirement for the continuous service period by computing the retirement allowance for the served period when the employer requests such early payment of retirement allowance for a cause provided under the Act on the Guarantee of Employee Retirement Payments, including the purchase of a home, recuperation of six or more months from a disease or injury of the employee or his/her dependents, declaration of bankruptcy, and a pay decrease under the peak wage system.

## Retirement Pension Plan

To guarantee workers' financial stability after retirement, the employer shall accumulate and invest funds for the retirement allowance into an external financial institution during the workers' service period. Retirement allowance shall be paid to the workers as a pension or in lump sum.

### ※ Types of retirement pension policies

- Defined Benefit Retirement Pension (DB)  
The retirement benefit is pre-fixed based on the length of service and average wage. The amount of the employer's burden (accumulation) changes according to the investment results of the accumulated funds.
- Defined Contribution Retirement Pension (DC)  
The worker determines the investment method of the accumulated funds, and the amount of retirement pension changes according to the investment results of the accumulated funds. The employer shall pay 1/12 of the worker's wage into the worker's personal account every year.

## 2-6 Labor-Management Council

The labor-management council is a consultative committee created for the purpose of promoting the participation and cooperation of all employers and workers to improve the welfare of workers and the sound development of companies. A business or workplace with 30 or more workers should establish a labor-management council that consists of an equal number of representatives from management and labor (3-10 persons from each side). The labor-management council shall handle all matters for discussion, resolution, and reporting depending on the resolution and performance obligations.

## 2-7 Social Insurance Policy

### Employment Insurance

Employment insurance is a social insurance policy that has been introduced in order to provide livelihood support for unemployed workers, to prevent layoffs due to industrial restructuring, and to promote re-employment, while providing employers with various types of support to strengthen their corporate competitiveness. Businesses and workplaces with one or more regular workers are obligated to subscribe to employment insurance.

**※ Businesses exempted from mandatory subscription to employment insurance**

- An agricultural business, a forestry business, a fishery business or a hunting business run by any person, other than a juristic person, with not more than four full-time employees
- Housekeeping services
- A project for which the total construction costs are less than KRW 20 million; a project for construction of a building with a total floor area of 100 m<sup>2</sup> or less or substantial repair of a building with a total floor area of 200 m<sup>2</sup> or less

**Industrial Accident Compensation Insurance**

Industrial Accident Compensation Insurance is a social insurance policy that requires the government to take responsibility on behalf of employers for compensating workers for injuries or illnesses acquired at work, in accordance with the Labor Standards Act. Accordingly, employers subject to industrial accident compensation insurance are exempted from the individual compensation responsibilities towards workers by paying a premium. The government shall pay direct compensation to the workers from the funds created by employer-paid premiums. Businesses and workplaces with one or more regular workers are obligated to subscribe to the industrial accident compensation insurance. In the case that an employee of a business subject to industrial accident compensation acquires an injury or illness that requires four or more days of medical care or dies, insurance is paid out on the request of the employee (or his/her surviving family members).

**※ Businesses exempted from mandatory subscription to industrial accident compensation insurance**

- An agricultural business, a forestry business, a fishery business or a hunting business run by any person, other than a juristic person, with less than five full-time employees
- Employment activities within households
- A project for which the total construction costs are less than KRW 20 million; a project for construction of a building with a total floor area of 100 m<sup>2</sup> or less or substantial repair of a building with a total floor area of 200 m<sup>2</sup> or less
- Businesses for which accident compensation is covered under the Public Officials Pension Act and the Military Pension Act
- Businesses for which accident compensation is covered under the Seafarers Act, Act on Accident Compensation Insurance for Fishing Vessels and Their Crew Members, Pension for Private School Teachers and Staff Act

**< Four Key Social Insurance Programs >**

Insurance Program		Employment Insurance	Industrial Accident Compensation Insurance	National Pension	Health Insurance
Objectives		To prevent unemployment, to promote employment, to develop workers' job competency	To provide relief of occupational injuries, illnesses, disabilities or deaths	To support a pension system for old age, incurable diseases, death, etc.	To prevent, diagnose and treat diseases and injuries
Effective as of		July 1995	July 1964	January 1988	July 1977
Applicable businesses		At least 1 full-time worker	At least 1 full-time worker	At least 1 full-time worker	At least 1 full-time worker
Eligibility		Workers at applicable businesses	Workers at applicable businesses	Persons aged 18 or older and less than 60	Workers at applicable businesses
Foreigners		Excluded from subscription (Decision on D-8 holders is made based on reciprocity principles)	Subject to subscription	Subject to subscription in principle (Principle of reciprocity applied)	Subject to subscription
Premium (2017)	Employee	0.65% of the total wage (Unemployment benefit)	None	4.5% of standard monthly wage	3.060% of standard monthly wage
	Employer	- Unemployment benefit: 0.65% - Employment stabilization project + occupational capability development: 0.25-0.85% (depending on company size)	7/1,000 (finance and insurance) to 340/1,000 (mining) of total salary (The rate varies depending on business category)	4.5% of standard monthly wage	3.060% of standard monthly wage
Coverage		Unemployment benefits, employment stabilization project, occupational capability development project, etc.	Medical treatment benefit, business suspension allowance, disability benefit, bereaved family's benefit, etc.	Old age pension, disability pension, bereaved family's pension	Medical treatment expense, health exam expense, funeral expense, etc.
Governing authority		Ministry of Employment and Labor	Ministry of Employment and Labor	Ministry of Health and Welfare	Ministry of Health and Welfare
Managing authority		The Korea Workers' Compensation & Welfare Service	The Korea Workers' Compensation & Welfare Service	The National Pension Service	The National Pension Service