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Employment law in the Republic of Korea – an overview

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Introduction

The Republic of Korea (often referred to as South Korea and in this in-brief as Korea) has one of Asia's strongest performing economies and is home to some of the world's largest brands. Korea continues to be a popular place to invest for foreign companies.

This in-brief provides a snapshot of some of the key aspects of employment law in Korea.

Our Hong Kong office coordinates employment and immigration/global mobility support across the Asia Pacific region (including Korea).

This publication provides general guidance only: expert advice should be sought in relation to particular circumstances. Our Hong Kong office can source Korean law advice through its links with local firms in Korea.

The employment law landscape

The Korean labour market is highly regulated and very employee friendly, with powerful labour unions and stringent employment protection laws. Some employment rights are even enshrined in the national constitution. In general, employees are well informed about their employment rights and often challenge dismissals. Although weakening somewhat, as in Japan, there is still a cultural expectation of career-long employment with the same employer.

Korea has a civil law system although court decisions have strong precedent value, especially decisions of the Korean Supreme Court. The Labour Standards Act ("LSA") is the principal statute regulating the employment relationship and providing minimum employment standards.

Commencing employment

Employees can be employed on a permanent basis (commonly referred to as "regular") or on a fixed-term basis which is generally limited to two years (fixed-term and part-time employees, and dispatched agency workers, are referred to as "non-regular"). An employee employed on a fixed term for more than two years may be deemed employed for an indefinite term, subject to some exceptions.

Agency-type working arrangements (known as "dispatch") are very popular, partly because the workers are employed directly by a dispatch agency and so any problems with terminating employment can be avoided. However, such arrangements are coming under continued scrutiny and are highly regulated – caution is advised. Failure to comply with dispatch regulations may result in criminal sanctions. If the dispatch arrangement is unlawful or a dispatched worker has worked for more than two years for the same company they may be deemed a company employee, subject to certain exceptions.

Employees can be engaged on a full-time or part-time basis.

The employment contract

Since certain key terms of an employment contract (e.g. wages and working hours) must be given in writing to all employees at the start of employment, it is advisable for employment contracts to be in writing. Terms and conditions can be also implied into the contract based on a course of conduct over a period of time.

The contract does not have to be in Korean although this is generally highly recommended, especially for local employees, unless they are fluent or native in another language.

Employers of 10 or more employees must prepare Rules of Employment - basically an employee handbook covering matters such as the calculation of wages, hours of work and paid leave. These must be filed with the Ministry of Employment and Labour ("MOEL"), the relevant regulatory authority. The Rules of Employment, as well as other company policies regarding the terms and conditions of employment – and even well-established workforce practices – are legally binding on the employer and override any inferior terms in an employment contract.

Key minimum employment rights

Annual leave

An employee who works a full year is entitled to 15 days of annual paid leave. This entitlement can rise up to a maximum of 25 days according to length of service. Eligible employees are only entitled to minimum statutory annual leave if they have at least 80% attendance during the previous year, while employees who do not meet the overall yearly requirement of 80% attendance in the previous year (including newly hired employees) must be afforded at least one day of paid annual leave for each full month of attendance.

Sick leave

Employees are not legally entitled to time off in relation to non-work related illnesses or injuries. However, it is not an uncommon practice for employers to allow this. Practices vary widely but generally several months of unpaid leave and/or up to several weeks of paid leave is not uncommon, if the illness or injury requires it. Employers are required under the LSA to provide partially paid leave for work-related illnesses or injuries and to pay for treatment and additional compensation for any lasting disability (though workers compensation will often fully or partially relieve the employer of these obligations).

Public holidays

Public holidays are mandatory paid days off for private employers with five or more employees. Corporations with less than five employees are exempted from the mandatory system.

Working time

There is a limit on working hours of 8 hours per day and 40 hours per week. Overtime of up to 12 hours per week is permissible subject to the payment of an overtime premium. Employees in managerial or supervisory positions are not subject to the statutory limits on working hours, though these exceptions are in practice quite narrow. Due to these limits, in general employers cannot require an employee to work more than 52 hours in a week.

Family leave

Pregnant employees are entitled to 90 days' maternity leave (of which the first 60 days will be paid by the employer) which can be used before and after childbirth, provided at least 45 days must be used after the birth. The government shall provide—subject to certain conditions and a cap—allowances for the remaining 30 days of unpaid maternity leave (for employers below a certain workforce-size threshold that varies by industry, the government will subsidize the entire 90 days). Additional paid leave is available in the event of multiple births.

Extended provisions have been introduced for maternity, paternity and childcare, mostly effective 23rd February 2025. Employers are now required to guarantee 20 days of paid paternity leave. Additionally, employees will be able to request to use their paternity leave within 120 days after the delivery date and divide the leave period to take it on a maximum of four separate occasions. For premature births, maternity leave is 100 days. In case of a miscarriage or stillbirth, leave can be up to 90 days. Employees are also entitled to up to six days' leave for fertility treatment (of which at least two of those days must be paid).

Employees with a child who is eight years old or younger, or who is in the second grade or below in elementary school, as well as pregnant employees, are entitled to take up to one year of unpaid (government subsidised) childcare leave. However, childcare leave has been enhanced for single mothers, parents of children with disabilities, and dual-income parents who both take childcare leave. Those parents may now be eligible for up to 18 months of childcare leave (potentially up to a combined three years of childcare leave if both parents utilise the leave).

An employee with a child who is twelve years old or younger, or who is in the sixth grade or below in elementary school, is entitled to reduced working hours for childcare. The maximum amount of reduced hours for childcare is one year *plus* twice the employee's unused portion of the one year of ordinarily available childcare leave.

Childcare leave can be split into four uses, while reduced working hours can be split into multiple uses of at least one month each.

Employees can also apply for family care leave if necessary to care for a sick or elderly parent, grandparent, spouse, spouse's parent, child, or grandchild. Family-care leave is up to 90 days per year, usable in periods of at least 30 days; however, ten of those days (subject to limited extension) can be used individually for family care purposes, or for 'taking care of children' (e.g., attending school events). Employees are also now able to apply for reduced working hours for certain reasons such as taking care of a family member or preparing for retirement at or after the age of 55, etc.

Wages and social insurance

A minimum wage applies to all employees with some exceptions. Employees in their probationary period (up to three months) can be paid a lower wage; however, this exception does not apply to unskilled labourers within a scope defined by regulation. From 1st January 2025, the minimum hourly wage increased to KRW 10,030 per hour. The minimum hourly wage for 2026 will be KRW 10,320.

Employers must contribute to mandatory social security schemes such as the National Pension, the National Health Insurance, the Unemployment Insurance and the Industrial Accident Compensation Insurance.

Terminating employment

Unfair dismissal laws only apply to employers with five or more employees, who are prohibited from dismissing an employee without a "just cause". The courts have generally held that just cause only exists in very limited circumstances and it is exceedingly difficult to terminate employment lawfully. Behaviour that would often be taken as a given for justifying termination in other countries often will not amount to just cause in Korea. For example, in performance cases, an employee's poor performance must be well documented and severe, and an employer must give the employee an opportunity to rectify it or risk having the dismissal overturned.

A very high threshold must be met in order to justify redundancies: there must be an "urgent business necessity" to make the redundancies and certain other procedural requirements must be met. An employer must generally demonstrate financial losses over a period of time, although certain other causes such as adoption of new technology can also constitute an urgent business necessity. In the case of collective redundancies (generally if 10% or more of the workforce will be made redundant), an employer must file a report to the MOEL.

Employers must provide at least 30 days' written notice or pay in lieu of notice, with some exceptions. Employers must also make a statutory severance payment to any employee with at least one year's service, equating broadly to 30 days' pay for each year of employment. This must be paid regardless of the reason for termination and whether it was voluntary or for cause. Maintenance of a qualifying severance pension plan with respect to an employee can satisfy the obligation to pay severance.

Discrimination

Discrimination against employees on the grounds of sex, age, disability, nationality, religion or social status is prohibited. Employers are obliged to protect employees from sexual harassment in the workplace, and there are mandatory requirements related to the investigation of complaints and the provision of training to staff. Employers are also prohibited from dismissing or causing detriment to a victim of sexual harassment or another employee who reported the harassment. Foreign workers and non-regular employees are also given statutory protection from discrimination. The LSA also requires most organisations to address non-sexual workplace bullying and harassment in their Rules of Employment (workforce rules) and imposes various obligations regarding how to respond to allegations of non-sexual workplace bullying and harassment. Employees are able to claim before the courts and the Labour Relations Commission, a quasi-judicial body set up by statute, as well as the National Human Rights Commission.

Protecting the business

The courts generally enforce restrictive covenants if they are reasonable and do not unreasonably interfere with an employee's freedom to work. Courts have broad discretion to reduce the scope of restrictive covenants based on individual circumstances.

Business transfers

On a business transfer, the employment relationship transfers unless employees decide otherwise. The transferee assumes the employment of the transferring employees under the same terms and conditions as applied before the transfer. Employees are protected against dismissal (before or after the transfer) unless there is just cause.

Resolving disputes

Employees can bring unfair dismissal claims before the relevant Regional Labour Relations Commission. Employees dismissed without cause may also initiate civil proceedings in the District Court. Courts and the Labor Relations Commission will routinely order reinstatement of unfairly dismissed employees (along with back pay).

Employee representation

Employees are free to form a labour union that may negotiate a collective bargaining agreement with the employer. Generally, the agreement applies only to union members, but it may also apply to other employees if the union represents at least one half of the employees of the same kind. Each workplace with 30 or more employees must have a Labour Management Council to discuss workplace matters, made up of an equal number of members representing employers and workers.

Data protection

Korea has a well-developed data protection regime. Under the Personal Information Protection Act, an employee may inspect, ask for correction of and suspend any use of any of their personal information handled by the employer. In addition, the employer must generally obtain the consent of the employee to collect, process, manage or transfer to a third party any of the employee's personal information.

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This inbrief has been contributed to by Yulchon.

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