

# BIPO TIMES

## Understanding South Korea's Labour Law & Employment Regulations

### South Korea in Brief

Identified as one of the G-20 major economies, South Korea's mixed economy is ranked as the 10th largest economy by nominal GDP. It has adopted a primarily export-oriented strategy to fuel its economy. The growth of the high-tech industry has spurred the birth of South Korean brands such as Samsung, LG and SK. Other industries include: shipbuilding, mining, construction and tourism.

### Overview

#### 1. Labour Standards in South Korea

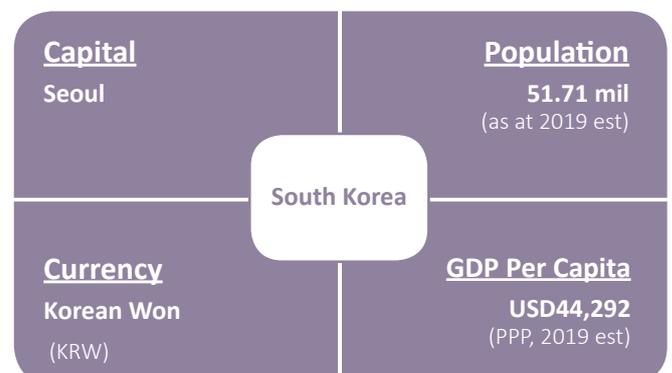
South Korea's Labour Standards Act (LSA) forms one of the most important legislations governing employment conditions in the country :

Working Hours = 52 hour per week (regulation) :

Time	Sun	Mon	Tues	Weds	Thur	Fri	Sat
Work Hour			40 Hours Maximum				
Night			12 Hours Maximum				

#### 2. The Employment Contract

Employment contract is an agreement on the employment conditions should be made in written format with both employer and employees keeping one copy for reference. An employment contract usually includes : (Underlined items are mandatory)



- Legal name and identity number of employees;
- Designation, employment period, contractual work hours and location;
- Probationary period;
- Wages (basic salary, overtime rate, allowance, end-of-year payments and other items, if applicable);
- Annual paid leaves;
- Statutory holidays;
- Employee benefits (eg: 4 Social Insurance, Medical Check and other benefits)
- Duly signed by employer and employees with the company stamp affixed
- Constituent items, calculation methods and payment of methods of wages;

These must be signed by both the Employer and Employee with the company stamp affixed.

### 3. Retirement Age

- The legal retirement age is 60.
- The majority of companies base the retirement on the employee's last day of the year employee turns 60 years old based on the legal age.

Legal Age	Korean Age
Based on date of birth 0 year old from birth	Counted as on 1st January 1 year old from birth
Generally, all laws use the legal age and not their Korean age	

### 4. Probationary Period

- While there is no statutory requirement regarding the probationary period, most Korean companies set a probationary period of 3 months.
- Any dismissals would be based on the Labour Standards Act (LSA) :
  - Employer is required to give 30 days' advance notice to an employee in case of dismissal.
  - Such advance notice requirement does not apply to those with a probationary period of 3 months or less.
  - This requires employers to determine if the employee's performance is satisfactory within the 3 months.

### 5. Wages

#### i. Minimum Wage

Established under the Minimum Wages Act, this applies to all employees with very limited exceptions (eg: those in their probationary period). As of 1 January 2021, the minimum hourly wage rate is KRW8,720.

Salary	Probation period	After Probation
Min 8,720 per hour Standard 8 Hours per day	Min 7,848 per hour (90%)	Min 8,720 per hour
Minimum Wage Daily (8H)	Minimum Wage Monthly (209H)	Minimum Wage Yearly
69,760 KRW	1,882,480 KRW	22,589,760 KRW

#### ii. Wage Calculation Method

In Korea, there are two different types of wages, i.e. average wage and ordinary wage :

- **Ordinary Wage**
  - Refers to wages that are ordinarily/regularly paid to employees
  - Generally, the market practice is to set the Ordinary wage as Annual Salary/12months
- **Average Wage**
  - Refers to the average of monthly wages received during 3 months immediately preceding the termination of employment.
  - This shall apply mutatis mutandis to the employment of less than 3 months.

According to LSA, if average wage is less than ordinary wage, the amount of the ordinary wages shall be deemed as the employee's average wages.

#### Usage of Average Wage and Ordinary Wage

Pay Items	Average Wage	Ordinary Wage
Severance Payment/ Retirement Benefits	√	
Suspension Allowance	√	
Annual Paid Leave Allowance	√	
Restriction on reduction of salary	√	
Payment in lieu		√
Overtime/ Night/ Holiday work allowance		√
Annual Leave Payment		√
Maternity leave allowance		√
Other paid rewards or benefits		√

#### iii. Salary

- There is no statutory regulation regarding to the pay date.
- Regular pay date shall be written in the employment contract.
- For cases of termination or employee passed away, the final payment must be settled within 14 days from the last working day.
- For monthly salary, it will be paid in arrears and pro-rated according to the actual employment days in that month if employees served an incomplete month.

Rule	Salary	+	Allowance	-	4 Social Insurance	-	Income Tax	=	Nett Pay
Example	5,000,000	+	400,000	-	600,000	-	200,000	=	4,600,000

#### iv. Overtime, Night / Holiday Work Allowance

Work Hour	Wage	Example Amount of Hourly Salary
Ordinarily Workday 9AM - 6PM	1.0X	10,000 KRW
Workday 7PM - 10PM 7AM - 9AM	1.5X	15,000 KRW
Workday 10PM - 7AM	2.0X	20,000 KRW
Weekend 9AM - 6PM	1.5X	20,000 KRW
Weekend 7PM - 10PM 7AM - 9AM	2.0X	20,000 KRW
Weekend 10PM - 7AM	2.5X	25,000 KRW

#### v. Other Allowances

- Shutdown Allowances

When a business shuts down due to a cause attributable to the employer, the employer must pay allowances of not less than 70% of their average wages during the period of shut down.

- Meal Allowances
  - There is no statutory requirement regarding to meal allowance.
  - As 100,000 per month is deemed to be non-taxable, most companies provide a meal allowance of 100,000 KRW.
- Bonus
  - There are 2 major way to calculate bonus, i.e. Ratio on annual salary or Ratio on monthly salary.
  - The bonus rule must be included of Rule of Employment to protect the employer from labor conflicts.

## 6. 4 Social Insurance

- Korea has implemented 4 schemes of social insurance, which are: National Pension, National Health Insurance, Employment Insurance and Industrial Accident Compensation Insurance.
- All of 4 are operated by the Government and employers must enroll their employees into these schemes and contribute accordingly.

Type of insurance	Paid by employer	Paid by employee	Total
National Pension	4.5%	4.5%	9.00%
Employment Insurance	1.05% to 1.65%	0.8 %	1.85% to 2.45%
Industrial Accident Compensation Insurance	0.7% to 18.6%	0.00%	0.7% to 18.6%
National Health Insurance	3.825136%	3.825136%	7.650272 %

## 7. Leave Policies

- Public holidays are mandatory holidays for private companies from 2020. With the exception of smaller companies, most companies are already adopting such practices :

Date	South Korea's Public Holiday Schedule
January 1st	New Year's Day
1st day of 1st Lunar Month(3Days)	Korea New Year Holiday
March 1st	Independence Action Day
8th day of 4th Lunar Month	Buddha's Birthday
May 5th	Children's Day
June 6th	Memorial Day
August 15th	Liberation Day
October 3rd	National Foundation Day
15th day of 8th Lunar Month(3Days)	Chuseok/ Mid-Autumn Festival
October 9th	Hangeul Day (Korean Alphabet Day)
December 25th	Christmas Day

- **Annual Leave**

Employers shall grant any employees who has worked not less than 80% of one year a paid leave of more than 15 days.

Minimum Annual Leave as stipulated by Labour Law

Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
11 (1 day for 1 month)	15	16	16	17	17

- Employee will be entitled to an additional one day of annual leave after continuously working for the employer for two years excluding the first working year.
- The total number of annual leave shall not exceed 25 days.
- According to the Labor Standards Act, annual leave shall be terminated by time limitation if it has not taken for one year unless the leave has not been utilized for reasons due to the employer.
- If employees are unable to utilise all the annual leave due to the employer, employer shall en-cash the annual leave to employee after the effective of the next leave year.

#### Other Types of Leave

Leave Type	Statutory required	Optional	Common in market practice
Sick Leave		√	
Monthly Menstrual Leave	√ (Not paid leave )		
Compensation Leave		√	
Maternity Leave	√		
Paternity Leave	√		
Childcare Leave	√		
Reduction of working hours for parents	√		
Fertility Treatment Leave	√		
Family Care Leave	√		
Additional Special Leave	√		
Marriage Leave			√
Compassionate Leave			√
Summer Vacation			√
No Pay Leaves		√	
Exam Leave		√	
Birthday, Marriage anniversary Leave			√
Early Release			√

## 8. Termination

### Restriction on Dismissal

- By Labor Standards Act, an employer shall not, without justifiable cause, dismiss, lay off, suspend, or transfer an employee, reduce his/her wages, or take other punitive measures (hereinafter referred to as “unfair dismissal, etc) against him/her. In short it is almost impossible to dismiss employee in ordinary way in Korea. HR do dismiss of employee by push them to step out from company as their own.

### Notice Period or Payment In Lieu of Notice

- Employer shall give the employee a notice of dismissal in advance (employer shall pay such employee a 30 days’ ordinary wage at the least if they fail to provide)
- It is mandatory to employer must notice before 30 days but, not for employee.
- It is matter of moral, It is recommended to notice resignation before month to employer. but there are no mandatory laws about sudden resignation of employee.
- Because all the Korean labor law is concentrated on protect employee.

### Final Payments

According to the LSA, the final payment must be paid within 14 days after the termination day and would usually include :

According to the LSA, the final payment must be paid within 14 days after the termination day and would usually include :

- Unpaid wages;
- Annual leave encashment or deduction;
- Payment in lieu of notice (if any);
- Pro-rated bonus, commission and double pay (if any);
- Other leave deduction (such as no pay leave, maternity leave, etc.);
- Severance payment.

## 9. Taxation

- The general rule is that a person who is a resident of Korea is assessable on their worldwide income.
- The tax year in South Korea begins from 1 Jan to 31 Dec in the following year.
- Employers should file an application when the monthly payroll withholding tax return or year-end payroll tax reconciliation
- The monthly payroll withholding tax declaration : until 10th of following month

### For Expatriates

- Expatriates can elect to apply a 19 % flat tax rate (excluding local income surtax).
- 19% Flat tax is only eligible until 5th year of working in Korea. However, reduction and deduction are not applied to flat tax rate holders.

### Personal Income Tax

- Net taxable income of resident individuals is taxed at graduated rates ranging from 6%-45%
- Additional local income surtax at the rate of 10 percent of the income tax amount.

Annual taxable Income (KRW thousands)		Tax rate
Over	Less than	Personal Income Tax (PIT)
0	12,000	6%
12,000	46,000	15%
46,000	88,000	24%
88,000	150,000	35%
150,000	300,000	38%
300,000	500,000	40%
500,000	1,000,000	42%
1,000,000		45%

Article contributed by

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BIPO South Korea

## Around the World with BIPO

### Shanghai, China – 15 May 2021

Led by Michael Chen, BIPO Shanghai clocked 50km for a charity walk across Shanghai's scenic financial hub in Pudong! Organized by the Shanghai Lian Quan Charity Foundation to help underprivileged children, the fundraiser has raised RM73 million since 2011, helping to fund 478 public welfare projects, benefitting over 780,000 people.

Our thanks to Team BIPO Shanghai. Kudos for paying it forward and making a difference one small step at a time.



## Singapore – 20 May 2021

Attended by close to 80 participants, BIPO Singapore recently collaborated with the Singapore Business Foundation in an exclusive webinar session its members. Entitled Navigating the New Normal in HR, the webinar was hosted/presented and by BIPO's Derick Teo (Director, Enterprise Go-Digital Solutions) which also saw participants engage in a lively Q&A session.



## South Korea – 27 May 2021

BIPO South Korea recently hosted its first webinar, attended by more than 100 participants. Keesei Lee, Assistant HR Service Delivery Manager shared insights on South Korea's Labour Law and Employment Regulations, helping participants gain a better understanding of the country's Labour Standards Act.



## About us

At BIPO, we help businesses transform and digitalise, enabling them to thrive and realise their growth ambitions. Around the world, we support over 1,600 clients across 87 countries and regions with a new generation of HR solutions. Our comprehensive suite of service products from our award-winning cloud and mobile-based HR Management System (HRMS), multi-country payroll calculation, overseas landing services, Business Process Outsourcing (BPO) to attendance automation provide clients with a multi-regional, integrated and seamless user experience.

Our global R&D Centres are the foundation of BIPO's HRMS and Workio platforms, providing cutting-edge, agile, and innovative technology solutions to meet the needs of Industry 4.0. We are also ISO-27001 certified with multi-country compliance, providing clients with the trust and confidence to champion their international growth plans.

Founded in 2004, BIPO is a leading, one-stop global HR service provider with a vast network of offices situated in key gateway cities across Asia: Singapore, Cambodia, Mainland China, Hong Kong, India, Indonesia, Japan, Macau, Malaysia, Myanmar, Philippines, Taiwan, Thailand and Vietnam, including subsidiaries in Australia and New Zealand. Our APAC Headquarters in Singapore serves as our hub for the region.

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