

Enactment and Enforcement of the Guidelines for Job Security for Fixed-term Workers

In order to pursue its currently most important labor reform initiative, i.e., protection of non-regular workers (including fixed-term workers), South Korea's Ministry of Employment and Labor ("MOEL") announced that it would enact the "Guidelines for Job Security for Fixed-term Workers" (the "Guidelines") as a follow-up measure to its "measures to resolve labor market dualism" announced on March 10, 2016, and that it would enforce the Guidelines from April 8, 2016.

1. Main Contents of the Guidelines

The Guidelines address matters, such as converting non-regular workers to regular status, establishing a reasonable employment contract period and prohibiting the abuse of negotiating power in contract renewal and reducing unreasonable discrimination. The main details of the Guidelines are provided below.

Conversion to regular status	<ul style="list-style-type: none">• A fixed-term worker engaged in regular or continuous work should be converted to regular status; after conversion, the fixed-term worker's working conditions should reflect his/her fixed-term employment history, and such worker should not be subject to unreasonable discrimination relative to existing regular workers.• Notion of regular/continuous work: work continuing throughout the year which has persisted for the past two years and is expected to persist in the future.
Prohibition of repeated renewal of short-term employment contract	<ul style="list-style-type: none">• A reasonable contract period should be established in consideration of relevant factors, e.g., continuity of work.• Establishment of an unreasonably short-term contract and repeated renewal of such contract should be prohibited.• Employer is obligated to explain to the fixed-term worker its reasons behind establishing a certain contract period.

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Reducing unreasonable discrimination	<ul style="list-style-type: none"> • Even if there are no comparable workers in the workplace, there should be a ban on unreasonable discrimination regarding welfare arrangements which apply to all workers of the relevant workplace (e.g., provision of holiday gifts and working clothes, reimbursement of meal and travel expenses, use of commuter buses, and access to cafeterias and physical fitness centers).
Other matters	<ul style="list-style-type: none"> • A fixed-term worker should be provided with opportunities for vocational training development. • A fixed-term worker should be provided with channels for expressing grievances and such grievances should be promptly and properly settled. • Labor and management should make joint efforts to improve working conditions and promote job security for fixed-term workers.

2. MOEL's Strategy for Securing Effectiveness of the Guidelines

MOEL has announced that it will monitor compliance and implementation of the Guidelines in order to secure effectiveness of such Guidelines. Meanwhile, MOEL has declared a plan for 2016 to essentially inspect discrimination against non-regular workers during its labor inspection of all workplaces. Even in cases where the observed discrimination does not qualify as discriminatory treatment under current Korean labor laws, MOEL has declared that it will issue administrative guidance for the non-discriminatory application of matters, such as various welfare arrangements to non-regular workers pursuant to the Guidelines.

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