



Law on Your Side

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FAQs: EMPLOYMENT ISSUES IN CHINA

Shall a labour contract be in writing?

According to the Labour Law of the People's Republic of China, a labour contract shall be executed in writing, except part-time labor contracts. A written labour contract shall contain the following provisions:

1. Term of a labour contract.
2. Work assignment.
3. Labour protection and working conditions.
4. Labour remuneration.
5. Labour discipline.
6. Conditions for the termination of a labour contract.
7. Liabilities for the violation of a labour contract.

What are the grounds for termination of a labour contract?

Labour Law of the People's Republic of China provides certain grounds for termination of a labour contract. Labour contract can be terminated by an employer/employee unilaterally or upon agreement between the parties. An employer shall notify an employee in writing 30 days prior to the termination. Please note that an employee may terminate the labour contract without notifying an employer for any of the grounds listed in the Labour Contract Law of the People's Republic of China, including cases when an employer forces an employee to perform dangerous assignments that threaten his or her personal safety or contradict the laws of the People's Republic of China.

What is the standard probationary period in China?

According to the Labour Contract Law and Labour Law of the People's Republic of China a probationary period may be set for an employee. It is worth noting that if the term of a labour contract is less than one year, the probationary period shall not exceed the period of one month. If a labour contract is executed for a period longer than one year, but less than three years, the probationary period shall not exceed the period of two months. In addition, if a labour contract is for a period of three years or more, the probationary period shall not exceed a period of six months.

Does an employee get paid during the probation period?

Employees working under probation are eligible for a salary. According to the Labour Contract Law of the People's Republic of China, payment on probationary period shall not be less than 80 per cent of the wage agreed in a labour contract, and shall not be lower than the minimum wage rate prescribed by the local labour bureau of the place where the company is located.

What are the working hours prescribed under labour laws?

According to the Labour Law of the People's Republic of China, working hours may not exceed eight hours per day and forty-four hours per week. An employer shall have the right to extend the working hours if it is necessary in connection with production or business activities, after consultation with the trade union and the employees, but the extension of the working hours under the Labour Law of the People's Republic of China shall not exceed three hours per day, provided that an employer ensures that such an extension will not harm the health of an employee. Please note, that the total extension of working time during one month must not exceed thirty-six hours.

Is overtime work subject to additional remuneration?

Please note that engaging in overtime work is subject to extra pay (remuneration). To provide evidence, it is recommended that an employee keep strict records of any overtime work. The overtime rate of pay under the Labour Law of the People's Republic of China is as follows:

1. No less than 150 per cent of the normal hourly wages for any hours in excess of 8 hours on a normal working day.
2. No less than 200 per cent of the normal hourly wages if the work is arranged on off days and no make-up off days can be arranged.
3. No less than 300 per cent of the normal hourly wages if the work is arranged on statutory holidays.

What mandatory social benefits shall an employer provide to an employee?

According to the Labour Law of the People's Republic of China, an employer shall provide an employee with social security benefits in the following cases:

1. Retirement benefits.
2. Injury or disability during employment or occupational disease.
3. Termination of a labour contract due to liquidation or suspension of the activity of the employer.
4. Birth of a child.
5. In case of death of an employee.

Under what circumstances is an employee entitled to receive compensation?

An employer shall provide compensation to an employee in cases of termination of a labour contract caused by the liquidation or suspension of the activity of the employer; reduction of staff; or by the initiation of an employee due to failure of the employer to comply with the terms of the labour contract or in other cases stipulated by the laws of the People's Republic of China and a labour contract. Please note that the amount of the compensation is determined in accordance with the amount of a salary and work experience.