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REFERENCE INFORMATION ON WORKING LIFE



Ankara 2018

Produced in collaboration with the Ministry of Labor and Social Security in Turkey,
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February 2018

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LABOR AND
SOCIAL SECURITY
COMMUNICATION CENTER

**ALO
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Ministry of Labor and Social Security Communication Center is established to resolve all kinds of questions, suggestions, grievances, comments and demands related to working life and social security efficiently and expeditiously. You may call Ministry of Labor and Social Security Communication Center “**ALO 170**” within Turkey and from abroad.

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1. IMPORTANT REGULATIONS FOR PERSONS WORKING ACCORDING TO LABOR LAW

- No discrimination based on language, ethnicity, race, gender, disability, political opinion, philosophical belief, religion and denomination and other reasons is allowed.
- It is not permitted to pay lower wage to a particular gender for the same and equal value of labor.
- Employment contracts covering the duration of one year and more should be made in the written format.
- Employment contract is signed by both worker and employer and it is prepared as two copies, one copy is given to worker.
- In cases where no written contract is made employer is supposed to provide worker, (within the period of two months at the latest) with a written document informing on the general and particular work conditions.
- If the parties agree to include a probation period for worker, this period cannot be longer than two months.
- However this trial period can be extended up to 4 months by collective bargaining agreement.
- Employer must notify Social Security Institution (SGK) of the insured worker a day before worker starts working at the latest (in construction, agricultural and fishing sectors on the day worker starts working at the latest)
- Employers must insure (social security) all the workers.
- Children who are younger than fifteen are not allowed to be employed. However, children who just turned 15 and who completed their compulsory primary education can be assigned to some easy tasks.

- As indicated in Labor Law, weekly total work hours should be 45. Work that exceeds weekly limit of 45 hours is considered overtime work.
- Night shift (taking place between 20:00pm—06:00am) should not exceed the duration of 7.5 hours. However; in tourism, private safety and health sector night shift may exceed 7,5 hours with the written approval of the workers.
- Daily working hours cannot exceed 11 hours. Children who completed their primary education and not continue to formal education should not work more than 7 hours a day and 35 hours a week. This duration can be extended to 8 hours daily and 40 hours weekly for who completed 15 years old.
- Total overwork hours cannot exceed 270 hours within a year.
- Worker's consent for overwork is ought to be asked. This approval is asked by the employer and kept in personnel files, during forming the employment contract of the worker or in the process when overtime work is needed. The worker who is not willing to do overtime work can take the approval back by notifying the employer 30 days before.

Breaks between Shifts

- 15 minute break for each 4 hours period of work, or less,
- 30 minute break for work of more than 4 hours up till (including) 7.5 hours,
- An hour break should be provided after 7.5 hours of work.
- Breaks are not counted as working hours.

Annual Paid Leave

- Annual paid leave is given if worker completes a year after the start date of his contract at work (this includes the probation period).
- Duration of annual paid leave cannot be shorter than the following criteria:
 - If worker has served 5 years, the duration of leave cannot be shorter than 14 days
 - If worker has served more than 5 years and less than 15 years, the duration of leave can not be shorter than 20 days
 - Between (including) 15 years of service and more requires at least 26 days of leave.
 - Workers under 18 years and workers aged 50 or older should get at least 20 days of leave.
- It is not permitted to renounce annual paid leave.
- When a worker's contract comes to an end for some reason, unused annual paid leave days are calculated (based on the wage at the end of the contract) and paid to worker or her/his beneficiaries.
- The annual leave periods indicated in the law can be divided as not to be under 10 days for one part, as long as employee and employer is agreed.

Compassionate Leave

- In case of marriage, adoption of a child, the death of worker's mother, father, spouse, brother or child, 3 days of paid leave is given, whereas in case of birth of a new member in the family worker is eligible for 5 days paid leave.

- If a worker who has a child with a special health condition (at least 70 percent handicapped and dealing with chronic disease) are given 10 days of leave in a year as long as the case is supported by doctor's medical note and only if one spouse/parent in the family uses this leave. Workers who are eligible for this leave can use it either at once or in different periods/dates.
- The kinds of leave and their durations mentioned above are taken into account when weekly holidays are calculated, these days of leave are seen equal to regular workday.

Workers Ineligible for Overtime Work

- Workers who have not turned 18 yet,
- Workers whose health conditions were documented by a doctor's note even they approved to work overtime before with the employment contract or collective bargaining agreement,
- Pregnant and breast feeding workers, and new mothers,
- Part-time contract workers (who work less than 30 hours),
- And workers working in mining and underground work except for compulsory and extraordinary circumstances as stated in Articles 42 and 43 of Law No. 4857.
- Workings over 45 hours per week are overtime work. Each overtime hour should be paid with the 50 percent more of hourly rate.
- Overtime working is not allowed for the night shifts.

Weekend Holidays

- In the workplaces that fall under the scope of Labor Law No. 4857, at least 24 consecutive hours of rest shall be provided to the workers who worked on the workdays before the rest day. For instance, if the workplace operates 6 days/ 45 hours in a week, the workers should work 6 days to have the rest day.

- Weekend holidays of child and adolescent workers should be at least 40 consecutive hours.
- Weekend holiday payment is given without any work anticipated in return.

National Holiday and Statutory holidays

- Whether workers are supposed to continue working during national holiday and statutory holidays is determined by collective or individual contract. Unless it is included in contract, working in those days depends on worker's own consent.
- Child and adolescent workers cannot be assigned work during national holiday and statutory holidays. Moreover, these holidays are calculated as regular paid workday.
- National holidays and public holidays are:
October 29 is national holiday. January 1, April 23, May 1, May 19, July 15, August 30, Feast of Ramadan and Sacrifice Feast days are considered as general holidays. 28-29 October total of 1.5 days; January 1, April 23, May 1, 19 May, 15 July and 30 August are 1 day; Ramadan Feast is 3.5 days; Feast of Sacrifice is 4.5 days.

Wage Right

- Minimum monthly wage during year 2018 is 1,603 TL (for worker who are single and without children)
- It can be accessed to minimum wage information for current and previous years from the minimum wage link located on the quick access menu of the internet page (www.csgb.gov.tr) of Ministry of Labor and Social Security.

- Employer must pay wages via bank transaction system in case more than 5 workers are employed
- Wage must be paid at least once in a month. This length of time may be reduced to one week in certain contracts and collective agreements.
- If worker is not paid 20 days since the payday (unless it is due to a compelling reason) worker may withdraw his/her labor and refuse to work.
- If worker's wage is not calculated correctly and paid on time in accordance with provisions of law and contract terms, worker justifiably has the right to termination of her/his contract.
- In case there is no activity at plant/factory due to national holiday and/or statutory holidays, employer must still pay the full amount of wage for those days. If worker works in these special days she/he must be given a day's wage per each extra day of work.
- For instance, worker who takes the day off on April 23's statutory holiday and who works for the rest of workdays is eligible for 30 days worth of wage whereas worker who works on April 23 is eligible for an additional day's wage and therefore receives 31 days worth of wage.
- Employer must provide worker with a statement/payroll stub (with the logo of company) for the payments made to worker either at workplace or through banking system.

2. WHO CAN BENEFIT FROM JOB SECURITY?

- According to labor law;
 - In workplace where there are more than 30 workers,
 - Workers with at least 6 months of seniority,
 - Workers working under an indefinite duration of employment contract can benefit from job security.
- When employer terminates contract of a worker under job security;
 - Worker's defense statement must be received
 - Reason of contract termination must be clear explained
 - Contract termination must be given in a written document
- Otherwise contract termination becomes invalid.
- Worker should apply to mediator within a month after the notification of termination if employment contract is terminated unlawfully or without any valid reason.

3. MEDIATION IN LABOR DISPUTES

- Mediation implementation was started on 01/01/2018.
- Applying to mediation method is a condition of court, for the cases open based on labor law and individual or collective labor contracts with allegations of worker receivables, employer receivables or return to work with the compensation.

- The plaintiff must provide the original report and a copy approved by mediator within the trial application that indicates no solution is reached after the mediation activity.
- In case it is understood that the case was filed without appeal to the mediator, without any action to the case, it is decided to refuse from the procedure due to the absence of a court case.
- No mediation application condition is sought in pecuniary and non-pecuniary damage due work accident or occupational disease and the determination, appeal and recourse cases related to these damages.
- Mediation application should be made to the mediation office where opposite party is located, (in case there is more than one opposite party, a location should be chosen among them) or where the work is maintained.

4. NOTICE COMPENSATION

- When worker quits his/her job without complying with the notification rules or when employer does not comply as he/she terminates worker's contract, they are supposed to pay a compensation called Notification Compensation.
- Before the termination of the indefinite-term employment contract the other party must be notified.

The Parties should give,

- 2 weeks notice for the period of 6 months of work
- 4 week notice for the period between 6 months and 1.5 years
- 6 week notice for the period between 1.5 year and 3 years
- 8 week notice for the period of work that takes more than 3 years

- Otherwise the parties should pay notification compensation for the periods mentioned above.

Permission for New Job Search

- In the course of notification, employer is obliged to give new job search permission to worker during work hours and without making any pay cut.
- The duration of job search cannot be shorter 2 hours per day; worker may combine these hours and use them at once. In case of the latter, worker should use these days before quoting his/her job and should inform employer in advance.
- If employer does not give job search permission or gives insufficient permission, worker must be paid for this duration of time.
- If employer makes worker work during the period job search permission, employer pays 100% more per day in addition to regular daily wage.

5. SEVERANCE PAY

- If worker does not comply with ethical rules and act in good will, employer does not pay seniority compensation when contract is terminated.
- Worker is eligible for seniority compensation in case he /she terminates his/her contract righteously.

Moreover;

- In case leaving of employment for regular military service,
- In case of female worker terminates her contract within a year starting from her marriage date,

- In case of worker wants to receive retirement pension pay or disability pay either on a monthly basis or in sum,
- In case of worker completes 3,600 days of social security premium payment and 15 years of social security registration limits, and wants to leave, severance payment should be provided.
- Employer should pay seniority compensation (severance pay) which equals to 30 days gross salary of the worker for each year that he/she worked for the employer. For the payment of remainder duration of a year is also calculated with the same.

6. ADDITIONAL LEGAL RIGHTS OF FEMALE WORKERS

- Worker informs employer in case of pregnancy and breastfeeding. Pregnant workers are given paid leaves to have regular check ups.
- Female workers are given 1.5 hour total break time to breastfeed their child younger than 12 months. Worker decides how to distribute and use this time. This period of time is considered part of regular work hours.
- Female workers should not work 8 weeks prior to and after birth giving. Pregnancy to more than one baby involves an addition two weeks leave. If female worker's consent and her health condition is appropriate and her doctor gives approval, female worker can work up till prior to three weeks before the birth of her baby. This duration of work time is added to her work hours after the birth giving.

- In case of premature birth giving, unused birth giving leave days that she is eligible before the birth giving are added to the duration of leave day after the birth of her baby.
- Female workers cannot be assigned to night shifts during one year period when their pregnancy is documented with doctor's note and when they breast feed their baby starting from baby's birth date.
- Employers who run a company with 100- 150 female workers (regardless of their marital status) must provide a breastfeeding room detached from the premises and within 250 meters distance (at most).
- Employers who run a company with more than 150 female workers (regardless of their marital status) must provide a daycare center where female workers drop off their children (aged between 0-6) and breastfeed them. This daycare facility should be detached from the workplace and must be close enough to the premises. If it is far from 250 meters, employer must provide transportation service to the daycare center.
- After the completion of 8 week post-birth leave, to nurse and raise the child female worker who gave birth or the father/mother of adopted child (Under 3 years old) are given unpaid leave for the half of each week within the next 60 days for the **first birth**, 120 days for the **second birth** and 180 days for **third birth and more**.
- In case of birth of multiple babies, 30 days is added to durations of leave mentioned above.
- In case of a baby with disability (shall be proved with the doctor's note) 360 days are given.

- This leave period does not include breastfeeding regulations related to 1,5hours breastfeeding time daily.
- Unpaid leave up to 6 months is provided to the female workers after their maternity leave in case she requests it to use.
- Worker can ask to continue to work on a part-time basis **at any time**, in the period from the end of maternity leave or unpaid leave to the beginning of the following month of the date that child begins the compulsory primary school age
- Part time work request is notified to the employer in writing by the worker at least one month prior to benefit from this right.
- The approval of the employer is sought only in the following works, for other cases workers may work on part time basis without approval of the employer.
- Works that the approval of the employer is sought for part time working;
 - In private health institutions in accordance with the relevant legislation, responsible director, responsible physician, laboratory responsible and persons who are expected to all work that counted as **health care service** (According to regulation **health care service** works are doctors, specialists according to medical specialty legislation, nurses, midwives and opticians and works conducted by other profession members which defined in law No:1219 - Tababet ve Şuabatı San'atlarının Tarzı İcrasına Dair Kanun/ Addition 13)

- In the works as counted industrial category which is maintained consecutive shifts without any break depending on nature of the work,
 - Seasonal, campaign or contract works proceed less than one year depending on nature of the work,
 - Works that is not proper to maintain by dividing workdays of a week depending on the nature of work.
- In case one of the parents does not work, other parent cannot request to work on part time basis.
- However, this is not sought for the below conditions;
- Existence of a disease requires continuous care and treatment of one parent, and documenting the disease with a doctor report taken from a full-fledged hospital or university hospital,
 - In case of request of the parent who gets the child's custody according to the court decision,
 - In case of solely adoption of child under 3 years old.

it will not be searched.

7. UNEMPLOYMENT INSURANCE

Conditions to benefit from unemployment pay

- Person who becomes unemployed other than at one's own will or failure
- Person who has paid premium and worked during the last 120 days prior to his/her contract termination
- Person who has paid 600 days of unemployment insurance premium,
- Person who applies to the nearest **ISKUR** unit (in person or online) within 30 days after termination of contract www.iskur.gov.tr

Application for Unemployment Pay

- Applications have to be made to the nearest **ISKUR** unit within 30 days after termination of contract. Applications can be made in person or online at www.iskur.gov.tr Excluding compelling excuses, unless application is made within those 30 days, duration of delay is deducted from his/her benefits.
- When unemployment insurance application is made, applicant is registered as a job searcher and his/her information is updated. As a result, insured unemployed person may benefit from occupational counseling, job placement and occupational training.
- First unemployment payment is made until the end of month where person becomes eligible for unemployment pay. Insured unemployed persons can receive their unemployment pay by applying to any PTT–postal office branch-with their identity cards.

Duration of Unemployment Pay

- › Within three years prior to termination of contract;
 - › Workers who has worked 600 days under insurance and paid their premiums receive 180 days.
 - › Workers who have worked 900 days under insurance and paid their premiums, receive 240 days,
 - › Workers who has worked 1080 days under insurance and paid their premiums receive 300 days of unemployment pay (given that all other legal conditions are met).

Benefits Under Unemployment Insurance

- › **ISKUR** provides the recipients of unemployment insurance with the following services;
 - › Unemployment pay,
 - › Assistance for health insurance payments,
 - › Assistance for finding a new job,
 - › Training for finding job, occupational advancement and development.

Amount of Unemployment Pay

- › Daily unemployment pay is calculated as 40% of the average daily gross amount of the worker's last four months salaries.

8. UNION MEMBERSHIP AND STRIKE

Union membership and becoming eligible for membership:

- Workers who turned 15 can become member of union.
- It is up to worker to become union member. No one can be forced to –or not to become a union member.
- Union membership is acquired when application is made through Ministry's electronic application system and designated authority of union by law approves this application. (www.turkiye.gov.tr)

Strike

- When workers collectively agree or follow the decision made by an institution to withdraw their labor or considerably slow down the production process it is called strike.
- If workers go on strike unless legal conditions are met it is considered illegal.

9. IMPORTANT REGULATIONS REGARDING HEALTH AND SAFETY

- Employers are obliged to monitor (alongside workers) work related risks and take measure against these potential risks.

- › Employer is not allowed to reflect the cost of health and safety measures (such as medical checkups, providing protective equipment, providing training) on workers.
- › Business is stopped in case risk assessment is not conducted in the workplace for the following sectors: Mining, metal and construction sector, in sectors working with hazardous chemical and sectors carrying the possibility of high risk workplace accidents.
- ›
In order to identify potential risks for workers, all workers must go through checkups. These checkup must be renewed when worker starts his job, changes his job or after the breaks given due to work accident and occupational disease.
- › Work accidents and occupational diseases must be notified by employer to Social Security Institution within three workdays.
- › Drills/practices and trainings with full attendance of workers must be organized for emergency preparation.
- › A worker representative should be appointed to liaison between workers and employer regarding the issues of health and safety.
- › Only special personnel with special gear can enter areas posing serious and imminent danger. Other workers may not continue their work. In case serious and imminent danger cannot be controlled, workers will be evacuated.

- Workers who work in high-risk and very high-risk class workplaces, must provide documents about completion of their occupational training. Workers who fail to provide this document cannot work in that workplace.
- When a worker faces serious and imminent danger she/he can request the health and safety committee or employer (in case there is no such committee) to take measures and prevent the situation. In the mean time worker has the right to withdraw her/his labor. Worker may terminate her/his contract if no action is taken despite worker's request.
- Workers still get paid when they exercise their right to withdraw labor while H&S measures are being taken.

10. LIABILITY FOR HAVING A WORK PERMIT

- Foreigners under the International Labor Force Law No. 6735 scope are not allowed to work or to be employed without a work permit in Turkey.
- Maximum of one year work permit is provided to the foreigner applicants who were evaluated as positive, as long as not exceeding the duration of the employment or service contract, and working in workplaces belong to a natural/ legal person or state organization/ institutions or in other specific workplaces in the same sector.
- According to legislation, in case the application of extending the work permit is evaluated as positive, maximum 2 years extension is provided for the first application (condition of to be employed by same employer). For the next application extension duration is maximum 3 years. However, in case the application is made for working for another employer/ workplace, it is evaluated as the first application with maximum 1 year duration.

- Foreigners who have long-term residence permit or at least 8 years of legal permission to work may apply to indefinite work permit.
- In line with international labor policy; whose application is deemed appropriate is provided **Turquoise Card** due to International Labor Force Policy Advisory Committee recommendations and procedures prescribed by the Ministry according to education level, professional experience, science and technology contribution, and impact of investment activities to the national economy and employment in Turkey.
- Work permit or extension of work permit application for employment in Free Zone is made to related authorized directorate in Free Zone by the natural or legal person who has operating license and workplace in Free Zone.
- Quick access menu on the Ministry of Labor and Social Security internet main page (www.csgb.gov.tr) can be accessed to reach administrative fines are imposed to employer and/ or foreigner in case the obligation to obtain a work permit is not complied with.
- Foreigners who are found working without a work permit are reported to the Ministry of the Interior to be deported

11. REGULATIONS REGARDING FOREIGNERS UNDER TEMPORARY PROTECTION

- Foreigners under temporary protection cannot work and cannot be employed without work permit.

- Foreigners under temporary protection cannot be paid less than minimum wage and cannot be employed without insurance.
- Foreigners under temporary protection can apply to Ministry of Labor and Social Security for work permit six months after their temporary protection registration.
- Work permit applications are made by employer of foreigners under temporary protection through e-government.
- Foreigners under temporary protection working in seasonal agricultural and animal husbandry will be exempt from work permit. Applications for exemptions are done to related Governor's office (which provided the temporary protection).
- When work permits is given, based on the Temporary Protection regulations, cities where foreigners are allowed to reside are considered.
- In the workplace where work permit application is made for, the number of foreigners under temporary protection cannot exceed 10 percent of the total number of Turkish citizens working in that workplace.
- In the workplaces where there are less than 10 workers in total, one foreigner under temporary protection at most is permitted to be employed.

12. OCCUPATIONS DISALLOWED FOR FOREIGNERS

- Dentistry, nursing (in accordance with related regulation)
- Pharmacy (in accordance with related regulation)
- Veterinarian (in accordance with related regulation)
- Managing director/responsible manager at private hospitals
- Lawyers (in accordance with related regulation)
- Notaries (in accordance with related regulation)
- Security officer (in accordance with related regulation)
- Exporting fish, oyster, mussel, natural sponge, pearls, coral, working as diver, underwater searcher, guide, captain, machinist and mariner (in accordance with related regulation)
- Customs consultancy (in accordance with related regulation)
- Tourist guides (in accordance with related regulation)

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