

The Legal Rights/Interests of Overseas Labors

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In the recent years, with the rapid development of cooperation of labor service with foreign partners, the number of overseas labors is increasing progressively. The legal rights and interests, sometimes even the life and safety of the labors are frequently infringed thus the economic benefits and dignity of Chinese labors are seriously harmed. Besides the reasons from the owners, it is because some Chinese labor service export enterprises pursue single-faceted economic benefits and ignore the protection of the legal rights and interests of the labors exported. In order to conclude agreements with the owners, some enterprises don't insist on the necessary terms to protect the legal rights and interests of the labors exported. Sometimes when the foreign owners infringe the rights and interests of overseas labors, some enterprises dare not to negotiate with the foreign owners in all seriousness and just play at overseas labors. Some enterprises even sign false contracts to blindfold the labors exported and infringe their legal rights and interests by ganging up with the owners.

In order to strengthen protection the legal rights and interests of overseas labors and avoid any damages, the Notice hereby specially informs the following issues:

1. Labor service export enterprise shall sign labor contract with the labor exported in accordance with the "Labor Law of the People's Republic of China" and other relative laws and rules. The enterprise may not recruit minors who are younger than 16 years.
2. The working sites, types of work, labor protection, working conditions, working time, holidays, payments, insurance, living conditions, traffic, labor discipline, settlement of disputes, responsibilities for breach of contract, conditions for alteration & cancellation of contract and other issues requiring mutual negotiation shall be defined in the cooperative contract on labor service signed by the labor service export enterprise and the foreign owner. The wage paid to overseas labors shall not lower than that defined by the coordination department for overseas labor service or the local minimum wage level on the same type of work. Special terms on labor protection shall be defined for female labors exported and special type of work. Main state of overseas labors should be reported to the commercial counselor's office of the embassy/consulate to that country.
3. The labor service export enterprise shall strive for and safeguard the legal rights and interests of the labors exported by giving full play to the favorable terms on protecting rights & interests of labors stipulated in national and local labor laws of the country that imports labor service.
4. In case the labor service export enterprise is going to export seamen and fishermen, it should be defined in the contract that the owner must regularly report the name of ship and the operational sea area where the labors exported are in to the labor service export enterprise. The enterprise shall then report these to the commercial counselor's office of the embassy/consulate to that country for assistance in dealing with events that infringed the interests of Chinese seamen or fishermen and other emergencies.
5. In case the legal rights and interests of overseas labors are infringed, the labor service export enterprise shall negotiate with the foreign owner in according with terms of the cooperative contract on labor service and settle in time. If negotiation fails, it shall be dealt with the applicable law defined in the cooperative contract on labor service. In case there is no applicable law defined in the contract, it shall be dealt with the laws of the location, where the project and overseas labors are in, or international conventions. The issues shall be reported to superior department in charge in time.
6. In accordance with national stipulations, the labor service export enterprise shall be administrated and supervised on protection of legal rights and interests of overseas labors by labor administrative department and department in charge. Please transmit the Notice to the enterprises holding management right of exporting labor services for compliance.

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