

<b>Shenzhen, China</b> Rooms 1203-06, 12/F. Di Wang Commercial Centre 5002 Shennan Road East Luohu District, Shenzhen T: +86 755 8268 4480	<b>Shanghai, China</b> Room 603, 6/F., Tower B Guangqi Culture Plaza 2899A Xietu Road Xuhui District, Shanghai T: +86 21 6439 4114	<b>Beijing, China</b> Room 303, 3/F. Interchina Commercial Bldg. 33 Dengshikou Street Dongcheng District, Beijing T: +86 10 6210 1890	<b>Taipei, Taiwan</b> Room 303, 3/F. 142 Section 4 Chung Hsiao East Road Daan District, Taipei T: +886 2 2711 1324	<b>Singapore</b> 138 Cecil Street #13-02 Cecil Court Singapore 069538 T: +65 6438 0116	<b>New York, USA</b> 202 Canal Street Suite 303, 3/F. New York NY 10013, USA T: +1 646 850 5888
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## Investments in Hong Kong - Recruitment in Hong Kong

### 1. Public Services of Recruiting and Employment

The Labour Department (LD) provides comprehensive and free employment and recruitment services to job seekers and employers, to help job seekers find suitable jobs and employers fill their vacancies. The Interactive Employment Service (iES) website ([https://www2.jobs.gov.hk/1/0/WebForm/Default\\_Emp.aspx](https://www2.jobs.gov.hk/1/0/WebForm/Default_Emp.aspx)) provides job vacancy and employment information to job seekers while employers can publish job vacancy information and finding suitable candidates through the website.

### 2. Basic Labour Legislation

#### (1) Rest Days, Holidays and Leave

An employee shall enjoy rest days, statutory holidays and paid annual leave during employment.

##### (a) Rest Days

An employee employed under a continuous contract is entitled to not less than one rest day in every period of seven days. A rest day is defined as a continuous period of not less than 24 hours during which an employee is entitled to abstain from working for his employer.

##### (b) Holidays

An employee, irrespective of his length of service, is entitled to the 12 statutory holidays in Hong Kong. Regardless of whether an employee is entitled to holiday pay, an employer should grant his employee a statutory holiday, or arrange an “alternative holiday” or “substituted holiday”. An employer must not make any form of payment to the employee in lieu of granting a holiday.

##### (c) Annual Leave

An employee is entitled to annual leave with pay after having been employed under a continuous contract for every 12 months. An employee may choose to accept payment in lieu of the part of his leave entitlement which exceeds 10 days.

(2) Minimum Wage

The Minimum Wage Ordinance establishes a Statutory Minimum Wage (SMW) is expressed as an hourly rate. In essence, wages payable to an employee in respect of any wage period should be no less than the SMW rate on average for the total number of hours worked.

SMW has come into force since 1 May 2011. With effect from 1 May 2019, the SMW rate is raised to \$37.5 per hour. Concurrently, the monetary cap on the requirement of employers keeping records of the total number of hours worked by employees is also revised from \$14,100 per month to \$15,300 per month.

**3. Employers Legal Obligations**

An employer obligated to comply the Employment Ordinance, which is the main piece of legislation governing conditions of employment in Hong Kong.

(1) Mandatory Provident Fund

As an employer, it is legal obligation under the MPF System to enroll employees into the MPF scheme are participating. Except for exempt persons, employer should enroll both full-time and part-time employees who are at least 18 but under 65 years of age in an MPF scheme within the first 60 days of employment. And the casual employees who are employed in the construction industry or the catering industry on a day-to-day basis, or for a fixed period of less than 60 days. MPF arrangement is required for casual employees no matter how short a period they are employed, even if it is just one day.

Employers and employees are each required to make regular mandatory contributions of 5% of the employee's relevant income to an MPF scheme, subject to the minimum and maximum relevant income levels. For a monthly-paid employee, the minimum and maximum relevant income levels are \$7,100 and \$30,000 respectively. Employers must provide employees with a monthly pay-record showing the required details, including the amount of the employee's relevant income and the amounts of both employer's and employees' contributions, within seven working days after the mandatory contributions are made.

When a regular employee who is a member of an MPF scheme ceases employment, the employer should arrange for the last payment of mandatory contributions for and in respect of that employee by the next contribution day, and notify the MPF trustee of the date of termination of employment of the employee via the next remittance statement or a written notice.

(2) Safety and Health

Under the Occupational Safety and Health Ordinance, the employers should have a role to play to provides for the safety and health protection to employees in workplaces, both industrial and non-industrial. There should take the following measures:

- (a) Providing and maintaining plant and work systems that do not endanger safety or health;
  - (b) Making arrangement for ensuring safety and health in connection with the use, handling, storage, or transport of plant or substances;
  - (c) Providing all necessary information, instruction, training, and supervision for ensuring safety and health;
  - (d) Providing and maintaining safe access to and egress from the workplaces; and
  - (e) Providing and maintaining a safe and healthy work environment.
- (3) Compensation System

An employer must be liabilities both under the Employees' Compensation Ordinance and at common law for the work injuries for who employees. Major provisions of the Ordinance are:

- (a) An employer is liable to pay compensation in respect of injuries sustained by employees as a result of an accident arising out of and in the course of employment; or in respect of occupational diseases specified in the Ordinance suffered by the employees;
- (b) In general, applies to employees who are employed under a contract of service or apprenticeship. Employees who are injured while working outside Hong Kong are also covered if they are employed in Hong Kong by local employers.

#### **4. Labour Disputes**

For employers and employees who have labour-management conflicts, they may seek voluntary conciliation service from the Labour Relations Division of the Labour Department. Conciliation service is provided free of charge, to assist employers and employees in establishments outside the government sector to resolve any employment claims or disputes arising from the Employment Ordinance, the Minimum Wage Ordinance or the terms in their employment contracts.

The Ordinance enables the Commissioner for Labour to inquire into, and to authorize a conciliation officer of the LRD to conciliate in a trade dispute in order to promote settlement. Participation in all forms of conciliation is voluntary and no compulsion is exerted by the Ordinance on the parties to attend conciliation meetings.

Where a dispute is not settled by ordinary conciliation, the conciliation officer shall promptly report the matter to the Commissioner. On receipt of the report, the Commissioner may appoint a special conciliation officer to initiate or undertake special conciliation. Instead of authorizing ordinary conciliation, the Commissioner may, if the circumstances so warrant, refer a dispute directly to special conciliation.

Where a dispute is settled by conciliation or special conciliation, an agreement to cover the terms of settlement shall be drawn up and signed by both parties and a copy of which shall be delivered to the Commissioner. The parties are, of course, expected to honour such an agreement.

*If you wish to obtain more information or assistance, please visit the official website of Kaizen CPA Limited at [www.kaizencpa.com](http://www.kaizencpa.com) or contact us through the following and talk to our professionals:*

*Email: [info@kaizencpa.com](mailto:info@kaizencpa.com), [enquiries@kaizencpa.com](mailto:enquiries@kaizencpa.com)*

*Tel: +852 2341 1444*

*Mobile : +852 5616 4140, +86 152 1943 4614*

*WhatsApp/ Line/ Wechat: +852 5616 4140*

*Skype: kaizencpa*

