HEADQUARTERS, UNITED STATES FORCES KOREA
UNIT #15237
APO AP 96205-5237

REPLY TO
ATTENTION OF:

FKCS-AD

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Employment of Domestic Help by SOFA Status Personnel

1. The attached information paper entitled "Employment of Domestic Help by SOFA Status Personnel in Korea" is provided for your information. Please ensure this information paper is made available to all members of your command or organization. No additional action is required.

2. It is known that some USFK personnel are employing non-Korean, third country nationals (TCN) as domestic help in violation of ROK law. This information is provided so SOFA personnel can understand their responsibilities under ROK law if they choose to hire domestic help while stationed in the Republic of Korea.

3. Please contact USFK OJA at 738-7170 for legal questions, IMCOM-Korea at 723-6613 for questions about the nannie referral list, and USFK JPM at 736-5104 for questions about installation access.

ARNOLD P. MONTGOMERY
COL, USA
Assistant Deputy Chief of Staff

Encl
Information Paper

DISTRIBUTION:
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INFORMATION PAPER

EMPLOYMENT OF DOMESTIC HELP BY SOFA STATUS PERSONNEL IN KOREA

PURPOSE: To provide a general background on employment of domestic help (housekeepers, nannies, gardeners) by SOFA personnel in Korea.

BLUF: Hiring of third country national (TCN) domestic help by SOFA personnel is not authorized under ROK law except for some very narrow exceptions.* ROK law permits the hiring of Korean nationals as domestic help. Army Community Service (ACS) is establishing a clearinghouse of available Korean national nannies.

DISCUSSION:

- SOFA personnel are required to "respect" ROK law while living in Korea.

- ROK law permits diplomats and certain non-SOFA foreigners (who invest $500K or more in Korea) to sponsor TCNs under a family member visa for the purpose of serving as domestic helpers.

  -- SOFA personnel are not authorized under ROK immigration law to sponsor TCNs as domestic helpers.

  -- Further, TCN domestic helpers sponsored by diplomats and investors are not allowed to work for SOFA personnel.

  -- ROK immigration authorities do not issue visas to TCNs to work for SOFA personnel as domestic helpers.

- SOFA personnel are authorized to hire Korean nationals as domestic helpers.

- The ROK Labor Standards Law specifically excludes domestic helpers, such as cleaning persons and nannies, from its scope of application.

  -- Thus, the person hiring a Korean national as a domestic helper is not subject to the requirements of the Labor Standards Law, such as severance pay, workers compensation insurance, annual leave, overtime pay, etc.

- The ROK Health Insurance Law does not apply to domestic helpers.

  -- Thus, the person hiring a domestic helper is not obligated to provide medical insurance to the helper.

- Under the ROK Income Tax Law, the person hiring a domestic helper is required to withhold appropriate amount of income tax only if the helper is paid more than 80,000 Won per day and the contract is for more than 3 consecutive months.

* A separate information paper details the narrow exceptions.

- There may be some other legal liabilities associated with hiring a domestic helper.

  -- For example, if the helper is injured or inflicts injury to a third person, the employer may be held liable under certain circumstances.

  -- SOFA personnel should carry appropriate liability and renter's insurance.

  -- Sponsors are responsible for the installation access and conduct of their employees while on the installation.

- New installation access passes will no longer be issued to TCN domestic helpers lacking the proper visa.

  -- Existing installation access passes will be valid until their expiration date.

  -- Existing installation access passes expiring soon will not be extended beyond 31 January 2007.

    --- A single one month extension beyond 31 January may be granted for good cause.

- In order to facilitate USFK families being able to hire Korean national domestic help, primarily nannies, IMCOM/Korea MWR is setting up a clearinghouse for English-speaking Korean nationals who are seeking employment as nannies.

  -- IMCOM/Korea will place classified adds in local Korean and USFK newspapers seeking names of Korean national applicants. Army Community Service (ACS) will maintain the master list; Child & Youth Services (CYS) will maintain a copy.

  -- IMCOM/Korea is starting this process immediately in the Yongsan area and will establish this support in other areas as required.

  -- USFK personnel desiring to hire persons on the MWR list will be responsible for interviewing and checking the references of applicants.

- Employment of a TCN who does not have a valid visa for the specific work being performed is a violation of ROK law and subjects the employer to penalties including 1 year confinement and a ten million won fine.

APPROVED BY: Arnold P. Montgomery
Colonel, USA
Assistant Deputy Chief of Staff

INFORMATION PAPER

EXCEPTIONS TO THE GENERAL RULE PROHIBITING THE EMPLOYMENT OF THIRD COUNTRY NATIONAL DOMESTIC HELP BY SOFA PERSONNEL IN KOREA

PURPOSE: To detail the narrow exceptions to the general rule that Korea law does not permit SOFA personnel to employ a third country national (TCN) as domestic help (housekeeper, nanny, gardener).

BLUF: TCNs with certain relatively rare visas are treated like Korean nationals for employment purposes and can be hired as domestic help. In addition, TCNs with SOFA status (for example, TCN spouses of Service members) can be employed as domestic help by other SOFA personnel on military installations.

DISCUSSION:

- TCNs with the following visas are treated as Korean nationals for employment purposes and are permitted to work in Korea without restriction, to include employment as domestic help.

  -- F-2 Visa. Foreign nationals married to Korean nationals or permanent residents in Korea and those with "refugee" status.

  -- F-4 Visa. Foreign nationals with Korean ancestry.

  -- F-5 Visa. Permanent resident aliens in Korea.

- TCNs with SOFA status (for example, TCN spouses and other accompanying dependants who have a SOFA stamp in their passports) may be employed by other SOFA personnel on military installations, if the *employee* has received authorization from the installation commander.

  -- The TCN can reside off-post, but the employment as domestic help must occur on a U.S. military installation.

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