

# ESG and the Role of Employment Law



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With the increased awareness of ESG considerations, more companies in Hong Kong are increasingly willing to demonstrate their commitments in ESG compliance.

This article will explore why ESG compliance performs a significant role in the labour and employment setting.

## Why ESG is relevant to employment standards?

ESG refers to environmental, social and corporate governance considerations in relation to financial investments.

Social considerations is the “S” pillar of ESG, covering the social aspects within the companies, including labour relations and employment standards. ESG becomes a core factor in differentiating competitors and raising funds through sustainability financing.

Employment standards are important for ESG because high-quality employment is the backbone of a sustainable and green economy, corresponding to the 8<sup>th</sup> United Nations Sustainable Development Goal that “*promotes productive employment and decent work for all*”. So a strong commitment to high quality employment is fundamental to uphold ESG criteria and thereby improves long-term investment performance.

In today's knowledge-based economy, top-talents and motivated employees are one of the most valuable assets of companies. After all, these skilled workers and professionals possess wide range of knowledge and skill set that could determine decisions that improves resource efficiency, green finance and sustainable governance.

## What are the key themes of ESG that relates to employment?

In fact, employment under ESG is not limited to labour welfare, it also covers the following wide range of themes, including:

- diversity and inclusion,
- gender gap and equality,
- health and safety,
- mental health and well-being,
- training in people and skills,
- work-life balance,
- employee engagement,
- pay transparency,
- worker activism, and
- human resources policies.

In response to the Covid-19 pandemic, more companies introduced remote work arrangements which aim to protect employees' health in light of social distancing restrictions.

Companies had to quickly adapt from the traditional notion of workplace. At the same time, the increased flexibility of work arrangement leads to companies' growing concerns on employees' mental health, work-life balance and well-being.

Many investors and stakeholders are also concerned with social impact companies have on the wider community, including employee rights, charitable activities, community work and the use of agency workers.

## **How is a company's social impact being measured or assessed?**

Looking at the HKEX ESG Reporting Guide, it sets out disclosure requirements for listed companies related to ESG.

Under employment and labour practices, it covers employment, health and safety, development and training and labour standards.

Under each aspect under ESG Reporting, it requires companies to give both general disclosure information on the policies and compliance with relevant laws and regulations that have significant impact on the issuer.

- On Employment: Companies are advised to disclose policies and law compliance relating to compensation and dismissal, recruitment and promotion, working hours, rest periods, equal opportunity, diversity, anti-discrimination policies and other benefits and welfare. The key performance indicators (KPIs) include total workforce and employee turnover rate by age group and gender.
- On Development and Training: Companies are advised to disclose policies on improving employees' knowledge and skills in executing their duties at work. KPIs include number of employees undergo training and their training hours.
- On Labour Standards: Companies are advised to disclose policies and law compliance relating to preventing child and forced labour. KPIs include measures to review employment practices to avoid child labour, and further steps taken to eliminate such practices.

These KPIs provide an objective standard and are there to assist investors and stakeholders in making informed decisions about understanding the companies' strategies to human capital development, employment security, reward and remuneration.

## **Type of employment legal instruments are relevant to ESG**

Companies are advised to review and update internal policies according to latest laws and regulations, for example:

- Minimum Wages Ordinance
- Employment Ordinance
- Employees' Compensation Ordinance
- Mandatory Provident Fund Schemes Ordinance

In the ESG Report, companies are advised to cite concrete examples regarding compliance of these statutory instruments, it will not be sufficient merely include a generic statement that “Our company complies with all the laws and regulations.”

### **Advice for companies and HR professionals on employment in complying with ESG criteria**

ESG compliance is crucial for companies to retain and attract high quality human capital. Companies should review and update internal policies regularly in order to foster the growth of talents and their capabilities at work.

Looking ahead to the future, the ESG landscape will change in Hong Kong where it will become more than a 'wish list'. Businesses in Hong Kong cannot afford to fall behind.

Please [reach out to us](#) if you have any questions.

