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# Taiwan Labor E-Newsletter

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臺灣勞工  
簡訊



中英文版本內容如有出入，以中文版本為準。

The Chinese version rules if any contradiction in meaning exists between the Chinese version and English version.

## Important provisions for the protection of labor rights and interests of dispatched labor added to the Labor Standards Act

On April 26 of this year (2019) the Legislative Yuan passed the third reading of draft amendments for articles 2, 9 and 22-1 of the Labor Standards Act. They were announced by the President and came into force on May 15. The provisions clearly stipulate that dispatching entities shall not sign fixed contracts with dispatched workers. In addition, if dispatched workers are owed wages they must first seek them from the business entity which uses labor in order to protect the worker's job and wage security.

If the dispatching entity violates the law and signs a fixed contract with a dispatched worker, the competent authority may impose on the entity a fine of NT\$20,000 to NT\$300,000 in accordance with the Labor Standards Act. This will help stabilize work for dispatched workers. At the same time, when in the future dispatched workers are owed wages they can file a complaint with the government, and the government can impose penalties on a dispatching entity that breaks the law. The government may require on the business entity which uses labor to first pay wages to the dispatched worker before a claim for compensation from the business entity which uses labor is sent to the dispatching entity. The dispatching entity's fee will be deducted from the dispatching entity's fees payable account.

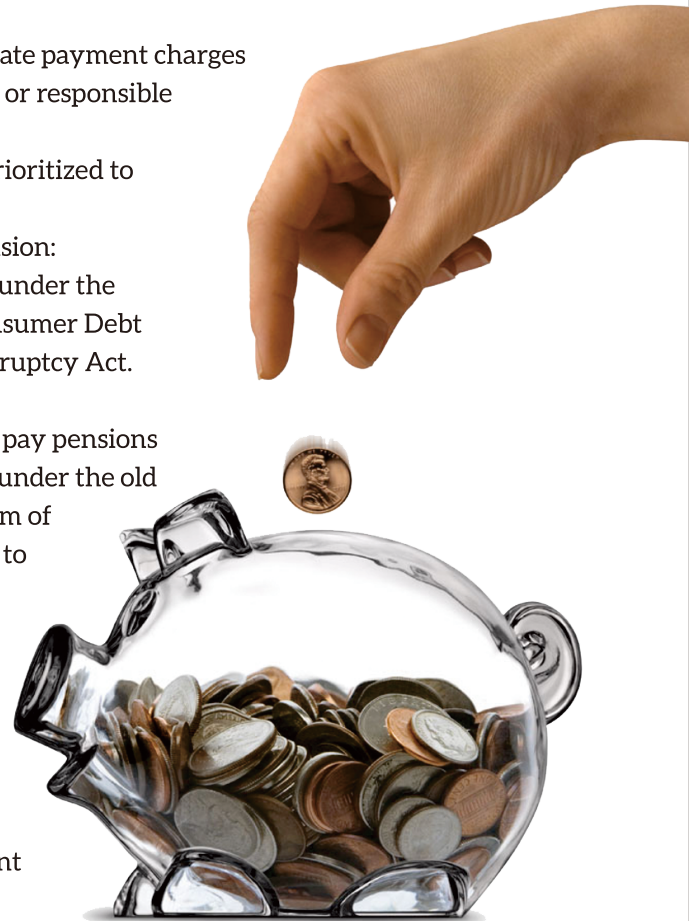
In addition, the Legislative Yuan passed the amendments for articles 17-1 and 63-1 of the Labor Standards Act on May 20. The amendments forbid business entities which use labor from evading their legal responsibility as employers by transferring workers who have passed interviews to a dispatching agency, which then dispatches them back to said entity. In addition, it is stipulated that dispatching entities are responsible and liable for providing workers compensation for workers who have suffered occupational accidents while working with the dispatching entity. The amendments have been introduced in order to perfect and promote comprehensive labor rights protection for dispatched workers.



## Third reading of amendments to Labor Pension Act, which strengthens labor pension benefits, passes Legislative Yuan

On May 15, 2019 the President promulgated amendments to several provisions of the Labor Pension Act. These revisions expanded the number of applicable persons and tax incentives, increased penalties, such as publicly announcing the names of business owners that commit illegal acts, and strengthened the protection for labor creditor rights. The key points are as follows.

- I. Expanding the number applicable persons: Incorporating foreigners who have obtained permanent residence status.
- II. Increasing the range of pension tax incentives: Self-employed operators, employers who actually engage in labor work, and commissioned workers, etc., can enjoy tax benefits if they voluntarily contribute to their pensions using the income from professional practice.
- III. Workers shall open a specific account that cannot be mortgaged to claim payments. For the purpose of protecting the rights of labor to claim a lump-sum pension payment upon retirement, workers shall follow the example of the monthly pension payment plan. All shall open specific accounts to store deposits that shall not be the objects of offset, mortgage, security or compulsory execution.
- IV. Extending the time limit for survivors to claim for pensions: Upon death of a worker, the time limit for survivors or designated persons is extended from 5 years to 10 years.
- V. Strengthening protections for rights of labor creditor:
  - (I) When a business entity is in violation of the Act, the government shall impose fines and late payment charges, and will publicly announce the name of the business entity and responsible persons, etc.
  - (II) If a business entity fails to pay the pension or late payment charges and has insufficient property, a representative or responsible person shall be liable for repayment.
  - (III) Pensions and late payment charges shall be prioritized to be over ordinary claims of creditors.
  - (IV) The following are not applicable to Labor Pension: Provisions relating to company restructuring under the Company Act, asset liquidation under the Consumer Debt Clearance Act, or bankruptcy under the Bankruptcy Act.
- VI. Increased penalties: Article 78 of the Labor Standards Act, the fine for entities which fail to pay pensions under the old pension system or severance pay under the old or new systems was previously set at a maximum of NT\$250,000. The range of fines has been raised to include a new minimum of NT\$300,000 and a maximum fine of NT \$1.5 million.
- VII. In line with the organizational restructuring of the Executive Yuan, the supervision of the labor pension fund has been elevated to the Ministry of Labor and the Bureau of Labor Funds (under the Ministry of Labor), which is responsible for operational management of the fund.



## Employee enrollment in Employment Insurance program guarantees workers' rights and helps entities avoid penalties

Business institutions which employ five or more employees are required to provide them with Labor Insurance. However, if institutions employ just one member of staff they are still required to enroll in Employment Insurance. This includes companies which employ four or less employees and other entities not covered by Labor Insurance, such as apartment building management committees, learning centers, clinics and civil associations. If these entities are unwilling to enroll their employees in Labor Insurance, they must still enroll them in Employment Insurance on the day they begin work.

The Bureau of Labor Insurance has further explained that any employed laborers of Taiwanese nationality, spouses of foreign nationalities, mainland Chinese spouses, and Hong Kong/Macao spouses who work legally in Taiwan (except for those covered by Civil Servant and Teacher Insurance, Military Personnel Insurance or those who have received Labor Insurance, Old-Age Benefits, or Civil Servant and Teacher Insurance Pension Benefits) and are between the ages of 15 and 65 are subjects for compulsory Employment Insurance.

Employers who do not obtain Employment Insurance for their employees must pay fines. If workers are unable to apply for Employment Insurance Benefits from the Bureau of Labor Insurance (e.g. Unemployment Benefits, Early Reemployment Allowance, Vocational Training Living Allowances, Parental Leave Allowances, National Health Insurance premiums, etc.) due to lack of Employment Insurance coverage, employers must also compensate workers for their losses. Therefore, the Bureau of Labor Insurance hereby urges institutions to comply with relevant regulations in order to protect employee rights.



## Members of the European Commission's Directorate-General for Employment, Social Affairs and Inclusion visit Taiwan to hold the Second Taiwan-EU Labor Consultation to deepen bilateral labor cooperation and exchanges

The Second Taiwan-EU Labor Consultation was held on May 8, 2019. It was attended by five members from the EU including Adriana Sukova, Deputy Director-General of the European Commission's Directorate-General for Employment, Social Affairs and Inclusion (DG EMPL), an economist from the Julius Maximilian University of Würzburg, Germany, and a senior official from the Flemish Service for Employment and Vocational Training (VDAB), Belgium.

The session was kicked off jointly by the Minister of Labor (MOL) Hsu Ming-Chun, the Deputy Minister of Foreign Affairs Kelly Wu-Chiao Hsieh, the EU Deputy Director-General of the DG EMPL Adriana Sukova, and the Head of the European Economic and Trade Office in Taiwan Madeleine Majorenko. In her speech Minister Hsu said that the EU is one of Taiwan's important international partners. Taiwan and EU enjoy a close trade and economic relationship; in addition to trade and the economy both value democracy, freedom and human rights.

Minister Hsu explained that Taiwan actively promotes the protection of labor rights based on the six major labor policy propositions announced by President Tsai Ing-Wen. Taiwan has implemented various policies by revising laws and regulations, preparing plans and adopting new administrative methods to promote labor protections. The world-leading working conditions of EU member states are important references for the MOL when researching relevant policies for reducing work hours and strengthening operating mechanisms for social partners.

Deputy Director-General of the DG EMPL Adriana Sukova thanked the MOL for the invitation and said that both the EU and Taiwan's labor markets are feeling the effects of an aging society and artificial intelligence. They shared their views on the relevant issues through consultation meetings to seek the most suitable solutions. Finally, she was happy to hear that the EU will host the third annual Taiwan-EU Labor Consultation Conference to maintain this consultation platform established by both sides to discuss labor issues.

In the meeting both sides exchanged ideas and discussed the topics of employment and social development in Taiwan and the EU, the impact of globalization and trade on workers and response measures. Issues of adult learning, vocational training systems, and international skills exchange were also discussed along with the goal of creating a three-way link between the EU, member states and Taiwan in order to facilitate exchanges between Taiwan and the EU.



## 2019 National Workplace Health and Safety Week kicked off Minister Hsu invites enterprises to create a new era in healthy workplaces

In order to call attention to workplace safety and health, the Ministry of Labor (MOL) held the National Workplace Health and Safety Week Opening Event on April 23 for the week to coincide with the World Day for Safety and Health at Work on April 28. The event brought together members of the workforce to promote a new and healthy work atmosphere in the hopes of creating a safe and healthy work environment for workers.

“A safe and healthy work environment is a basic labor right and a long-term goal and policy for the government” said Minister Hsu Ming-Chun. The MOL is especially promoting the three 'safe' policies, namely, safe employment, safe workplace and safe labor. The Ministry expects enterprises to shift from the traditional focus of providing a safe environment to building a workplace that is safe and healthy for workers. At the same time, the ministry is also calling on all agencies, state-owned enterprises, civilian-run enterprises, employers, trade unions and schools to promote workplace safety and health together.

The Occupational Safety and Health Administration (OSHA) said that in order to help workers face the risks and pressures of the work environment, the event would focus on promoting worker health protections, sharing and discussing issues regarding physical and mental health in a new era in order to strengthen entities' emphasis on, and implementation of measures to promote physical and mental health for workers. In addition, entities with excellent records of occupational injury prevention and outstanding occupational health service personnel were praised of the event. OSHA hopes they will continue improving services for their workers and thriving towards excellence. OSHA encouraged companies and workers to make use of the services of the Center for Prevention and Treatment of Occupational Injury and Disease (02-3366-8266), and the free on-site guidance and consultation offered by the Workers' Health Services Center (0800-068580).

OSHA has planned to host a variety of worker safety events, educational training, seminars, on-site guidance and health promotion activities. All companies are welcome to participate.



## Foreign students must have work permits for employment

If foreign students studying in Taiwan need to get a part-time job they must first apply to the Ministry of Labor for a work permit before they can be employed. Employers hiring foreign students also need to make sure they have obtained a work permit so as to avoid punishment for violating the Employment Service Act.

The Ministry of Labor (MOL) stated that if foreign students wish to work part time during their free time, they must apply for a work permit from the ministry according to relevant regulations before starting work. Applications must be submitted online via the EZ Work Permit website. The website provides users with a Check Application Status function so students can see immediately what stage their application is at. If foreign students start working before they receive a work permit, they can be fined anywhere from NT\$30,000 to NT\$150,000 according to regulations.

In order to prevent employers from hiring foreign students without work permits, the MOL is reminding employers to ask foreign students to present their original work permit before hiring them. Work permits are valid for up to six months. Expired work permits must be renewed with a new application. In addition, foreign students may only work a maximum of 20 hours per week, except during winter and summer break. Employers who employ foreign students without a valid work permit may be fined up to NT\$750,000. Caution is advised.

