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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.



「勞動基準法施行細則」於106年6月16日修正發布

Amendments to Enforcement Rules of Labor Standards Act Announced June 16, 2017

配合週休二日新制規定，勞動部於 106 年 6 月 16 日發布修正《勞動基準法》施行細則，針對母法修正條文作出原則性解釋及補充。本次修正重點如下：

1. 明定雇主提供工資各項目計算方式明細之內容及方式。
2. 明定特別休假給假期間、年度終結發給未休工資之時間點及未休工資之計算方式如下：
 - (1) 雇主應於勞工符合特別休假條件之日起30日內，告知勞工排定特別休假。
 - (2) 勞工依法取得之特別休假，得於勞雇雙方協商之週年制（以到職日起算）、曆年制、教育單位之學年度、事業單位之會計年度或勞雇雙方約定年度之期間行使。
 - (3) 於勞雇雙方所約定給假期間之年度終結期日或契約終止時，雇主應按勞工未休畢之特別休假日數，乘以其1日工資計發未休特別休假工資。
 - (4) 因年度終結而未休之工資，雇主應於原約定之工資給付日或年度終結後30日內發給；因契約終止而未休之工資，雇主應依《勞動基準法》施行細則第9條規定期限發給。
3. 凡雇主使勞工於法定正常工作時間外或休息日工作，均列屬延長工作時間。

關鍵字：特別休假、工資、工時

Key words: Annual Paid Leave, Wages, Working Hours

In compliance with newly stipulated regulations on the five-day work week, the Ministry of Labor issued amendments to the Enforcement Rules of the Labor Standards Act on June 16, 2017. The amendments provide explanations to the principles behind the enabling statutes and supply further clarification. The key points of the current amendments are as follows:

1. Stipulates that employers shall provide the contents and methods of wage calculation.
2. Stipulates the period of time for annual paid leave and the time at which wages for unused annual paid leave is issued at the termination of annual period; the methods for calculating wages for unused annual paid leave are as follows:
 - (1) Employers shall inform workers to arrange the annual paid leaves within 30 days of workers qualifying for said leave.
 - (2) Annual paid leave for workers can be calculated according to the annual year (starting from day the worker began employment), calendar year, academic year for those in education, or accounting year of the business unit as agreed upon by both employers and workers, or another year-long period agreed upon by both parties.
 - (3) At the termination of annual period agreed to by both parties or upon termination of contract, if any unused paid annual leave remains, the employer shall pay the worker their daily wages multiplied by the number of unused annual leave days.
 - (4) For wages paid for annual leave not taken before the termination of annual period, employers shall pay such wages within 30 days of the pay day originally agreed upon or of the termination of annual period; with regard to wages for annual paid leave not taken upon termination of contract, employers shall pay such wages in accordance with the payment period stipulated in Article 9 of the Enforcement Rules of the Labor Standards Act.

3. When an employer makes an employee work outside of statutory normal working hours or on rest days, the work is considered overtime work.

勞工未休之特別休假工資，如屬平均工資計算期間內所取得者，即應計入平均工資計算

Wage for Unused Annual Paid Leave Earned within Average Wage Calculation Period to be Included in Average Wage Calculation



依《勞動基準法》第38條規定，勞工於年度終結或契約終止而未休之特別休假日數，不論未休原因為何，雇主即應發給勞工特別休假未休日數之工資；如屬平均工資計算期間內所取得者，即應計入平均工資計算。

勞動部說明，《勞動基準法》第2條第4款規定略以：「平均工資：謂計算事由發生之當日前6個月內所得工資總額除以該期間之總日數所得之金額。」，其中「工資總額」是指事由發生當日前6個月內所取得工資請求權之工資總額。所以，判斷工資是否應列入平均工資計算，是以勞工所取得之工資請求權，是否在事由發生之當日前6個月內取得作為認定之標準。

勞工沒有排定之特別休假日數，「年度終結」時雇主發給之未休日數工資，因為是勞工全年度未休假而工作之報酬，計算平均工資時，究竟有多少工資屬於平均工資之計算期間內，法無明定，由勞雇雙方協議決定之。另外，勞工於「契約終止」時還沒有休完特別休假，雇主所發給之特別休假未休日數工資，因為是屬於終止契約後所得之工資，得不併入平均工資計算。

According to Article 38 of the Labor Standards Act, if a worker has unused annual paid leave because of the termination of annual period or termination of contract, regardless of the reasons for the untaken leave, employers must pay wages to workers in accordance with the number of leave days remaining; if such wages were earned within the average wage calculation period, they shall be included in average wage calculations.

The Ministry of Labor explains that Article 2, Paragraph 4 of the Labor Standards Act stipulates that the "average wage" refers to the total wages for the six months preceding the day on which an event requiring that a computation be made occurs divided by the total number of days in that period. Meanwhile, "total wages" mentioned herein refers to the total amount of wages accrued in the six months preceding the day on a computation request took place. Therefore, whether wages shall be included in average wage calculations is based on whether the worker has exerted the right to claim wages

Regarding the wages paid at the termination of annual period for the number of untaken annual paid leave days, because the wages are calculated for the whole year, the law does not definitely stipulate how much of these wages fall within the average wage calculation period. The calculation of average wages shall be jointly decided by employers and workers. In addition, when a worker still has unused annual paid leave because of the termination of contract, the wages the employer must pay for the unused leave is considered earned after contract termination and may therefore not be factored into average wage calculations.

關鍵字：特別休假工資、平均工資

Key words: Annual Paid Leave Wages, Average Wages

國際技能競賽國手培訓中心揭牌啓用，期盼培育更多頂尖選手

National Training Center for WorldSkills Competition Inaugurated in Hopes of Cultivating More Top Competitive Athletes



「國際技能競賽國手培訓中心」於106年6月9日在勞動力發展署雲嘉南分署正式揭牌，勞動部長林美珠特地南下參與揭牌活動，她期許國手培訓中心未來能作為選手的強力後盾，並透過更專業及多元化的培訓方式，強化選手技能與心理素質，藉此培育出更多優秀選手。

林美珠部長表示，勞動力發展署為提升國手參賽實力，從3年前就在雲嘉南分署積極籌設「國際技能競賽國手培訓中心」，如今國手培訓中心正式揭牌，將成為培訓技能國手統籌訓練事務的專責單位，未來可建構地區性培訓互聯網，將培訓資源做有效統合，為參賽國手規劃多元化的高密度訓練與課程，有效提升國手不同層面能力，兼顧技術提升與態度調整，要以最低成本達到最高培訓效益，為我國重點培育專業技術人才。

關鍵字：技能競賽、培訓中心、青年技能

Key Words: Skills Competition, Training Center, Youth Skills

The National Training Center for WorldSkills Competition was officially unveiled on June 9, 2017 at the Yunlin-Chiayi-Tainan Regional Branch of the Workforce Development Agency, Ministry of Labor. Labor Minister Lin Mei-chu participated in the inauguration ceremony and expressed great hopes that the training center will become a pillar of support for athletes by strengthening their skills and mindset through more professional and diversified training methods, thereby ultimately cultivating greater numbers of outstanding competitive athletes.

Minister Lin Mei-chu stated that, in order to enhance the competitive strength of Taiwan's national athletes, the Ministry of Labor's Workforce Development Agency has been actively planning the establishment of the National Training Center for WorldSkills Competition at its Yunlin-Chiayi-Tainan Regional Branch since three years ago. Now that the Center has been officially unveiled, it will serve as the central hub for training national athletes and coordinating related matters. In the future, the Center will also formulate a training network that spans across different regions in Taiwan to effectively integrate training resources for the planning of diversified, high density training and courses. This will effectively enhance the different capabilities of athletes and facilitate technical upgrading and attitude adjustment, thereby achieving the highest possible training benefits at the lowest of costs in the training of key professional talents for the nation.

營造友善健康職場，邀請企業參加員工協助方案教育訓練

Creating a Friendly and Healthy Workplace by Inviting Enterprises to Participate in Employee Assistance Program Courses



「員工協助方案」是促進職場勞工身心健康的措施，企業透過推動「員工協助方案」，可協助員工紓解在工作、生活或健康面的問題與壓力，幫助員工安心與有效率地工作，激發員工的創意與潛力，為企業帶來正向工作士氣與生產力。

勞動部為鼓勵企業促進勞工身心健康，針對職場健康、員工關懷及危機管理等主題，辦理「員工協助方案」教育訓練，強化企業規劃員工協助方案專業知能。

在職場健康系列課程，培養企業對員工身心警訊敏感度以及員工減壓技巧等知能；在員工關懷系列課程，針對有工作適應困難、家庭照顧等需求的員工，規劃個別化協助措施，以支持員工順利適應工作，營造友善健康職場。

9月的課程在臺北市及新竹市等地辦理，課程資訊請至工作生活平衡網 (<https://wlb.mol.gov.tw/>) 查詢。

The Employee Assistance Program promotes the physical and mental wellbeing of workers in the workplace. Through the promotion of these programs, enterprises can help workers alleviate the problems and stress they face at work, in life, or those that arise from adverse health conditions, thus enabling workers to feel confidently and work more efficiently, stimulating their creativity and potentials, and creating positive work morale and productivity in the workplace.

To encourage enterprises in the promotion of the physical and mental health of their workers, the Ministry of Labor offers courses of Employee Assistance Programs, the focuses of which include workplace health, employee care, crisis management, and other topics, thereby providing enterprises with the professional expertise in the planning of Employee Assistance Programs.

The series of courses on workplace health train enterprises to be sensitive to signals of weakening physical and mental health among workers and provides knowledge on how to help workers relieve stress. The series of courses on employee care focus on planning supportive measures for individuals with adjustment difficulties, family needs, or other difficulties to ensure workers adjust to their jobs with greater ease, thus creating a friendly and healthy workplace.

Courses are available in Taipei City and Hsinchu City in September. For more information, please visit the Work-Life Balance website (<https://wlb.mol.gov.tw/>).

關鍵字：員工協助方案、友善職場、教育訓練

Key Words: Employee Assistance Program, Friendly Workplace, Courses

夏季營造工地職災高峰期， 職安署呼籲雇主應加強施工安全

Summer is Peak Season for Occupational Injuries at Construction Sites, OSHA Calls on Employers to Strengthen Construction Safety



依據歷年統計，臺灣於每年夏季(6至8月)是營造業職業災害最易發生的季節，其中7月又較全年每月平均高約34%，災害類型以「墜落」最高，「感電」次之。勞動部職業安全衛生署呼籲，夏季室外作業多，氣候炎熱，人員容易疲累、流汗，若工地安全設施不完善，勞工易發生職業災害，為有效防止災害，應督促勞工確實依安全作業程序(SOP)進行作業，並落實施工安全衛生管理。

職安署進一步表示，營造業「墜落」職業災害案件多為開口、屋頂及施工架等高處作業未設置護欄、護蓋、安全網或使勞工確實使用安全帶、安全帽等防墜設備；至於「感電」職業災害案件，則以電動機具、臨時用電設備或輸配電線路未設置防漏電設施或未有防護等居多。此外，夏季高溫期間更應注意作業勞工之身體狀況，並給予必要休息與補充水分。

職安署呼籲從事中小型工程及建築新建工程的施工廠商，勿因「施工時間短暫」或「以前這樣做安全都沒問題」的想法而心存僥倖。為防止前述災害，職安署將於夏季職災高峰期加強營造工地安全衛生檢查及訪視輔導，督促事業單位落實施工安全。

關鍵字：營造工地、夏季高溫、施工安全

Key words: Construction Sites, High Summer Temperatures, Construction Safety

According to past statistics, summer (June to August) is the season during which occupational injuries in construction industry are most likely to occur in Taiwan. July, in particular, has a 34% higher occurrence rate compared to the annual monthly average, with accidental falls the highest in percentage among all injury types, followed by electric shocks. The Ministry of Labor's Occupational Safety and Health Administration (OSHA) is reminding employers that working outdoors during summer means working in hot weather conditions under which workers sweat more and are more easily fatigued. Inadequate safety at construction sites means workers are more prone to occupational injuries. In order to effectively prevent disasters from happening, employers shall urge workers to abide by safety operation procedures (SOP) and also implement thoroughly management practices for both construction safety and health.

OSHA further states that occupational fall injuries within the construction industry result primarily from lack of safety equipment, for example because guard rails, covers, or safety nets are not installed to protect workers from openings or on roof tops and scaffolds, or because workers fail to use fall protection equipment such as safety harnesses or hard hats and so on. As for occupational injuries resulting from electric shocks, most were the result of inadequate electricity leakage protection for electrical equipment, temporary electricity equipment, or transmission and distribution lines. Employers shall furthermore pay closer attention to the physical conditions of workers during high temperature summer months and ensure that workers are given enough rest and water.

OSHA calls on small and medium size construction vendors and new construction project contractors not to disregard safety just because the construction period appears to be short or to push their luck because safety-related incidents had not previously occurred. To prevent the occurrence of the aforementioned accidents, OSHA will increase the frequency and intensity of construction site health and safety inspections and strengthen inspection counseling during the peak summer months to ensure that business entities practice appropriate construction safety.

勞動部持續提升勞工法律扶助效能， 協助勞工爭取應有權益

Ministry of Labor Continues to Improve Effectiveness of Labor Legal Aid and Help Workers Fight for Rights



為發揮勞工法律扶助之功能，勞動部於去 (105) 年 10 月，進一步擴大勞工或工會幹部在裁決期間的律師代理酬金扶助，以保障集體勞動權益，並於今 (106) 年 1 月 1 日將訴訟扶助資訊整合系統正式上線，進一步統合國內各縣 (市) 政府勞工訴訟扶助情形，以有效發揮扶助資源。該部表示，自 98 年起著手推動「勞工法律扶助專案」，提供勞工律師代理酬金等扶助，並持續擴大相關扶助措施，以降低勞工透過訴訟救濟時之困難，截至 106 年 6 月底，共計准予扶助 19,834 件，協助勞工爭取應有權益總計超過 24 億元。

我國目前已有協助勞工訴訟的完整機制，也希望勞工朋友如遇有權益受損時，除透過調解、仲裁等方式處理外，若未能解決，不要輕言放棄，可以向縣 (市) 政府或本部申請訴訟協助，相信可以有效確保自身權益。

關鍵字：勞資爭議、勞工訴訟扶助

Key words: Labor Disputes, Labor Litigation Support

In order to fully exert the functions of labor legal aid, in October 2016 the Ministry of Labor further expanded remuneration support for legal representation fees incurred by labor or trade union officers during adjudication to protect collective labor rights. The Ministry officially launched the litigation support information integration system on January 1, 2017, which further integrates information on labor litigation support in each county (city) government for more effective use of resources. The Ministry states that it began promoting the Labor Legal Aid Project in 2009 by providing remuneration and other assistance to labor attorneys and has continued to expand relevant supportive measures to reduce the difficulties encountered by workers during the litigation process. As of June 30, 2017, the Ministry had provided assistance in 19,834 cases and helped workers obtain more than NT\$2.4 billion entitled to their rights.

Taiwan currently has a complete mechanism for assisting workers in the litigation process, and workers are encouraged to request mediation or arbitration when their rights and interest have been infringed upon. If a resolution cannot be reached via these means, do not give up hope. Apply to the county (city) government or Ministry of Labor for litigation assistance to ensure your interests.