



臺灣

勞工簡訊

Taiwan Labor E-Newsletter

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.

## In accordance to the Act for the Recruitment and Employment of Foreign Professionals, the Ministry of Labor has issued detailing laws and regulations concerning foreign professionals working in Taiwan.

In order to strengthen the recruitment of foreign professionals and improve Taiwan's competitiveness, the President announced the Act for the Recruitment and Employment of Foreign Professionals (below, the Foreign Professionals Act) on November 22, 2017. The act was approved by the Executive Yuan to go into effect on February 8, 2018. In accordance to the Foreign Professionals Act, the work permits issued to foreign special professionals by the Ministry of Labor (MOL) will now have a maximum validity of five years, foreign artist will be granted personal work permits, and adult children of foreign professionals who have obtained permanent resident permits may apply and submit forms for work permits in Taiwan.

In accordance to the Foreign Professionals Act, foreign professionals whom employers wish to employ must meet the qualifications specified by the central competent authority in one of eight areas of endeavor: technology, economy, education, arts and culture, sports, finance, law, or architecture. The employer must apply to the MOL for an employment permit. Once approved, the permit is valid for a maximum of five years and is not subject to Article 52 of the Employment Service Act, which stipulates a maximum validity of three years.

The MOL held consultations with the Ministry of Culture to formulate the Regulations on the Work Permit and Administration of the Foreign Professionals Engaging in Arts and Performing Arts, as well as regulations for relevant documents and applications. The management measures and regulations simultaneously went into effect on February 8, 2018. Foreign professionals who engage in the performing and visual arts, publishing, movies, radio and television, popular music, and arts and crafts in Taiwan and who meet the specified qualifications may apply for a personal work permit directly from the MOL, without having to go through their employer.

The MOL has now stipulated the Application Case and Reviewing Operation Directions for MOL processing under Article 17 of the Act for the Recruitment and Employment of Foreign Professionals. These Directions also went into effect on February 8, 2018. According to these Directions, current or previously employed foreign professionals who have been granted permanent resident status, their adult children (who meet certain residency requirements set down by the National Immigration Agency) may apply for personal work permits directly from the MOL without having to go through their employers. The approved work permits have no restrictions or dates of expiration.





New amendments to the *Labor Standards Act* went into effect on March 1. The Ministry of Labor emphasized there will be no gaps between implementation and enforcement, promising to step up labor inspections.

Amendments to certain articles of the *Labor Standards Act* were announced by the President on January 31 and went into effect on March 1, 2018. The Ministry of Labor (MOL) stressed that there will be no window period between implementation and enforcement. All affected institutions must abide by the new regulations and violations will not be tolerated. The MOL will step up labor inspections to strengthen enforcement.

These revisions uphold the principles of security and flexibility, insisting on "four immovable" labor rights for workers: no changes to normal working hours; no changes to the five-day workweek; no changes in the total amount of overtime hours; and no changes in overtime pay rates. In consideration of actual workplace needs, the amendments have also added "four flexibilities". That there should in principle be at least consecutive 11 hours between a worker's shifts was formally initiated.

The MOL further explained that in line with the amendments, announced detailed amendments to the Enforcement Rules of provisions in the *Labor Standards Act*. These amendments include changes to the scope of application of provisions within Paragraph 2, Article 34, and to the industries detailed within Paragraph 4, Article 36. The amendments to the *Labor Standards Act* also took effect on March 1. The legal interpretation on scheduling regular leave, that is, MOL Interpretation No. 1050132134 published by the MOL on September 10, 2016, was abolished at the same time.

The MOL emphasized that exceptions to the amount of time scheduled between shifts and to regular leave (once every seven days) should not be implemented immediately upon announcement; individual institutions should undertake procedures agreed upon by trade unions or labor-management conferences (works council) before applying exceptions to the amount of time scheduled between shifts and to regular weekly leave (once every seven days). For those organizations wishing to apply exceptions to the amount of time scheduled between shifts and to regular weekly leave (once every seven days) but who have not notified the MOL, based on the stated purpose of the exemptions, the competent authorities will continue to communicate with both employers and employees to assess whether exemptions are truly necessary in order to implement inter-ministry cooperation mechanisms.



## Employees raising twins/children from multiple births and whose spouses are not engaged in any gainful employment can apply for parental leave without pay for raising children under the *Act of Gender Equality in Employment*



In order to ensure employees' attendance to both work and parenting, the Ministry of Labor issued a circular on February 12 explaining that employees who are raising twins or children from multiple births and whose spouses are not engaged in any gainful employment can apply for parental leave without pay for raising children under the *Act of Gender Equality in Employment*. Under these circumstances, the employee qualifies for the "justifiable reasons" in Article 22 of the act, and the employer should allow the employee to apply for parental leave without pay.

The Ministry of Labor stated that Article 22 of the *Act of Gender Equality in Employment* specifies: "If the spouses of employees are not engaged in any gainful employment, the stipulations of Articles 16 to 20 of the Act shall not apply, provided that, the employees have justifiable reasons." The article assumes that if spouses of employees are not engaged in any gainful employment, they are available to take care of family members and that the employee should not need to apply for leave. Therefore, employees should apply for leave only if their spouse is also employed. However, the article specifies the provision that if employees have justifiable reasons, the employer must still allow them to apply for leave.

The Ministry of Labor explained that in practice, if an employee needed to take care of twins or children from a multiple birth and their spouse wasn't engaged in gainful employment, it would still be difficult for the employee to apply for parental leave without pay for raising children under Article 16 of the *Act of Gender Equality in Employment*. In consideration of the fact that it is difficult for a single parent to take care of twins or children from a multiple birth, the Ministry issued a circular clarifying: Any employee who applies for parental leave without pay because they have to personally take care of twins or children from a multiple birth, even if their spouse is not engaged in any gainful employment, meets the requirement for "justifiable reasons" stipulated in Article 22 of the act; the employer must authorize parental leave without pay for raising children for said employee.



## 2018 Equal Pay Day in Taiwan is February 21

In order to raise public awareness for equal pay, the Ministry of Labor has once again announced Equal Pay Day for this year. Since average salaries for different genders depend on a number of factors such as nature of the job, seniority, academic experience, and job performance, the Ministry is calling on all sectors to work together in narrowing the gender pay gap.

Taiwan's Equal Pay Day is based on the Employee Salary Survey conducted by the Directorate General of Budget, Accounting and Statistics of the Executive Yuan and reflects the number of days women must additionally work in the current year to earn the same amount as men did the previous year. In 2017, women earned an average hourly salary of NT\$271, 86.0% of men's hourly rate of NT\$315. The gender pay gap was 14.0%. In other words, women need to work 52 more days (gender pay gap of  $14.0\% \times 365 \text{ days} \approx 52 \text{ days}$ ) than men to receive the same total annual salary. Using this formula, it was determined that Equal Pay Day fell on February 21 for 2018, the same day as for the previous year.

In the last decade, the gender pay gap for average hourly salaries fell from 18.2% in 2007 to 14.0% in 2017. The extra number of days women have to work has reduced from 69 days to 52 days. The average gender pay gap decreased 4.2 percentage points or 15 working days.



## Warm exchanges on workplace hazards exposure, physical and mental health management issues at the 2018 International Seminar on Occupational Health: Round Table

The Occupational Safety and Health Administration (OSHA) of the Ministry of Labor held the 2018 International Seminar on Occupational Health: Round Table at National Taiwan University's College of Public Health on March 7. Scholars and experts from the United States, Japan, South Korea and Singapore were invited, as well as occupational health professionals from Taiwan's industry, government, and academia and research fields. The seminar focused on enhancing the effectiveness and risk management of hazard exposure assessments and workplace physical and mental health management, by exchanging information on international trends and practical experiences.

During the seminar, industrial health consultant at the Japan Industrial Safety and Health Association (JISHA), Dr. Kenichi Yamada shared his experiences in performing exposure assessments and risk assessments for the past three years. Doo Yong Park, president of the Korea Occupational Safety and Health Agency (KOSHA), proposed a sampling strategy and goals for hazard exposure assessment that use a conceptual matrix model to reduce risk factors and exposure times. In addition, in order to prevent workplace violence, Park emphasized that positive action should be introduced into organizations in order to change the overall corporate culture. Professor Thomas H. Gassert from the United States stressed the importance of analyzing monitoring data for work environments, and described how to use the Integrated Health Index (IHS). Li Yee Chow, president of Singapore's Occupational and Environmental Health Society (OEHS), focused on long working hours and suggested introducing Total Workplace Safety and Health (TWSH) strategies to prevent overwork.

OSHA notes that the round table discussed topics such as hazard exposure assessment and the promotion of workplace health, all important topics that are currently the focus of occupational health governance. The administration hopes that, through this rare opportunity, exchanges of practical experience between attendees from Taiwan and abroad will improve the professional standards of occupational health in Taiwan; safeguard the physical and mental health and safety of workers; and serve as a reference for the planning and promotion of related policies in the future. It is hoped that joint efforts from industry, government, academia and research fields will make progress toward improving risk exposure management and physical and health mental at the workplace, and that all fields will work together to create a safety, healthy and comfortable workplace environment.





## Annual revenue for the Labor Fund in 2017 totaled NT\$255.2 billion with yield of 7.59%

In 2017 the global economy benefited from Quantitative easing money market and increasingly prosperous manufacturing and trading. Corporate profits continued to improve with major stock and bond markets showing dazzling returns. The Labor Fund was able to seize these investment opportunities, and netted a total annual investment income of more than NT\$255.2 billion and a yield rate of 7.59%.

At the end of December, 2017, the overall asset under management of the Labor Fund was NT\$3.6288 trillion, of which the Labor Pension Fund (the new labor pension system ) accounted for NT\$1.8984 trillion; the Labor Retirement Fund (the old labor pension system ) NT\$868.7 billion; the Labor Insurance Fund, NT\$723.1 billion; the Employment Insurance Fund, NT\$116.1 billion; the Occupation Incidents Protection Fund, NT\$10.1 billion; and the Arrear Wage Payment Fund, NT\$12.4 billion. Faced with changing political and economic global financial markets, the Bureau of Labor Funds of the Ministry of Labor actively adopted a strategy of dispersion for asset allocation, with diversified investments in domestic and foreign deposits, bonds, equity securities and alternative assets, according to the nature of each fund. The Bureau also improved risk control mechanisms and strengthened index strategies. The Labor Funds saw a steady return of NT\$255.28 billion or 7.59% in 2017. The rates of return for the Labor Pension Fund, Labor Retirement Fund, Labor Insurance Fund, Employment Insurance Fund, Occupational Incidents Protection Fund and Arrear Wage Payment Fund were 7.93%, 7.74%, 7.87%, 0.70%, 0.93%, and 2.28%, respectively.

Looking ahead, the Bureau of Labor Funds of the Ministry of Labor expects that global interest rates are still relatively low and inflation rates are modest. The US economy has shown steady growth and the expansion of the Euro zone and China's economy are both expected to remain stable. Although the monetary policies of major central banks continue to tighten moderately, relative momentum still exists and will be favorable for global economic performance. However, the Bureau will continue to focus on the economic growth and endurance of various countries, as well as their political and economic trends, closely monitoring the global financial situation in order to ensure stable, long-term income for the labor funds, and to safeguard the economic safety and retirement of workers.

