

Taiwan  
Labor E-Newsletter

勞動者  
之  
簡訊



No.49  
中華民國109年2月  
February 2020

ISSN 2306-7454

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.

## President announces the Middle-Aged and Elderly Employment Promotion Act on December 4, 2019, marking a new milestone for workforce development

The president announced the Middle-Aged and Elderly Employment Promotion Act (the Act) on December 4, 2019. The date of implementation will be determined by the Executive Yuan. The Ministry of Labor (MOL) stated that this legislation expressly prohibits discrimination against middle-aged and senior persons based on age and protects the labor rights of these groups. The legislation also helps promote employment and establishes a friendly work environment with various measures for middle-aged and senior workers.

Considering that many middle-aged and senior workers face issues such as age discrimination and stereotypes during employment, the Act has a special provision prohibiting employers from discriminating against middle-aged and senior workers who are seeking employment or who are already employed based on age. In addition, in order to encourage middle-aged and senior workers to stay employed, the ministry will in the future provide enhanced measures, such as redesigning jobs and providing vocational training and entrepreneurship guidance to help employed, unemployed and retired middle-aged and senior workers pass on their wisdom and experience, and promote communication and cooperation between generations. Also, in consideration of the needs of senior workers, the legislation relaxes requirements for employers to hire workers 65 years of age and older on regular contracts. This increases flexibility for the employer and the employed. Subsidies will also be used to increase incentives for employers. In the future, the ministry will integrate resources from central and local governments to jointly promote services for older workers, and it will establish “Senior Workforce Development Service Centers” or bases to advocate for the employment of middle-aged and senior workers and delayed retirement. They will also develop short-term, temporary, and part-time work opportunities and establish a database of retired talents to promote the rehiring of retired workers.

The MOL stated that the president's announcement of the Act is a historic moment for Taiwan. The purpose of formulating this law is to establish a friendly employment environment in which middle-aged and senior workers can take advantage of their strengths. The government also calls on companies to appreciate and make good use of the valuable experience and knowledge middle-aged and senior workers have to offer, and it hopes that, through the formulation of this law, enterprises will promote mutually beneficial partnerships with middle-aged and senior workers to strengthen cross-generational cooperation in the workplace and enhance national competitiveness.



## Ministry of Labor formulates Guiding Principles for the Identification of Labor Contracts to help enterprises better understand labor contracts and avoid encroaching on workers' rights

The Ministry of Labor (MOL) formulated the Guiding Principles for the Identification of Labor Contracts (the Principles) on November 19, 2019. The main criteria for judging the type of labor contract are specified under the three main divisions of personal subordination, economic subordination, and organizational subordination. Of which, (I) personal subordination is defined using eight factors: that a worker's "work hours", "method of payment for services" and "location of labor" are subjected to the command or control of the business entity they are employed by, and that a worker "cannot refuse a job assigned by the employer", "must consent to the business entity's review", "must accept certain disciplines and punishments", "must provide labor services themselves" and "cannot provide labor services in their own name". (II) Economic subordination is judged using five criteria: that "workers are paid compensation regardless of the results of their work", "workers are not required to bear business risk", "workers do not have to provide labor equipment themselves", "workers can only be remunerated according to the standards established or modified unilaterally by the institution" and "workers can only provide services through the business entity institution and must not transact privately with a third party". (III) Organizational subordination is judged as whether a worker must complete their work through division of labor with others. These guiding principles also include references for labor insurance, withholding from salaries, and the nature of labor contracts for the same labor services.

To facilitate the determination of the subordinate attributes of labor contracts, the ministry also formulated the Labor Contract Subordinate Attribute Identification Checklist in accordance with the criteria under each division from the guiding principles. The checklist comprises of 25 items; If any of the items match, it means the contract has characteristics of that particular subordination. More items checked means that it can be inferred that the contract approaches a labor contract, though a comprehensive analysis must be performed based on the actual content of the contract and how much constraint the business entity places on the employee providing labor services.

The MOL emphasizes that although labor and business entity have the freedom to agree upon the type of labor contract, the courts and administrative agencies are never bound by the form or the name of the contract. It will still be necessary to determine whether the contract is a labor contract based on its content and its level of subordination.



Key Words: Labor Contract,  
Guiding Principles for the Identification of Labor Contracts,  
Labor Contract Subordinate Attribute Identification Checklist

## Employer shall settle wages in accordance with the law for all annual paid leave not taken by the end of the year

A worker who has worked continually for the same employer for a certain period of time shall be granted paid leave on an annual basis by their employer according to Article 38 of the Labor Standards Act. The worker and employer may negotiate and determine whether to use the annual anniversary from the day the worker was employed, the calendar year (January 1 to December 31), or another otherwise agreed upon period to determine annual paid leave.

If a worker has unused annual paid leave at the end of the work year, the employer must pay wages due to the employee in accordance with the number of days of leave remaining. If both the worker and employer agree, this may be postponed to the following year. However if the employee still has unused annual paid leave at the end of next the work year or the termination of contract, the employer shall pay wages based on the amount of wages payable at the original end of the work year.

Annual paid leave exists to give workers time off from work. Therefore, annual paid leave should be scheduled by workers themselves. Employers may not restrict the days workers may take their annual paid leave or compulsorily defer paid leave. If an employer violates the relevant regulations, workers may appeal to their local labor administrative authority (the labor bureau of their county or department of social welfare of their municipal government) to protect their rights and interests.



# ILOSH hosts 2019 Asia-Pacific Youth Labor Forum where young talents gather to inspire labor innovation

Starting December 6, 2019, the Institute of Labor, Occupational Safety and Health (ILOSH) of Ministry of Labor (MOL) hosted the three-day 2019 Asia-Pacific Youth Labor Forum at the International Conference Hall at the Mellow Fields Hotel in Taipei. On the first day of the forum, Labor Minister Hsu Ming-Chun attended the opening ceremony and gave a speech welcoming the 70 outstanding young people from Taiwan and other countries throughout the Asia Pacific region.

Minister Hsu stated at the opening ceremony that no one is exempt from the impact of the development of new technologies that youth today are facing and that she hopes they can all find a solution through discussions at the forum. In addition, Minister Hsu also encouraged the young talent present to have “absolute focus and absolute confidence”, assuring them that they will achieve results if they do everything with focus and forge ahead without distraction.

The theme of the forum was “Social innovation in the workplace lays the groundwork for the younger generation”. The agenda for the forum revolved around labor issues. The forum invited 14 well-known scholars, experts, and practitioners from Taiwan and abroad to participate in in-depth discussions with the youth representatives so participants could better understand the occupations and requirements of the future workplace and the possible changes in the trends in the future labor market. Topics included international labor force trends, innovative youth thinking, collaborative place, career development, AI applications and women in the workforce. In addition, a World café for the youth representatives was organized to encourage the international young participants to engage in discussions on specific issues and propose their own innovative initiatives.

The MOL has continued to focus on providing support for youth employment, planning policies to promote employment and improve labor welfare, and actively promoting the 3S labor policies of “stable work”, “safe workplace” and “safe labor” in recent years. With regard for “stable work”, the ministry hopes young people will be able to enter the labor market pro-actively and stably through self-improvement and existing resources provided by the ministry to demonstrate their sense of abilities and improve their self worth.



## Starting January 2020, the Bureau of Labor Insurance's e-Service System gives applicants the option of enrolling or withdrawing from labor employment insurance online in advance, making the application process more convenient

Starting January 2020, the Bureau of Labor Insurance's e-Service System gives applicants (including occupational unions and fishermen's associations) the option of enrolling or withdrawing from labor employment insurance up online to 10 days before a worker is scheduled to join the enterprise or the association, start training courses, or separate from the enterprise, withdraw from the association, or end the training. The insurance becomes effective on the specified date and makes the application process more flexible and convenient.

The Bureau of Labor Insurance (BLI) explained that insured units have expressed their wish for a more convenient application method. In many cases an employee's date of employment was determined beforehand but their insurance application could not be completed on that day, which negatively impacted their rights and interests. In response to this, the BLI completed the applicants of the BLI online pre-application/cancellation function by the end of 2019 and set out the "Operating Directions Governing the Pilot Project for Insured Units to Administer Online Labor (Employment) Insurance Enrollment and Withdrawal in Advance".

The BLI reminds the public that if an employee comes on the job or leaves their job earlier or later than their original scheduled start/end application date, corrections or deletions can be made online before the start/end date of the application. The date cannot be changed online after the original start/end date has passed, and a written request must be sent with accompanying documentation to the BLI for review and processing.



# 2020 Global Economic Outlook and Investment Strategies

In 2019, the financial market fluctuated greatly because of multiple factors, such as the continuing trade conflicts between the US and China, turmoil surrounding Brexit, and various geopolitical tensions. However, as major central banks of such as those in the European countries and the US adopted accommodative monetary policies, the central banks of emerging countries also started to cut interest rates, causing the capital market to rebound. The prices of various financial assets, including stocks, bonds, real estate and infrastructure, have all risen.

Major international economic forecasting agencies, including the Organization for Economic Cooperation and Development (OECD) and the International Monetary Fund (IMF), have pointed out that global economic growth in 2019 may be the weakest since the financial crisis. However, they also believe that although growth continues to be weak, the loosening of monetary policies by major central banks around the world and the introduction of various fiscal stimulus policies by some countries in response to the economic slowdown will result in flattened growth in 2020, with a global growth rate of about 2.9% to 3.4%. This means that the world is not falling into recession just yet. Nevertheless, uncertainties such as trade disputes, the US presidential election, the Brexit deadlock, and geopolitical conflicts in the Middle East remain, and financial markets are therefore likely to continue to be volatile.

In the face of these many risks in the financial environment, the Ministry of Labor's Bureau of Labor Funds will continue to diversify its global investments. In addition to domestic investments, the bureau will continue to comprehensively evaluate industry development trends and investment values to achieve a balanced outlay in order to take advantage of both short-term and long-term investment opportunities. For foreign investments, the bureau uses various strategic indexes to construct a diversified investment portfolio and will moderately increase alternative investments with low correlation to traditional stocks and debts. In addition, the bureau will continue to use utilize relative and absolute returns for entrusted operations in the hopes of effectively diversifying investment risk and increasing the fund's investment return by incorporating different management operation styles.

