

**勞動部「保障外籍勞工權益相關維護措施」說帖**  
**Descriptions for “Measures for Protecting Rights of  
Foreign Workers” by Ministry of Labor**

我國為了因應國內經濟發展需要，於1989年開放引進外籍勞工。對於外籍勞工勞動權益均等同國民待之，不因國籍不同而有所歧視，或降低勞動條件。析言之，基於外籍勞工「基本權益的公平正義」、「工作權益的國民待遇」及「生活權益的一視同仁」原則下，訂有各項保護措施，以維護其權益。

Foreign worker importation was approved in 1989 in response to the needs of domestic economic development. Foreign workers should enjoy the same labor rights as ROC nationals; they should not be discriminated against because of their nationality or suffer worse working conditions. Based on the principles of “Fairness and Justice in Basic Rights”, “National Treatment in Worker Rights” and “Equal Living Rights for All” for foreign workers, the Ministry of Labor has stipulated various measures to protect the rights of foreign workers.

**一、外籍勞工基本權益之保障**

**Guarantee the Basic Rights of Foreign Workers**

**(一) 加強仲介公司管理**

**Better Management of Labor Brokers**

1. 為督促國內、外仲介公司善盡招募選任及關懷服務義務，本部訂有「私立就業服務機構許可及管理辦法」，建立定期查核及淘汰機制；並訂定「私立就業服務機構收費項目及金額標準」，規範國內仲介公司不得向外籍勞工收取仲介費，僅得每月收取服務費，且第1年每月不得超過新臺幣（以下同）1,800元、第2年每月不得超過1,700元、第3年起每月不得超過1,500元。並規定仲介公司不得預先收取服務費，避免造成外籍勞工負擔。

To encourage domestic/foreign labor brokers to properly recruit workers and provide caring service, the ministry has stipulated

“Regulations for Permission and Supervision of Private Employment Services Institutions” to establish a mechanism to regularly inspect labor brokers and weed out bad ones; furthermore, “Standards for Fee-charging Items and Amounts of Private Employment Services Institutions” forbids domestic labor brokers to demand the agent’s fees from foreign workers. Instead, they can only charge service fees for foreign workers, and no more than (thereinafter the same) NTD1800 per month in the 1<sup>st</sup> year; no more than NTD1700 per month in the 2<sup>nd</sup> year; NTD1500 per month in the 3<sup>rd</sup> year. So as not to place financial burdens on foreign workers, labor brokers are prohibited from charging service fees in advance.

2. 為提升仲介公司服務品質及增加雇主選任仲介公司資訊，本部已於2004年全面辦理仲介公司之評鑑，並將評鑑結果分為A、B、C等3級，提供雇主選擇仲介公司參考，持續促進人力仲介業者良性競爭及提昇服務品質。2016年辦理2015年度私立就業服務機構從事跨國人力仲介服務品質評鑑，共辦理1,255家仲介機構評鑑，評鑑成績A級者（90分以上）共有347家佔27.65%，B級者（89分至70分）共826家佔65.82%，C級者（70分以下）共82家佔6.53%，限制評鑑為C級之82家仲介公司不得設立分支機構並應確實改善，如次年評鑑未達B級，即不予許可重新設立，促使劣質仲介公司退出仲介市場，以落實評鑑結果之運用，導正人力仲介市場之發展。

To improve the service quality of labor brokers and provide more information to employers when choosing one, the Ministry of Labor conducted a full evaluation of all labor brokers in 2004 and all evaluated brokers were given evaluation grades of A, B, and C, providing reference for employers when choosing one while

continuing to promote benign competition among brokers and improve their service quality. In 2016, the ministry conducted the 2015 Service Quality Evaluation for Private Employment Agencies for International Labor Importation. A total of 1,255 labor brokers were evaluated and the results are as follows: 347 brokers (27.65%) evaluated as Grade A (more than 90 points), 826 brokers (65.28%) evaluated as Grade B (89-70 points) and 82 brokers (6.53%) evaluated as Grade C (below 70 points). Grade C brokers are not allowed to establish branches and need to improve their service quality immediately. Those who fail to reach Grade B after re-evaluation won't be granted permits, forcing bad brokers to drop out of the market, making good use of the evaluation results as well as helping labor brokers develop correctly.

3. 本部於 2007 年 12 月 31 日成立「直接聘僱聯合服務中心」，協助雇主自行招募原聘僱之外籍勞工，無需透過仲介公司，減少支付國內、外仲介公司辦理費用支出，降低外籍勞工負擔高額仲介費用，也縮短外籍勞工再入臺時程及流程。2016 年計服務 2 萬 5,971 名雇主以直接聘僱方式引進外籍勞工，為雇主及外籍勞工合計節省費用總計新臺幣(下同)11 億 3,782 萬元。

The ministry established the "Direct Hiring Service Center" to assist employers in rehiring their previous foreign laborers without a broker's service, decreasing the fees paid to domestic/foreign labor brokers, lowering broker's fee paid by foreign laborers while shortening the time and simplifying the process for foreign laborers to re-enter Taiwan on December 31<sup>st</sup>, 2007. The service center helped 25,971 employers import foreign workers through direct hiring and saved a total of (thereinafter the same) NTD 1,137,820,000 for both employers and foreign laborers in 2016.



4. 為獎勵民眾檢舉違反「就業服務法」之雇主及私立就業服務機構或個人，本部已於 2015 年 9 月 11 日訂定「民眾檢舉違反就業服務法相關規定獎勵金支給要點」，針對查獲非法仲介行蹤不明外籍勞工者，依媒介人數多寡核給 2 萬元至 7 萬元之獎勵金。

To encourage the public to report employers and private employment service agencies or individuals who violate regulations under “Employment Service Act”, the ministry stipulated “Guidelines for Issuing Reward for Whistleblowing against Violation of the Employment Services Act” on September 11, 2015. It offers NTD20,000–70,000 in remuneration based on numbers of foreign nationals of unknown whereabouts illegally referred by the accused individuals or employment service agencies.

## (二) 遏止雇主無故遣返外籍勞工

### **Deter Employers from Sending Back Foreign Laborers for No Reason**

1. 為解決雇主無正當理由任意遣返外籍勞工問題，本部於「雇主聘僱外國人許可及管理辦法」規定，雇主若於原聘僱外籍勞工聘僱期屆滿提前解約，應前往當地直轄市或縣（市）政府辦理合意終止聘僱關係之驗證程序，以探求雙方解約真意。

To solve the problem of employers sending back foreign laborers without proper cause, the “Regulations on the Permission and Administration of the Employment of Foreign Workers” requires an employer terminating the hiring contract of a foreign worker prior to expiry of the contract to go through the verification procedure of agreement of employment termination between an employer and a blue-collar worker to determine both parties’ intentions for terminating the contract at the relevant authorities of Municipality or County

(City)

2. 為使來臺工作之外籍勞工瞭解相關聘僱法令，在臺工作相關資訊及協助外籍勞工離境前，解決在臺各項爭議或糾紛等問題，本部於 2006 年 1 月 16 日在桃園國際機場設置外籍勞工機場服務站及 2008 年 1 月 1 日於高雄國際機場增設高雄外籍勞工機場服務站，提供入境外籍勞工接機指引通關服務，加強對入境外籍勞工法令宣導並設置外籍勞工服務臺及外語申訴專線，受理外籍勞工申訴案件，以建立完整外籍勞工服務網絡，維護外籍勞工權益，另本部於 2012 年 5 月 1 日起，於機場服務站實施外籍勞工法令宣導講習，透過入境講習，可使外籍勞工迅速瞭解我國法令、民俗風情及自身權益等，協助其適應在臺生活。

To help foreign labors understand the relevant employment regulations and necessary information for working in Taiwan as well as resolving any labor disputes before they leave Taiwan. The ministry established the Foreign Worker Service Center at Taoyuan International Airport on January 16<sup>th</sup>, 2006 and another one at Kaohsiung International Airport on January 1<sup>st</sup>, 2008. It offers foreign workers assistance in immigration clearance, and provides them with relevant information on labor regulations while establishing help counters and consultation and grievance hotline available in foreign languages to handle complaints from foreign workers, completing the service network for foreign workers and protecting their legal employment rights. Meanwhile, starting May 1<sup>st</sup>, 2012, the ministry held activities to promote the foreign worker labor act at the service centers at the airports to help foreign workers understand R.O.C. laws, our customs and their legal rights so that they may adapt to living in Taiwan more quickly.

### (三) 禁止各種形式的強迫及歧視

#### **Prohibit All Kinds of Coercion and Discrimination**

1. 針對部分團體質疑相關法規規定外籍勞工禁婚、禁孕之歧視部分，本部已於 2001 年 11 月 7 日修正相關規定取消外籍勞工於受聘僱期間不得結婚之規定，並自 2002 年 11 月 9 日起取消入國後每滿 6 個月健康檢查之「妊娠檢查」項目。目前則依 2004 年 1 月 13 日發布之「受聘僱外國人健康檢查管理辦法」規定，外籍勞工入國後滿 6 個月、18 個月及 30 個月之健康檢查，免辦「妊娠檢查」項目。如此，外籍勞工不致因「妊娠檢查」項目不合格而被遣返。

As for regulations about banning foreign workers from getting married or pregnant regarded by certain organizations as discrimination, the ministry modified the regulation that bans foreign workers from getting married during the time employed in Taiwan on November 7<sup>th</sup>, 2001. And from November 9<sup>th</sup>, 2002, the “pregnancy test” was deleted from the health examination which all female foreign workers are required to take every 6 months after they arrive in Taiwan. Currently, according to “Regulations Governing Management of the Health Examination of Employed Aliens” promulgated on January 13<sup>th</sup>, 2004, “pregnancy test” is deleted from the health examination that every female foreign worker is required to take every 6, 18 and 30 months after they enter Taiwan so that foreign workers won't be sent back home because they fail the test.

2. 對於懷孕外籍勞工之工作權益維護，亦受「性別工作平等法」保障。另外籍勞工如受僱於適用勞動基準法之行業，亦有該法母性保護相關規定之適用。

The employment rights of pregnant foreign workers are also protected by “Act of Gender Equality in Employment”. In addition, female



foreign workers covered under the Labor Standards Act are protected by its regulations regarding maternity.

3. 另為保障人權、符合國際趨勢及落實疾病平權，衛生福利部於 104 年 2 月 6 日公告新修正聘僱外國人健康檢查辦法，外勞入國前及入國後的健康檢查項目，皆刪除愛滋病檢驗項目，不會再要求檢驗或遣返感染者回國。但勞工有感染疑慮，仍可自費檢驗，至於檢查結果，依法醫療機構只能將告知當事人，不得通知雇主；若是檢出，勞工可自付醫療費用在臺治療。

To protect human rights, and keep up with international trends toward equal rights, the Ministry of Health and Welfare announced amendments regarding health examinations for hiring foreign workers on February 6<sup>th</sup>, 2015: AIDS screen test for foreign workers to take before/after entering Taiwan is deleted. Foreign workers are not required to take such test, nor will those infected be sent back home. However, if foreign workers have doubts about being infected, they can still pay to take the examination. The medical clinic is required by law to inform only the examined person of the test results and not his/her employer; if tested positive, the infected worker may seek and pay for medical treatment in Taiwan.

#### **(四) 人身安全之保障**

##### **Guarantee Personal Safety**

1. 本部業已整合現行各單位資源，建立外籍勞工遭受人身侵害（包含：性侵害、性騷擾及人身傷害）案件之通報機制及分工處理原則，提供遭受人身侵害外籍勞工驗傷、報案、偵訊、出庭時之翻譯、緊急安置、法律扶助、安排外籍勞工轉換雇主或返國、廢止雇主聘僱許可、協調勞資爭議等各項服務措施。

The ministry has integrated various resources from various units to

establish a report mechanism and work division to handle cases of foreign workers being physically assaulted (including sexual abuse, sexual harassment and bodily injury), and provide this kind of translation service for assaulted workers when receiving medical examination, reporting the case, being interrogated, appearing in court, providing emergency placement and legal aid, arranging for foreign workers to change employers or return home, revoking employers' hiring permits and settling labor disputes.

2. 為提高外籍勞工自我保護、防範性侵害案件發生、提供申訴求助管道及相關權益保障之說明，本部每年編印並發送中、外語（泰國、印尼、菲律賓及越南）「外籍勞工在臺工作須知」等宣傳製品，另寄送至各國際機場外勞關懷服務站、非政府組織、各直轄市及縣（市）政府暨警察局、移民署、廣播電臺、外籍勞工來源國駐臺機構等機關單位，以利外籍勞工瞭解諮詢申訴管道及自身權益。

To help foreign workers better protect themselves, prevent sexual abuse from happening, provide channels for help as well as helping them understand their legal rights, the ministry prints and gives away free "The Handbook For Foreign Workers in Taiwan" in Chinese, and foreign languages (Thai, Indonesian, Pilipino and Vietnamese ) every year. These handbooks are also available at foreign worker airport service centers, non-government organizations, police stations in cities and counties, National Immigration Agency, radio stations, and representative offices of nations sending foreign workers so that foreign workers know where and how they may report their cases and ask for help as well as understanding their legal rights.

3. 為使落實保護外籍勞工人身安全之措施有法源依據，業於 2010 年 12 月 30 日修正「雇主聘僱外國人許可及管理辦法」規定：雇主、



被看護者或其他共同生活之親屬，及雇主之代表人、負責人或代表雇主處理有關勞工事務之人，對於受聘僱之外籍勞工有刑法規定之妨害性自主情事者，即不得申請聘僱外籍勞工。

To make sure measures protecting the personal safety of foreign workers are based on a sound legal framework, the ministry amended the regulations in “Regulations on the Permission and Administration of the Employment of Foreign Workers” on December 30<sup>th</sup>, 2010: employers, care recipients, or other relatives living together, representatives of employers, persons in charge or representatives that act on behalf of employers to handle labor affairs have committed sexual abuse as ruled in the Criminal Act should not be allowed to hire foreign workers.

4. 為結合民間資源推展各項受聘僱外國人之管理措施，並落實保障外籍勞工在臺工作之權益，本部於2009年9月17日修正「補助辦理外籍勞工管理措施作業要點」。如外籍勞工係遭受人身侵害案件而為刑事案件被害人，或遭受職業災害、傷病無法工作，並依「受聘僱從事就業服務法第46條第1項第8款至第11款規定工作之外籍勞工臨時安置作業要點」安置者或外籍勞工係有特殊情事者，經本部勞動力發展署或地方主管機關專案認定有補助之必要，每案每人最高核給1萬元，屬特殊情況經專案認定，每案每人最高核給10萬元。

In order to gather resources from private organizations to promote procedures for hiring foreigners, and protect the rights and interests of foreigners working in Taiwan, the ministry amended regulations in “The Enforcement Rules for Subsidy Procedures for Foreign Workers” on September 17<sup>th</sup>, 2009. If a foreign worker is assaulted and becomes the victim in a criminal case, or is unable to work due to

occupational accident or injury and is placed according to “Directions of the Employment Transfer Regulations and Employment Qualifications for Foreigners Engaging in the Jobs Specified in subparagraphs 8 to 11, Paragraph 1, Article 46 of the Employment Services Act” or for foreign workers in special circumstances, if recognized by the staff of Workforce Development Agency or staff at the local competent authorities to be qualified to receive a subsidy, every person involved in each case will receive up to NTD10,000 per person. If recognized as qualified for special circumstances, every person involved in each case will receive up to NTD100,000 per person.

**(五) 建立外籍勞工諮詢服務網絡**

**Establish a Service Network for Consultation for Foreign Workers**

1. 為加強維護外籍勞工合法權益，協助外籍勞工儘速適應在臺工作，本部已補助各直轄市及縣（市）政府設置外籍勞工諮詢服務中心，聘用通曉外籍勞工母語人員提供外籍勞工法令、心理諮商、工作適應、勞資爭議等申訴諮詢服務，並提供法律訴訟費用補助及轉介法律扶助資源。外籍勞工倘有法令諮詢或遭受雇主片面解除契約、不當對待、扣留財物、未支付薪資或性侵害等違法情事，可逕向當地直轄市或縣（市）政府或所屬之外籍勞工諮詢服務中心提出申訴及諮詢。

To better protect the legal rights of foreign workers, and help them quickly adapt to working in Taiwan, the ministry has provided subsidies to special municipal, city and county governments to establish Foreign Workers Consultation Service Centers, hire personnel that speak the native languages of foreign workers to provide them legal information related to them, and psychological counseling, help

them adapt to working in Taiwan and solve labor disputes as well as providing subsidies for law suits, and referral to legal aid. If a foreign worker encounters the following problems: in need of legal counseling, employment contract terminated by his/her employer, being treated unfairly, property being withheld, salaries unpaid or being sexually abused, he or she may report to and ask for help from the Foreign Workers Consultation Service Center nearby.

2. 為排除時間及地域性之限制，建置全面性防護管道，透過電子化派案處理機制，確實控管申訴案件之後續處理情形，積極保護勞工權益，維護我國形象。本部於 2009 年 7 月 1 日建置 1955 勞工諮詢申訴專線，該專線配置具備國語、英語、越南語、印尼語及泰語等 5 國語言專長之雙語人員 45 人，提供 24 小時、全年無休、免付費之諮詢及申訴服務。2016 年諮詢計 18 萬 9,500 件、申訴計 2 萬 4,586 件，另受理申訴積欠薪資案件共 5,698 件，追回金額新臺幣 1 億 7,192 萬 452 元，協助轉換雇主 1,724 人次。

To overcome time and geographic limitations, a comprehensive protection network has been established to follow up on reported cases via an electronic case dispatch mechanism in order to actively protect the legal rights of workers and the image of Taiwan. On July 1<sup>st</sup>, 2009, the ministry established a 1955 free hotline for foreign blue-collar workers in Taiwan with 45 bilingual staff who speak Chinese, English, Vietnamese, Indonesian and Thai for consultation and grievance services. In 2016, the staff gave consultation on 189,500 cases and received 24,586 reported cases. In addition, 5,698 cases of salary arrears were solved and a total of NTD 171,920,452 were traced back and 1,724 foreign workers changed employers because of its help.

#### (六) 防制外籍勞工遭受人口販運



## **Prevent Foreign Workers from Becoming Victims of Human Trafficking**

防制外籍勞工遭受人口販運：外籍勞工如遭受人口販運或疑似人口販運受害者，均秉持先予安置保護之原則，並配合行政院於 2007 年成立之「行政院防制人口販運協調會報」及 2009 年訂定之人口販運防制法，落實推動防制人口販運之預防、查緝起訴以及保護被害人等各項具體措施。各項預防、保護及查緝起訴措施如下：

To prevent foreign workers from becoming victims of human trafficking: the ministry will first arrange safe placement for foreign workers who have been sold or purportedly become victims of human trafficking and will act in concert with the requirements set out in “The Workshop Strategies for Combating Human Trafficking by the Administrative Yuan” established in 2007 and “Human Trafficking Prevention Act” stipulated in 2009 to implement strategies to prevent human trafficking, investigate and prosecute human trafficking cases and protect human trafficking victims. Various preventive, protective, and investigating measures taken are as follows:

### **1. 預防面向**

#### **Prevention**

- (1) 本部持續運用多元管道加強對雇主、外籍勞工及仲介公司宣導人口販運及外籍勞工權益保護相關法令，並不定期辦理防制外籍勞工遭受人口販運教育訓練課程及法令宣導活動，編印外籍勞工在臺工作須知，除提醒外籍勞工注意自身權益外，並加強各直轄市及縣（市）政府外籍勞工諮詢服務中心、國際機場外勞服務站及 1955 專線服務人員、雇主、仲介從業人員及一般民眾對人口販運防制之認知。

The ministry continues to promote relevant regulations against

human trafficking and protection for foreign workers to employers, foreign workers and labor brokers via various channels and irregularly organizes training programs and law promotion to prevent foreign workers from becoming victims of human trafficking, and edit and print The Handbook for Foreign Workers in Taiwan. In addition to keeping on reminding foreign workers to protect their rights, promotions are held constantly to help staff at Foreign Workers Consultation Service Centers in special municipalities, cities and counties, Foreign worker Airport Service Centers and the 1995 free hotline, employers, people working at labor brokers and the public to know more about prevention of human trafficking.

- (2) 為強化雇主對於聘僱外國人法規及管理責任之瞭解，自 2016 年 7 月 1 日起，首次申請聘僱外籍家庭看護工及家庭幫傭的雇主，在申請許可前，應參加「聘前講習」，以協助雇主有充分的家庭與心理準備，清楚家庭未來將面對的狀況及相關法令規定(包括外籍勞工來源國風俗民情、雇主應注意事項及相關違法案例說明等)，以增進勞雇和諧及減少因不瞭解法令而違規的情形。

To help employers know more about the regulations and management of hiring foreign workers, since July 1<sup>st</sup>, 2016, those who apply for foreign domestic care workers and household workers for the first time, before being granted a permit, will need to attend a “pre-hiring seminar” to help employers get ready, have a clear idea of what they can expect and the relevant regulations (including the customs of the nation where the would-be employees are from, notices for employers and relevant regulations) to improve the relationship between employers and employees, and minimize

the chances of violations due to not understanding the regulations.

## 2. 保護面向

### Protection

已整合各直轄市及縣(市)政府外籍勞工諮詢服務中心及非政府組織資源，建立通譯人員陪同遭受人口販運之外籍勞工接受詢問機制，並協助安置遭受人口販運之外籍勞工，提供生活補助、生理及心理醫療協助及居(停)留延長、補助法律訴訟費用、補助非政府組織團體辦理支持性活動、急難慰問金補助、協助跨區跨業別轉換至新雇主處工作或核發短期工作許可，並協助參加適性之職業訓練或提供就業服務，以保障被害人之工作權並維持經濟上之收入。

Resources from Foreign Workers Consultation Service Centers in special municipalities, cities and counties, and non-government organizations have been properly integrated to establish a mechanism that allows interpreters to accompany foreign workers who are victims of human trafficking for investigation, provides placement, living subsidies, psychological and physical assistance and extension of their stay in Taiwan, and subsidy for lawsuits to victims of foreign workers, subsidize non-government organizations to organize supportive activities, offer emergency subsidy, help foreign workers in different areas or occupations to change employers or issue temporary work permits, and assist them in taking appropriate vocational training or provide employment services to protect the work rights of the victims and help them provide for themselves.

## 3. 查緝面向

### Investigation

- (1)查處不法雇主：2016年罰鍰雇主非法容留外國人計390件、聘僱未經許可或他人申請之外國人案件計1,563件、以本人名義聘



僱外國人為他人工作案件計 10 件、指派外國人從事許可以外之工作或未經許可變更外國人工作場所案件計 664 件，上述違法案件經廢止雇主許可計 163 件。

For illegal employers: in 2016, 390 cases were employers fined for illegally sheltering foreign workers, 1,563 cases were employers hiring foreign workers without a permit or foreign workers permitted to be hired by others, 10 cases were employers hiring foreign workers in the name of the employers but working for a 3<sup>rd</sup> party, 664 cases were employers appointing foreign workers to engage in work not within the range of the permits or changing their workplaces without prior applications. Permits of 163 employers from the above cases were revoked.

- (2) 查處非法仲介：2016 年罰鍰仲介收取規定標準以外費用之案件 6 件、非法媒介（含非法個人或法人）110 件；另停業處分仲介收取規定標準以外費用之案件計 4 家（含分支機構）、非法媒介 7 家（含分支機構）。

For illegal labor brokers: in 2016, 6 cases were labor brokers charging extra fees in addition to standard fees, 110 cases were illegal work matchmaking (including individuals or entities); 4 labor brokers (including their branches) were suspended for charging extra fees besides standard fees, and 7 labor brokers (including their branches) for illegal brokerage.

**(七) 提供通譯陪同外籍勞工協助接受詢問**

**Provide Interpreters to Accompany Foreign Workers When Being Interviewed**

為協助外籍勞工於接受直轄市及縣（市）政府詢問（談話），能充分陳述意見及主張權益，本部於 2010 年 8 月 6 日訂定發布「直轄

市及縣(市)政府辦理非營利組織陪同外籍勞工接受詢問作業要點」運用外籍勞工諮詢中心及非政府組織通譯人才，陪同外籍勞工接受詢問(談話)，加強提供被害人法律權利義務資訊。

To help foreign workers express themselves and protect their rights when interviewed by staff at special municipal, city and county governments, the ministry promulgated "Operating Guidelines for Questioning, by Special Municipal, County, and City Governments, of Foreign Workers Accompanied by Non-Profit Organizations" on August 6<sup>th</sup>, 2010 to allow interpreters at Foreign Workers Consultation Service Centers and non-government organizations to accompany foreign workers when they are being interviewed by the police as well as providing victims his/her legal rights and obligations.

#### (八) 提供外籍看護工喘息服務

##### **Offering Foreign Care Workers a Break**

為保障外籍家庭看護工休假權益，同時促進本國照顧服務員就業，本部規劃試辦外籍家庭看護工休假期間之替代照顧服務，於外籍勞工休假時，由本國照顧服務員前往家庭中提供照顧服務，以兼顧外籍勞工及被看護者權益。

To guarantee the right to time-off for foreign domestic care workers while promoting work opportunities for local care workers, the ministry plan to provide alternative caretaking service during the days off of foreign care workers. Local care workers will provide care service at home when foreign care workers are off to guarantee the rights of both foreign workers and care recipients.

## 二、外籍勞工工作權益之保障

### **Guarantee the Work Rights of Foreign Workers**

#### (一) 外籍勞工同受國內勞動法令之保障

## **Foreign Workers Are Also Protected by Regulations of Labor Standards Act**

1. 在「國民待遇」原則下，外籍勞工在我國當受勞工相關法令保障，外籍勞工若受僱於適用勞動基準法之行業，自有基本工資、工時等勞動條件之適用；另外籍家庭看護工及幫傭等家事服務工作者，目前雖未納入勞動基準法保障範圍，但已於「雇主聘僱外國人許可及管理辦法」中，明定雇主聘僱外籍勞工來臺工作前，應由雇主、外籍勞工、國內仲介、國外仲介四方簽署切結工資切結書，登載來臺後工資及相關費用，並經外籍勞工來源國主管部門驗證，同時需與外籍勞工簽訂書面勞動契約，另規定雇主應直接給付外籍勞工薪資，加以保障其勞動條件。

Under the principle of “national treatment”, foreign workers are protected by relevant labor regulations. Hired Foreign workers covered by the Labor Standards Act are protected by minimum wage and working hour regulations; though foreign domestic care workers and household workers are not yet included in the Labor Standards Act. “Regulations on the Permission and Administration of the Employment of Foreign Workers” states clearly employers, foreign workers, local labor brokers and foreign labor brokers should sign an affidavit regarding foreign worker’s salary and relevant expenses working in Taiwan, then have it officially verified by countries sending workers. At the same time, employers should sign an employment contract with foreign workers; employers are required to give salaries to foreign workers directly to protect their working conditions.

2. 現行聘僱外籍漁工分為境內僱用及境外僱用。境內僱用外籍漁工之許可及管理由「就業服務法」及其子法規範，由本部主管；至境外僱用外籍漁工之許可及管理則由「遠洋漁業條例」及其子法規範，



由行政院農業委員會主管。針對境內僱用外籍漁工，本部基於國民待遇原則，本外勞一體適用，一律受勞動基準法等勞動法令及現行外籍勞工保護體系之保障。

Foreign fishermen may be hired domestically or abroad. Permits to hire foreign fishermen domestically and their management are regulated by the “Employment Service Act” and its sub-laws and are under the jurisdiction of the Ministry of Labor; permits to hire foreign fishermen abroad and its management are regulated by “Act for Distant Water Fisheries” and its sub-laws and are under the jurisdiction of the Council of Agriculture, Executive Yuan. Foreign fishermen hired abroad, based on the principle of “national treatment”, are protected by the Labor Standards Act and current protective systems for foreign workers.

3. 我國自 2016 年 11 月 3 日刪除就業服務法第 52 條有關出國 1 日規定，針對外國人聘僱期滿經與雇主合意期滿續聘，或與新雇主合意期滿轉換接續聘僱者，得申請聘僱許可，免除原須出國 1 日之作法，保障外籍勞工在臺工作權益。2016 年期滿續聘計 1 萬 1,035 人，期滿轉換計 692 人。

Article 52 of the Labor Standards Act, about leaving the country for one day before reentry was deleted on November 3<sup>rd</sup>, 2016. Foreign workers whose employment has expired and whose employer would like to rehire them, or foreign workers whose new employer would like to continue employment after the trial period may apply for an employment permit and such foreign workers are not required to leave the country for one day, guaranteeing their employment rights in Taiwan. In 2016, there were 11,035 foreign workers whose employment contracts were extended after expiration and 692 foreign workers who changed jobs after the previous employment contract

expired.

4. 本部為保障外籍勞工返鄉休假權益，訂定「受聘僱從事就業服務法第46條第1項第8款至第10款規定工作之外國人請假返國辦法」，明定外籍勞工請特別休假返國者，其返國期日由外籍勞工排定，雇主應予同意，至於請特別休假以外之假別返國者，則回歸勞動基準法、性別工作平等法及勞動契約等規定或約定辦理。

The ministry, to guarantee foreign workers' right to return home for holidays, promulgated "Regulations of Leave-taking under Returning-home for Foreigners Engaging in the Jobs Specified in Subparagraphs 8 to 10, Paragraph 1, Article 46 of the Employment Service Act" which states foreign workers who take special days off to return home, the date for his/her returning to Taiwan should be decided by the workers, and employers should agree to it. Those who would like to take non-special days off to return home should apply according to the Labor Standards Act, Act of Gender Equality in Employment and employment contracts.

5. 本部已於2015年8月28日與印尼、菲律賓、泰國及越南等來源國達成協議，自2015年9月1日起，外籍家事勞工之勞動契約，薪資項目自1萬5,840元調高至1萬7,000元，未來將持續檢討。

The ministry reached an agreement with countries sending workers, such as Indonesia, the Philippines, Thailand and Vietnam on August 28<sup>th</sup>, 2015. And from September 1<sup>st</sup>, 2015, the monthly salary in employment contracts for foreign household workers will increase from NTD 15,840 to 17,000. Further discussion will be continued.

6. 於2011年5月1日工會法修正生效後，已刪除需具中華民國國籍才得被選為工會理事及監事之限制，外籍勞工只要年滿20歲，不須具有中華民國國籍，除可擔任工會之發起人外，亦得被選舉為工

會理事、監事，以保障外籍勞工工作及相關結盟權利，且與本國籍勞工享有一致之勞動三權（團結權、協商權及爭議保護等）保障。Since the amendments to the Labor Unit Act went effective on May 1<sup>st</sup>, 2011, the regulation stating only R.O.C. nationals can be elected as head or director of labor units has been deleted. Foreign workers who have reached the age of 20 but are not necessarily a R.O.C. national, in addition to serving as union organizers, can also be elected as directors or supervisors of unions to protect employment rights of foreign workers and the rights of foreign worker organizations working together. Furthermore, they are protected by the three labor rights (right to organize, right to bargain collectively and right to dispute and protection) like workers with R.O.C. nationality.

**(二) 確保雇主依勞動契約給付薪資**

**Ensure Employers Pay According to Labor Contracts**

1. 本部自 2001 年 11 月 9 日起規定，雇主發放外籍勞工薪資須檢附「薪資明細表」，並以外籍勞工母國文字詳列內容交付外籍勞工收存，俾發生雇主有侵占情事時，作為提請訴訟之證明。另如查獲雇主未依規定辦理者，其後續申請案將不予許可，而已許可者將中止引進。Since November 9<sup>th</sup>, 2011, the Ministry of Labor has required that employers should attach a salary slip with salaries paid to foreign workers. The slip should have details about their salary in the language known to foreign workers. Foreign workers should keep these slips as proof when filing an action in case employers are accused of salary encroachment. If employers are found to violate the regulations, his/her applications in the future will not be approved or applications permitted may be revoked.
2. 為保障外籍勞工權益，本部定有「雇主聘僱外國人許可及管理辦法」



規定，明定外籍勞工薪資明細表應負擔項目，雇主除法定可扣金額外，外籍勞工薪資應全額給付，且規範雇主應保存薪資明細表 5 年備查。

To protect the rights of foreign workers, the ministry promulgated “Regulations on the Permission and Administration of the Employment of Foreign Workers” which sets out items to be included on a salary slip. Except for the amount that can be deducted directly according to the laws, employers should pay foreign workers in full and such copies should be kept by employers for five years for further inspection.

3. 為訪視外籍勞工受僱之情形，保障外籍勞工權益，自 2000 年起迄今已設置 274 名外籍勞工訪視員辦理訪視業務，配合宣導聘僱相關法令及外籍勞工管理事項，並針對僱用外籍勞工之雇主，進行例行性訪視，瞭解外籍勞工受僱情形、管理輔導等，確實要求雇主依「外國人生活照顧服務計畫書」及履行勞動契約，避免有非法使用等逾越法令規定之情事，以維護外籍勞工及雇主權益。

To check on actual working conditions of foreign workers and protect their employment rights, 274 foreign worker inspectors have been on staff to conduct inspections since 2000; in addition, to promoting relevant regulations of employment and foreign worker management, these inspectors also inspect employers hiring foreign workers regularly to stay on top of the working conditions of foreign workers and their management to make sure employers follow “Foreign Workers Living/Caring Service Planning Book” and labor contracts, preventing any violations and protecting the rights of both foreign workers and employers.

### (三) 職業災害預防

#### Prevent Occupational Hazards

1. 依本部規定，雇主須舉辦定期健康檢查及辦理勞工職業安全衛生教育講習，並於工作場所張貼外籍勞工通曉語文之危險警告標示，以提醒外籍勞工減少傷害。另本部已將「外籍勞工職災」納入統計項目，利用職場職災數據之變動情形，做為職場職災警訊之參考，俾加強防患及督導，減少外籍勞工職業災害發生。

According to the regulations set out by the ministry, employers should arrange health examinations and occupational safety and health education regularly and attach warning labels in languages known to foreign workers at different locations in workplaces to minimize chances of work accidents happening to foreign workers. Furthermore, the ministry included “occupational accidents happening to foreign workers” in its statistics and uses the changes of statistics of occupational accidents as a reference for warning occupational accidents at workplaces for further prevention and supervision so that numbers of occupational accidents happening to foreign workers will be decreased.

2. 為克服外籍勞工因語言、環境不熟悉而遭遇求償困難，並及時提供外籍勞工發生職災時之各項協助，本部於2009年7月1日建置「1955勞工諮詢申訴專線」，另補助地方政府設置外勞諮詢服務中心，並採電子派案方式，由各地方政府進行查處及個案追蹤管理。除建立完整的外籍勞工職災通報系統及統計外，並整合直轄市及縣（市）政府、外籍勞工來源國駐臺機構、外籍勞工關懷團體等相關資源，提供職災認定責任歸屬、醫療及相關給付之請領、爭議調解及法律訴訟輔助、職災慰問、生活扶助、外籍勞工家屬聯繫及其他必要之協助，透過全面性保護體系，使發生職災之外籍勞工能獲得最快速、最完整之協助。

In order to help foreign workers make claims without communication

problems, overcome the difficulties of living in a new environment and provide timely assistance to them if case of occupational accident, the ministry established the "1995 free hotline for foreign blue-collar workers" on July 1<sup>st</sup>, 2009. Furthermore, subsidies are provided to city and county governments for establishing Foreign Workers Consultation Service Centers and inspection and follow-up of reported cases will be handed by city or county governments via electric dispatch. In addition to establishing a comprehensive reporting system and statistics for occupational accidents for foreign workers, resources from special municipal, city and county governments, organizations of countries sending foreign workers and foreign worker groups are integrated to provide accountability for occupational accidents, payments for medical care and other relevant expenses, dispute resolution, and legal aid, occupational accident consolation, living allowances, contacting family members of the injured foreign workers and other necessary assistance, providing the fastest and most comprehensive assistance for occupationally-injured foreign workers via a comprehensive system.

#### (四) 外籍勞工轉換雇主或工作

##### **Change of Employers or Jobs for Foreign Workers**

1. 外籍勞工如有不可歸責之事由，符合就業服務法第 59 條第 1 項各款情事之一者，得向本部申請轉換雇主或工作，並自本部核准之日起 60 日內至公立就業服務機構辦理轉換作業，或直接由新雇主向本部申請合意接續聘僱。

If a foreign worker is in circumstances not attributable to him/her, which fit the description described in various subparagraphs, Paragraph 1, Article 59 of the Employment Service Act, the worker may apply to the Ministry of Labor for a change of employer or job. Foreign workers



may apply for change of employer or job to any public employment service center within 60 days after his/her application is approved by the Ministry of Labor or a new employer may apply for employer transfer to the ministry directly.

2. 外籍勞工遭受雇主或其僱用員工、委託管理人、親屬或被看護者人身侵害，或經鑑別為人口販運被害人者，得不限轉換次數，並可跨工作類別轉換雇主或工作。

Foreign workers who are physically assaulted by their employers, other hired employees, a commissioned manager, relatives, or care recipients or are recognized as victims of human trafficking may change employers or jobs without limits on the number of times of employment transfer and they may transfer to new employers or different types of employment.

3. 另配合 2016 年 11 月 3 日修正公布就業服務法第 52 條刪除外籍勞工應出國 1 日始得再入國工作之規定，本部訂定外籍勞工期滿轉換雇主或工作之新制，於聘僱許可期限屆滿，外籍勞工經與原雇主協議不續聘，且願意繼續在臺工作者，原雇主應於聘期屆滿前 2 個月至 4 個月內為外籍勞工向本部申請轉出，並由本部依外籍勞工意願，於資訊系統登錄必要資料，俾便新雇主與其聯繫接洽，不須經過公立就業服務機構，且不限工作類別轉換。

In respond to the deletion of Article 52, Employment Service Act promulgated on November 3<sup>rd</sup>, 2016 which states that foreign workers are required to leave Taiwan for 1 day and reenter Taiwan in order to work in Taiwan again, the ministry stipulated a new regulation for foreign workers to change to new employers or jobs after the previous employment is expired; when the employment contract is expired, previous employers need to apply for employer transfer 2-4 months

prior to the contract expires if foreign workers reach an agreement with their previous employers not to renew their contract and are willing to stay in Taiwan to work . The staff of the ministry will type in any new information into the information system according to the intent of foreign workers and let new employers contact them directly without going through any public employment service centers, and they may transfer to any type of employment.

### **三、外籍勞工生活權益之維護**

#### **Protect the Living Rights of Foreign Workers**

##### **(一) 改善外籍漁工生活管理**

##### **Improve the Living Management of Foreign Fishermen**

為使境內僱用外籍漁工能獲得更完善之生活照顧，並課予雇主落實外籍勞工管理之義務，藉以改善外籍漁工生活環境，本部刻正修正雇主聘僱外國人許可及管理辦法，明定外籍漁工應納入外國人生活照顧服務計畫書載量基準，以保障漁工生活權益，並預計於 2017 年實施。另研議由就業安定基金補助地方政府於大型漁港設置陸上岸置中心，提供外籍漁工更佳居住環境。

In order for foreign fishermen hired domestically to get a better living environment, and to require employers to manage foreign workers properly to improve their living environment, the ministry is now amending Regulations in the Permission and Administration of the Employment of Foreign Workers to include foreign fishermen in the judging benchmark in the Foreign Workers Living/Caring Service Planning Book to protect the living rights of fishermen and this amendment will be effective in 2017. In addition, the ministry is now working on the possibility of using an employment stability foundation to build big placement centers in big fishing ports to provide a better

living environment for foreign fishermen.

## (二) 加強生活輔導

### Better Life Guidance

1. 本部為確保雇主可適時輔導外籍勞工、注意外籍勞工生活情形及加強勞雇雙邊溝通能力，要求雇主須依「雇主聘僱外國人許可及管理辦法」第 40 條及第 41 條之規定，在雇主聘僱外籍勞工時，設置專業管理人員及於外籍勞工中配置具雙語能力人員，上開人數之多寡，仍須取決於雇主聘僱外籍勞工之人數，倘雇主聘僱上開人數不足，地方主管機關得通知限期改善，以加強雇主聘僱管理能力。

The ministry, in order to make sure employers provide timely counseling to foreign workers, pay attention to their daily life and enhance communication between both sides, requires employers to follow Articles 40 and 41 on Foreign Workers Living/Caring Service Planning Book which require employers who hire foreign workers to provide professional managing staff and bilingual staff for foreign workers. The number of the staff is based on the numbers of foreign workers hired. If employers do not have enough staff, local competent authorities will notify such employers to improve within a set deadline for improving employers' ability to manage.

2. 為提高外籍勞工之生活品質及維護其生命安全，本部規定雇主須依「外國人生活照顧服務計畫書」確實辦理，並於 2011 年 8 月 3 日修正「外國人生活照顧服務計畫書裁量基準」，規定雇主應尊重外國人宗教信仰之飲食禁忌，倘雇主為外國人住宿地點之安全裝設監視器，致外國人隱私權與宿舍安全相衝突者，仍以保護外國人隱私為先之原則，及雇主應提供 1955 專線資訊。

To improve the living quality of foreign workers and guarantee their safety, the ministry requires employers to follow the "Foreign



Workers Living/Caring Service Planning Book" and amended the judging benchmark in Foreign Workers Living/Caring Service Planning Book" on August 3rd, 2011. It requires employers to respect foreign workers' food taboos for religious purposes; if employers have installed surveillance equipment on locations where foreign workers live and causes a conflict between privacy and safety, the privacy of foreign workers prevails and employers should provide information for 1955 hotline to foreign workers.

### (三) 避免遭不當代扣稅款

#### **Prevent Improper Tax Withholding from Employers**

1. 另為使外籍勞工瞭解其稅務方面之權利義務，本部已於「外籍勞工在臺工作須知」中，納入外籍勞工申報所得稅之各項注意事項，以避免勞雇糾紛及稅捐機關無法辦理退稅情形。

To make sure foreign workers understand their tax obligations and rights, notices for filing income tax returns for foreign workers are included in the "The Handbook For Foreign Workers in Taiwan" to avoid labor disputes and tax authorities not being able to refund tax.

2. 本部為防止雇主不當代扣外籍勞工稅款問題，已配合外籍勞工訪視業務，將雇主侵占稅款列為重點訪視項目。並規定雇主應將印有中文及外籍勞工母國文字之薪資所得及扣繳項目等憑單，交予外籍勞工收存，做為未來辦理退稅及清理帳目之依據。

To prevent employers from withholding taxes improperly for foreign workers, the ministry works with foreign worker inspectors to include inspection for employers withholding taxes in their inspection routine and requires employers to provide salary slips and income tax return forms in Chinese and native languages of foreign workers as proof for future tax refunds or squaring of accounts.

(四) 納入國內勞工、健康保險體系

**Foreign Workers to Be Insured by Labor Insurance and National Health Insurance**

1. 勞工保險

Labor Insurance

外籍勞工受僱來臺工作，其權益與國內勞工相同，受我國勞工等相關法令保障，外籍勞工若屬「勞工保險條例」規定之強制加保對象，於到職之日，雇主即須檢附本部核發之外籍勞工聘僱許可函、外僑居留證或外國護照影本向勞工保險局申報加入保險；若屬非強制加保對象者，亦得準用勞工保險條例參加勞工保險，享有傷病、醫療、殘廢、死亡等給付。

Foreign workers hired to work in Taiwan should have the same rights and be protected by the same regulations as R.O.C. national workers. If foreign workers fit the qualifications to be compulsorily insured under the "Labor Insurance Act", the day a foreign worker reports to work is the day his/her employer attaches the permit for hiring foreign workers, his/her alien resident permit or a copy of his/her passport to apply for him/her to join the Labor Insurance to the Bureau of Labor Insurance; foreign workers not compelled to be insured by Labor Insurance may join Labor Insurance according to the regulations of the Labor Insurance Act and enjoy injury and sickness benefits, medical-care benefits, disability benefits and death benefits.

2. 全民健康保險

National Health Insurance

依「全民健康保險法」第10條規定，外籍勞工受僱來臺，在臺灣地區領有居留證明文件，須加入全民健康保險。並依該法第2條規定，於保險有效期間內，發生疾病、傷害、生育事故時，依規定給與保

險給付。

According to Article 10 of the "National Health Insurance Act", foreign workers hired to work in Taiwan and obtain a resident permit are required to join National Health Insurance and enjoy the rights to receive benefits for illness, injury or maternity during the insured term according to Article 2 of the act.

**(五) 辦理休閒娛樂活動**

**Organize leisure and recreational activities**

為紓解外籍勞工思鄉情緒與工作壓力問題，儘快讓其適應在臺工作及生活，本部自 1997 年起每年委託 6 家廣播公司製播 13 個多國語之外籍勞工業務及法令宣導廣播節目。並於年節或不定期辦理外籍勞工休閒及年節民俗等育樂活動，或由雇主適時安排休閒生活，使在臺外籍勞工得以紓發身心壓力，生活愉快，工作得心應手。

To ease homesickness and relieve pressure on foreign workers and help them adapt to working and living in Taiwan as soon as possible, the ministry has commissioned six broadcasting stations to produce 13 multiple-language programs to promote affairs related to foreign workers and regulations every year since 1997. Recreational activities and entertainments for foreign workers are organized during Chinese New Year or from time to time; or employers should organize recreational activities for foreign workers to help them release mental and physical stress so that they may enjoy their lives and do their work well in Taiwan.