

## **Descriptions for “Measures for Protecting Rights of Foreign Workers” by Ministry of Labor**

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.

1.

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

(a)

#### **Better Management of Labor Brokers**

1.

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.

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.

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.

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.

(b)

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

1.

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.

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.

(c)

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

1.

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.

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.

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.

**(d) Guarantee Personal Safety**

1.

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.

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.

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.

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.

(e)

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

1.

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.

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.

(f)

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

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. Prevention

(1)

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)

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. Protection

Resources from Foreign Workers Consultation Service Centers in special municipalities, cities and countries, 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. Investigation

### (1)

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)

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.

(g)

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

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.

(h)

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

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.

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

### **(a)**

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

##### 1.

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.

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.

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.

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.

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.

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.

(b)

#### **Ensure Employers Pay According to Labor Contracts**

1.

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.

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.

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.

(c)

### **Prevent Occupational Hazards**

1.

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.

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.

(d)

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

1.

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.

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.

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.

3、

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

(a)

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

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.

(b) **Better Life Guidance**

1.

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.

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.

(c)

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

1.

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.

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.

(d)

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

1. Labor Insurance

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. National Health Insurance

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.

**(e) Organize leisure and recreational activities**

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.