

- 2、不適用勞動基準法的外籍勞工，以勞動契約約定取得特別休假。
- 3、外籍勞工依勞動基準法或勞動契約取得之特別休假，即可利用該特別休假返國並自行排定返國日期，雇主應予同意。
- 4、雇主基於企業經營或被照顧者之急迫需求，得與外籍勞工協商返國期日，如協商不成立時，雇主仍應依外籍勞工原來排定的日期同意其返國。
- 5、特別休假以外的假別，如婚假、喪假、事假等則回歸勞動基準法、性別工作平等法或勞動契約約定辦理。特別休假工資應由雇主照給，事假期間雇主得不給工資。

2. For those foreign workers to whom the provisions of the Labor Standards Act do not apply, their employment contracts shall stipulate a set number of paid annual leave days.

3. The paid annual leave days of foreign workers accrued through the Labor Standards Act or employment contracts can be used to return to their countries of origin and they may set a date to return to work on their own terms, to which the employer shall agree.

4. In cases where enterprise operations or the urgent needs of those being cared for, employers may consult with foreign workers to set a date on which work will resume. If the consultation is failed, the employer shall remain agree to let foreign workers return home in accordance with the date originally scheduled by the foreign workers.

5. Regulations governing categories of leave other than paid annual leave, such as marriage leave, bereavement leave and personal leave are contained in the Labor Standards Act, Gender Equality Act or the labor employment contract. Employers are required to pay employees for paid annual leave days, but not for personal leave days.

若您對於就業服務法第52條修正或其他權益維護相關規定有相關疑義，可撥打1955勞工諮詢申訴專線或逕上勞動部跨國勞動力權益維護資訊網站 <https://fw.wda.gov.tw> 查詢相關訊息。

If you have any questions concerning the amendment to Article 52 of the Employment Services Act or other inquiries about protecting your rights, please call the 1955 Foreign Workers' Hotline or visit the Ministry of Labor's Foreign Workers Rights Protection website at <https://fw.wda.gov.tw/>



勞動部勞動力發展署

WORKFORCE DEVELOPMENT AGENCY, MINISTRY OF LABOR

印製日期: 2017.11

# AN amendment Article 52 of the Employment Services Act

## 修正就業服務法

第 5 2 條 規 定

English version / 英文版



勞動部勞動力發展署

WORKFORCE DEVELOPMENT AGENCY, MINISTRY OF LABOR



# 外籍勞工聘僱許可期滿免出國 1 日

## Foreign workers no longer required to leave Taiwan when work permit expires

勞動部已於105年11月3日發布修正就業服務法第52條，取消外籍勞工3年期滿須出國1日規定，雇主可向勞動部申請期滿續聘，經許可後外籍勞工就可以不用出國，繼續留臺工作！

The Ministry of Labor promulgated an amendment to Article 52 of the Employment Services Act on November 3, 2016. The new regulations eliminate the requirement for foreign workers to leave Taiwan for a minimum of one day on completion of a three-year work contract. Hereafter, employers can apply to the Ministry for an extension when a work permit expires and, on approval, foreign workers may continue to work without having to leave Taiwan.

1

## 期滿續聘

### Extending contracts on expiry

外籍勞工於聘僱期間屆滿前2至4個月內，可視其意願與雇主協議是否續聘或轉換至其他雇主處工作。如與原來的雇主雙方確認有續聘的意願，且雇主具有勞動部核發有效的招募許可，只要雇主提出申請，並經勞動部許可後即可繼續留臺工作。

Foreign workers and employers shall discuss whether to extend an existing work permit or the transfer to work for another employer 2 to 4 months before the original employment contract expires. In the event that both parties agree to extend the existing employment contract and the employer has a valid recruitment permit issued by the Ministry of Labor, said employer need only file an application for an extension and once the Ministry approves the application, the foreign worker can continue working in Taiwan.

2

## 不續聘/期滿轉換

### No Contract Extension / Transfer to New Employer

Q

如果勞雇雙方無續聘意願，雇主後續應如何處理？

If the employer and employee decide not to extend the employment contract, how should the employer deal with the matter?

A

1、外勞沒有繼續留臺工作意願，雇主依現行規定於期滿前協助外籍勞工安排返國事宜。

If a foreign worker does not want to continue working in Taiwan, the employer shall, in accordance with the present regulations, assist the foreign workers in returning home before the expiry date.

2、外勞有繼續留臺工作意願，雇主應於聘期屆滿前2至4個月內，備齊申請書及規定文件至勞動部辦理期滿轉換。

If the employee remains the willingness to work in Taiwan, the employer shall prepare an application form and the prescribed documents to the Ministry of Labor for applying change of employer within 2 to 4 months before the expiry of the employment period.

3

## 仲介費

### Brokerage Fees

外籍勞工由原雇主續聘或新雇主接續聘僱，受委託之仲介機構得向雇主或新雇主收取登記費及介紹費（通稱仲介費），金額不得超過外籍勞工第1個月薪資；對於外籍勞工只能收取服務費。

When the original employer extends an employment contract or a new employer wants to hire a foreign worker who is coming to the end of his/her existing work contract, the original employer or new employer is required to pay a registration fee and introduction fee (commonly known as brokerage fee) to the labor broker commissioned to deal with the matter. The fee charged cannot exceed the foreign worker's first monthly salary. Brokers may only solicit a service fee from foreign workers.



4

## 請假返國

### Leave / Returning Home

1、適用勞動基準法的外籍勞工，依勞動基準法規定，在同一雇主或事業單位，繼續工作滿一定期間者，應依下列規定給予特別休假：

- (1) 6個月以上1年未滿者，3日。
- (2) 1年以上2年未滿者，7日。
- (3) 2年以上3年未滿者，10日。
- (4) 3年以上5年未滿者，14日。
- (5) 5年以上10年未滿者，15日。
- (6) 10年以上者，每1年加給1日，加至30日為止。

1.A foreign worker who is applicable to the provisions of Labor Standards Act, has continued to work for a certain period of time in the same employer or institution, should be given special leave in accordance with the following provisions.

- (1) 6 months – under 1 year: 3 days
- (2) Over 1 year – under 2 years: 7 days
- (3) Over 2 years – under 3 years: 10 days
- (4) Over 3 years – under 5 years: 14 days
- (5) Over 5 years – under 10 years: 15 days.
- (6) Over 10 years, one extra day is added each year for a maximum of 30 days.

