

Issuing unit: Council of Labor Affairs

Document
number: Letter Lao-Zhi-Wai-Zi No. 0940500913

Issuing date: 09 March 2005

Summary: Articles 57 and 73 of the Employment Service Act and Article 16 of the Regulations on the Permission and Administration of the Employment of Foreign Workers stipulate that the housing of foreign workers assigned to a subcontractor to perform subcontracted engineering work must comply with the life care plan. The subcontractor serves as the designated life care supervisor, but the employer still bears the final responsibility.

Full text: 1. According to Article 16 Item 1 of the Regulations on the Permission and Administration of the Employment of Foreign Workers, one of the documents for the recruitment of Category II foreign nationals (commonly known as blue-collar foreign workers, hereafter "foreign workers") that an employer must submit, is a "Foreign Workers Life Care Plan", which is intended to instill in employers a sense of responsibility for arranging life care for their foreign workers. Thus, Announcement Tai (86) Lao-Zhi-Wai-Zi No. 0902449 dated 15 October 1997 issued by this Council stipulates as follows: Foreign workers of a company that has won a major public tender may be reassigned to one agreed location to perform subcontracted construction work for a subcontractor without the need to apply for permits from this Council..." This does not alter the fact that the employer remains responsible for the arrangement of life care to the foreign workers. This is the first point.

2. In addition, Order Tai (90) Lao-Zhi-Wai-Zi No. 0221977 dated 30 May 2001 issued by this Council clarifies that although the Council allows that within the regulations construction or manufacturing companies employing more than fifty (50) foreign workers select and assign a proportionate number of foreign workers to solely prepare meals for the other foreign workers employed by the employer at the same location, the reassignment of those foreign workers to prepare meals requires a Letter of Agreement and a Letter of Employment Permission from this Council before any such reassignment is implemented. Failure to do so constitutes a violation of the normative intent of Article 57, Paragraphs 3 and 4, and Article 73, Paragraph 2 of the Employment Service Act.

3. The Act does not pose restrictions on the housing of foreign workers assigned to a subcontractor to perform subcontracted engineering work. However, such housing must still comply with the "Foreign Workers Life Care Plan." Even when an employer appoints a subcontractor to serve as the designated life care supervisor, the employer still bears the final responsibility.