PERSOL HR DATA BANK in APAC

TAIWAN

Labor Laws

August 2020
Introduction

Dismissal of workers in Taiwan is strictly regulated, and while immediate dismissal is allowed when an employee engages in illegal behavior, as a general rule, a unilateral dismissal by the employer is only permitted according to methods under specific circumstances that are prescribed in Taiwan’s Labor Standards Act. Furthermore, specific circumstances are limited to, for instance, suspension of business, transfer of control, downturn in business or other similar reasons, and Taiwan is adopting a labor policy that is relatively advantageous for employees.

In order to acquire a work permit and visa, the applicant must first obtain a work permit from Taiwan’s Ministry of Labor, and then file a visa application with Taiwan’s Ministry of Foreign Affairs, and submit designated documents as needed. While the job categories are limited, Taiwan is receiving manpower in a relatively broad scope without questioning the skill level of the applicant, and it could be said that the conditions for a foreigner to acquire a visa are not that strict.

However, with the recent COVID-19 pandemic, foreign nationals are generally restricted from immigration; it should be noted that it may have become considerably difficult for foreign nationals to obtain visas.
INDEX

1. Points to consider regarding labor management, characteristics of labor practices, and the status of recent labor policy in Taiwan .......................... 2
   1-1. Revisions of the Labor Standards Act in 2017 and 2018 ........................................ 2
   1-2. Revisions of the Labor Standards Act in regard to Dispatching Labor .................. 4
   1-3. High turnover rate ......................................................................................... 4
   1-4. Labor unions .................................................................................................. 4
   1-5. Labor inspection ............................................................................................. 5

2. Overview of basic labor laws of Taiwan ............................................................. 6
   2-1. Laws related to labor conditions ...................................................................... 6
   2-2. Laws related to labor and management .......................................................... 6
   2-3. Laws related to social welfare .......................................................................... 7
   2-4. Laws related to occupational safety and health .............................................. 8
   2-5. Other .............................................................................................................. 9

3. Duty to prepare internal work regulations in Taiwan and the contents of such internal work regulations ................................................................................. 10
   3-1. Duty to create work rules in Taiwan and contents of work rules .................... 10
   3-2. Description of work rules ............................................................................... 10
   3-3. Disadvantageous revision of work rules ......................................................... 11

4. Overview of the wage system (bonuses, retirement benefits, and overtime pay) in Taiwan ........................................................................................................ 12
   4-1. Wages ............................................................................................................. 12
   4-2. Overtime pay ................................................................................................... 13
   4-3. Retirement allowance ...................................................................................... 14
   4-4. Bonus ............................................................................................................... 16

5. Methods and points to consider regarding dismissal in Taiwan ...................... 17
   5-1. Dismissal with notice ...................................................................................... 17
   5-2. Summary dismissal ......................................................................................... 19
   5-3. The period during which dismissal is prohibited ............................................. 19
   5-4. Act for Worker Protection of Mass Redundancy ......................................... 19

6. Types of foreign national passes and acquisition requirements .................... 21
   6-1. Regulations for employing foreign nationals .................................................. 21
   6-2. Types of passes .............................................................................................. 22

About this document ................................................................................................. 23
   About the information compiled in this document ............................................. 23
   Contact information regarding this document .................................................. 23
1. Points to consider regarding labor management, characteristics of labor practices, and the status of recent labor policy in Taiwan

1-1. Revisions of the Labor Standards Act in 2017 and 2018

In Taiwan, the Revised Labor Standards Act (hereinafter referred to as the "Labor Standards Act") was promulgated in December 2016 and enforced from January 1, 2017 (the "2017 revision"). Under the 2017 revision, several provisions for protecting the rights of employees and provisions for imposing obligations on companies as employers were introduced; however, both employers and employees were not satisfied with the 2017 revision and raised many complaints. As such, the Labor Standards Act was revised again in January 2018 and enforced on March 1, 2018 (the "2018 revision"). Key points of these revisions are as follows:

(1) A holiday system referred to as yili yixiu (two days off per week in which one day is xiuiri [rest day] and the other day is liri [mandatory non-work day]) has been enforced. According to the 2017 revision, for every seven days (one week), two days of holiday must be offered to employees. Of these two days of holiday, one day is referred to as the xiuiri (rest day), and the company can cause its employee to work on a rest day if a mutual agreement is reached between labor and management. The other of these two days of holiday is referred to as the liri (mandatory non-work day), and as a general rule, the company cannot cause its employee to work on a mandatory non-work day unless there are exceptional circumstances, such as calamities. Based on the foregoing mandatory non-work day, this system aimed to grant employees at least one day off per week. However, this new system was not welcomed by industries. Therefore, in the 2018 revision, it was decided that employers would be able to adjust, within the seven-day period, the number of days off that an employee may consume with union consent or agreement in the labor-management meeting (where there is no union in the company), as well as the approval of the central competent authorities, while employees would still be granted two holidays per week as a general rule. Furthermore, regarding rules for taking makeup rest days, it is up to the employer and the employee through negotiations. If the employee does not express the intent to take a makeup rest day after working on a rest day, the employer should still pay the rest day wages for the work done. It could be considered a violation of the Labor Standards Act if the employer restricts an employee to only being able to choose to take a makeup day off after working on a rest day.

(2) In addition to an increase in the amount of overtime pay on a rest day under the 2017 revision, overtime pay on statutory rest days is now to be counted per actual hours worked on such days pursuant to the 2018 revision.

(3) Increase of the number of days of paid leave to be granted and obligation to purchase unused paid leaves

According to the 2017 revision, companies were required to convert paid leaves that were not consumed due to the end of the business year or the termination of the employment contract into monies, and pay such monies to their employees. In addition, the 2018 revision allowed the unconsumed annual leave to be carried forward to the next year upon agreement between the...
1. Points to consider regarding labor management, characteristics of labor practices, and the status of recent labor policy in Taiwan

<table>
<thead>
<tr>
<th>Service Years</th>
<th>New Act</th>
<th>Old Act</th>
</tr>
</thead>
<tbody>
<tr>
<td>6 months or longer, less than 1 year</td>
<td>3 days</td>
<td>None</td>
</tr>
<tr>
<td>1 year or longer, less than 2 years</td>
<td>7 days</td>
<td>7 days</td>
</tr>
<tr>
<td>2 years or longer, less than 3 years</td>
<td>10 days</td>
<td>7 days</td>
</tr>
<tr>
<td>3 years or longer, less than 5 years</td>
<td>14 days</td>
<td>10 days</td>
</tr>
<tr>
<td>5 years or longer, less than 10 years</td>
<td>15 days</td>
<td>14 days</td>
</tr>
<tr>
<td>10 years or longer</td>
<td>1 day to be added for each year, up to 30 days</td>
<td>1 day to be added for each year, up to 30 days</td>
</tr>
</tbody>
</table>

(4) According to the revision in 2018, upon union consent or agreement in the labor-management meeting (where there is no union in the company), overtime cap may be raised from 46 hours to 54 hours per month and up to 138 hours for every three months. Employees would also have the option of converting their overtime into compensatory leave, but if they were unable to use the compensatory in an agreed period of time, their employer would be required to convert it back into an overtime payment.

(5) As per works on shift, it is originally required that employers grant consecutive 11 hours of rest to employees; however, under the 2018 revision, subject that there is a special reason approved by the competent authority, employers may shorten the rest time upon union consent or agreement in the labor-management meeting (where there is no union in the company). Provided, there must be at least 8 continuous hours of rest between shifts.

(6) Strengthening of labor inspection and increase of non-penal fines

A new provision was introduced where, when an employee notified a competent authority or an inspection organization of an illegal act by the employer, such competent authority or inspection organization must conduct a necessary investigation after receiving the foregoing notification and notify the employee in writing of the status of investigation within 60 days. Furthermore, the upper limit of non-penal fines has been increased from 450,000 Taiwan dollars to 1 million Taiwan dollars. In addition, competent authorities are permitted to additionally impose up to 50% of the maximum amount of statutory fines in accordance with the business size, number of employees involved in the violation, and grounds of the violation.
1-2. Revisions of the Labor Standards Act in regard to Dispatching Labor

There has been no provision to regulate a labor-dispatching business or dispatch of labor in Taiwan until 2019, however, as a result of a partial revision to the Labor Standard Act that was put into force in May 2019, provisions to protect the dispatched labor’s rights under the Labor Standard Act are now included. The key points of these provisions are as follows:

(1) Under the revised Labor Standard Act of 2019, the labor contract between a dispatching entity and a dispatched worker shall be a non-fixed term contract.

(2) Where the dispatching entity had not paid wages to the dispatched worker, if the entity has been ordered from a competent authority to pay the wages but has still failed to make such payment, the dispatched worker may directly request the receiving entity to pay the unpaid wages.

(3) A so-called disguised dispatch, where a receiving entity interviews or undertake to hire the worker to be dispatched before the dispatching entity and the worker to be dispatched sign an agreement, is prohibited. If a receiving entity has violated the provision and engaged in any disguised dispatch, the dispatched worker may claim the receiving company to hire him/her.

(4) When a dispatched worker working at the receiving entity has encountered any occupational accident, the receiving entity and the dispatching entity shall be jointly and severally liable for compensation against the worker.

1-3. High turnover rate

According to the statistical data of the Directorate-General of Budget, Accounting and Statistics, Executive Yuan, R.O.C. (Taiwan), as of the end of 2018, the average number of years that employees work for the same company is 6.1 years. In Taiwan, it could be said that employees switch jobs relatively frequently, and the overall turnover rate is higher in comparison to Japan. Accordingly, companies are required to improve work conditions and create an attractive working environment to procure competent employees.

1-4. Labor unions

While the activity of labor unions in Taiwan was not active in the past, in recent years, intense strikes have been conducted, such as the strikes initiated by the pilots of China Airlines in 2019 and by the workers of EVA Air in 2020, and these strikes were widely covered by the media. The latter lasted for 17 days and is the longest strike in Taiwan history. In light of these circumstances, it could be said that labor unions are now starting to function in Taiwan.

1-5. Labor inspection

In February 2017, there was a major bus rollover accident in Taiwan that caused the deaths of more than 30 passengers. Because the cause of this accident was considered to be a result of oppressive working conditions of the bus driver, the Ministry of Labor is currently devising a plan of implementing a labor inspection project in industries that involve much overtime work, such as in transportation, labor dispatch, and financial industries. Since labor inspection is also being actively conducted by local competent authorities, it is important for companies to create a proper working environment.
2. Overview of basic labor laws of Taiwan

The basic labor-related laws in Taiwan are as follows.

2-1. Laws related to labor conditions

Labor Standards Act:

Basic matters related to labor in Taiwan are set out in the Labor Standards Act. This law was formulated for prescribing the minimum standards of labor conditions in order to protect the interests of employees. Labor conditions that are in violation of the Labor Standards Act are invalid. Excluding physicians, foreign caregiving employees and other exempted employees, the Labor Standards Act applies to all employees, irrespective of nationality.

Labor Incident Act:

The Labor Incident Act came into force from January 1, 2020 as a special law that prescribes general procedures for handling labor litigation. This act includes provisions that would make it easier for workers to bring suits against the company compared to general civil proceedings, including shorter procedural time periods, lower procedural costs and reduced burden of proof for workers, and others. Therefore, the employer shall explain clearly the details of employment to the employees and keep records of the work conditions, such as wages and work hours, so the employer can serve such information as evidence if and when a dispute between labor and management is brought to the court.

2-2. Laws related to labor and management

In Taiwan, the Labor Union Act, the Collective Agreement Act and the Act for Settlement of Labor Management Disputes are collectively referred to as the Three Labor Laws, and these are important laws concerning matters related to labor and management. These laws prescribe the following basic labor rights; specifically, the right to organize, the right to bargain collectively and the right to act collectively (right to strike).

Labor Union Act:

This law prescribes the basic scheme of labor unions including the establishment of labor unions, convocation of meetings, the election of directors and auditors, and the accounting of unions.
Collective Agreement Act:
This law prescribes matters related to the right to bargain collectively, including the negotiation, execution, and subject matter of labor contracts.

Act for Settlement of Labor-Management Disputes:
This law prescribes matters related to the mediation, arbitration and ruling of labor disputes, and the right to strike, including matters related to strikes.

Act for Worker Protection of Mass Redundancy:
This is a special applicable law in cases where a company attempts to dismiss a certain number of employees within six months. Because this law prescribes matters concerning the creation of dismissal plans and the notification to competent authorities, more time is now required for the dismissal procedures. Accordingly, when a company is to liquidate its business, it is important that the company confirms whether such liquidation is subject to the application of the Act for Worker Protection of Mass Redundancy.

2-3. Laws related to social welfare

Labor Insurance Act:
This law prescribes two types of labor insurance; specifically, ordinary accident insurance and occupational accident insurance. As a general rule, a company that is hiring five or more employees is required to establish a labor insurance unit with the Ministry of Labor, Bureau of Labor Insurance and allow its employees to participate in the labor insurance. Employees who belong to companies that have not established a labor insurance unit may voluntarily participate in labor insurance.

(1) Ordinary accident insurance

- Benefits: Five types of childbirth, injuries and diseases, loss of working capacity, advanced age, and death
- Insurance premium: 11% of the monthly wage of insured employees (generally speaking, 20% is to be borne by employees, 70% is to be borne by employers, 10% is to be borne by the government). However, the insurance premium of employees participating in employment insurance is 10% of the monthly wage of insured employees.

(2) Occupational accident insurance

- Benefits: Four types of injuries and diseases, medical, loss of working capacity, and death
- Insurance premium: Differs for each business (generally speaking, 100% is to be borne by employers)

Employment Insurance Act:
This law was formulated for maintaining the basic living security of unemployed workers and promoting job skills. The insurance premium is 1% of the monthly wage of insured employees (among the above, 20% is to be borne by employees, 70%
to be borne by employers, 10% is to be borne by the government). Even if an employee is not participating in labor insurance, the employee is forced to participate in employment insurance. Workers who are eligible for employment insurance do not include general foreign employees, and are limited to employees of Taiwanese nationality and foreign employees who have a Taiwanese spouse.

**Labor Pension Act:**

This is a law prescribing the mandatory retirement plan that was enforced from July 1, 2005. For details regarding the mandatory retirement plan based on this law, refer to Item 3 of Section 4 (Overview of the Wage System in Taiwan) described later. Note that the mandatory retirement allowance under the Labor Pension Act is different from the advanced age benefit of the labor insurance described above.

**Employee Welfare Fund Act:**

Factories, mining sites, and companies hiring 50 or more employees are required to establish an Employee Welfare Fund Committee and notify the competent authorities of such establishment. Note that these companies are required to make a certain amount of contribution to the employee welfare funds, transfer such employee welfare funds to the Employee Welfare Fund Committee, and use the same for the welfare of its employees. On a practical level, these employee welfare funds are used for conducting activities for employees and as cash handouts for the marriage of employees or for the funerals of their relatives.

**Act of Gender Equality in Employment:**

This law prescribes matters related to the prevention of discrimination by gender, prevention of sexual harassment, and leaves for female employees. Because this law sets forth special leaves for female employees, companies need to check this law upon creating work rules.

2-4. **Laws related to occupational safety and health**

**Occupational Safety and Health Act:**

In order to prevent occupational accidents, this law prescribes the preventive measures to be implemented by companies.

**Act for Protecting Worker of Occupational Accidents:**

This law prescribes matters related to the acknowledgement of occupational illness and the support of employees affected by occupational accidents.

**Regulations of the Labor Health Protection:**

In November 2017, this regulation was amended in line with the Occupational Safety and Health Act and in response to the prevention of and spread of musculoskeletal diseases and emotional stress in the workplace. The amendments will be implemented in several phases provided in the amending Article 26. The first phase of the implementation was on July 1, 2018. Key points of the amendment are as follows:
(1) A business unit with 50 workers or more, depending on the particular needs of the industry, shall hire or retain worker health service-related personnel, and a unit with 300 workers or more shall hire or retain worker health service-related personnel to provide onsite health care services for the prevention of new occupational diseases arising from health hazards, such as emotional stress in the workplace.

(2) When the hired or retained worker health service personnel are unable to provide services, the employer is required to substitute such personnel, through contracting other qualified individuals (i.e. medical professionals).

(3) The services provided by the health service personnel onsite and the duration for the retention of records pursuant to the Occupational Safety and Health Act with respect to various examinations and the records were amended.

(4) The special health examination items for those working with specific chemical substances were amended, including amendments to require employers to provide the latest environmental monitoring records for the medical professional who examines workers dealing with such substances.

2-5. Other

Employment Service Act:

This law prescribes matters related to the promotion of employment that includes establishment and licensing of the recruitment business and the promotion the employment of foreign nationals.

Regulations on the Permission and Administration of the Employment of Foreign Workers:

This law prescribes matters related to the conditions and application procedures pertaining to the employment of foreign workers.
3. Duty to prepare internal work regulations in Taiwan and the contents of such internal work regulations

3-1. Duty to create work rules in Taiwan and contents of work rules

According to Article 70 of the Taiwanese Labor Standards Act and Articles 37 and 38 of the Enforcement Regulations of said Act, a company employing 30 or more employees is required to create work rules and notify the competent authorities of such work rules within 30 days. Furthermore, the company is required to post such work rules in the workplace and print and distribute the same to all employees. When the work rules are revised, such revisions must be similarly reported to the competent authorities within 30 days. The revision of work rules for which the approval of competent authorities has not been obtained is invalid.

If a company has multiple branch offices, the company may freely create different work rules to be applied to the respective branch offices or create work rules that apply to the entire company, whichever the company deems appropriate.

If a company violates the foregoing provision, the company may be imposed a fine of 20,000 to 300,000 Taiwan dollars (competent authorities may impose a fine of up to 450,000 Taiwan dollars depending on the size of and violation by the company). Based on Article 80-1 of the Labor Standards Act, competent authorities may publicly announce the name of the violating company and the name of the business owner and order the company or business owner to remedy the violation.

3-2. Description of work rules

Pursuant to Article 70 of the Labor Standards Act, work rules must include the following matters:

1. Working hours, recess, leaves, statutory holidays, annual paid leave, and the rotation of shifts for continuous operations
2. Standards, method of calculation, and payday of wages
3. Extension of working hours
4. Allowances and bonuses
5. Rules to be observed
   (Because matters related to penalties, ownership of copyrights and other particular matters require the consent of individual employees, companies may not unilaterally prescribe these matters in their work rules.)
6. Rules for performance review, leave-taking, awards, discipline, promotions, and transfers
   (Provisions related to performance review, awards, and discipline must be specific, reasonable, and clear, and a comprehensive provision, such as "other circumstances," may not be prescribed in the work rules.)
7. Rules for recruitment, dismissal, termination/resignation, and retirement
Because work rules that are in violation of the mandatory provisions of regulatory provisions of laws or in breach of labor-management discussions are invalid, the work rules created in Japan cannot be applied directly to Taiwan and need to be recreated in accordance with the laws of Taiwan.

3-3. Disadvantageous revision of work rules

According to the interpretation of Notice No. 27545 of the MOL Committee (80), because labor conditions are matters to be decided upon consultation between labor and management, when a company wishes to revise the labor conditions of the work rules in a manner that is disadvantageous to employees, the company needs to discuss such revision with its employees. On a practical level, when a company is to notify a disadvantageous revision of the work rules to the competent authorities, the company is often required to obtain the written consent of all employees or submit proof of consent through a labor-management meeting.
4. Overview of the wage system (bonuses, retirement benefits, and overtime pay) in Taiwan

4-1. Wages

(1) Minimum wage

From January 1, 2020, the minimum wage is 23,800 Taiwan dollars per month and 158 Taiwan dollars per hour. This minimum wage standard shall apply to child workers.

(2) Allowance

Unlike Japan, in Taiwan, it is not often the case that the housing allowance, executive allowance, and family allowance are paid in addition to the base pay.

(3) Principle of payment of the full amount

Unless otherwise specified in laws or an agreement between labor and management, wages must be paid in full to employees. Furthermore, companies may not make deductions in advance from the wages of employees for the collection of penalties or compensation costs. For instance, a company is prohibited from deducting a certain amount from an employee’s wage as a penalty for not reading a work-related SNS message after leaving the office.

(4) Principle of payment in currency

As a general rule, wages must be paid in legal currency. However, the employment contract may prescribe that a part of such wages be paid in kind based on common practices or the nature of the worker's job description.

(5) Principle of same job, same wage

The principle of the same job, same wage has been established in accordance with the recent revision.
4-2. Overtime pay

Overtime pay (which shall mean wages for working over 40 hours per week and for working on rest days) is broadly classified into the following four types, and while the calculation method is different for each type of overtime pay, as a general rule, overtime pay is calculated according to the method of hourly pay x overtime hours x fixed rate.

It should be noted that, in Taiwan, the method of calculation for hourly pay in the monthly wage system differs from Japan. In Japan, while hourly pay is calculated by dividing the monthly wage by the average number of prescribed working hours (excluding days off) per month, in Taiwan, the hourly pay is calculated by dividing the monthly wage by 240 hours (30 days x 8 hours without excluding/days off). As mentioned above, with the 2018 revision, the overtime cap has been amended (increased). Employees would also have the option of converting overtime into compensatory leave instead of obtaining overtime pay.

(1) Overtime pay on weekdays

Overtime pay for the first hour to the second hour = hourly pay \times \text{ overtime hours} \times (1 + 1/3)

Overtime pay for the third hour to the fourth hour* = hourly pay \times \text{ overtime hours} \times (1 + 2/3)

*Because the overtime hours on weekdays are limited to 4 hours per day under the Labor Standards Act, overtime work exceeding 4 hours is not permitted under laws. Nevertheless, as the actual conditions, it could be said that there are cases where, as with other countries, overtime work is conducted beyond the foregoing limit.

(2) Overtime pay on rest days

Previously, employers were required to pay at least 4 hours wages once an employee works on a statutory rest day and to pay another 4 hours wages for every 4 working hours. However, under the 2018 revision, such overtime is to be counted per actual hours. Furthermore, if the employee works more than 8 hours on a statutory rest day, the additional overtime pay shall be as follows:

Overtime pay for the first hour to the second hour = hourly pay of a normal working day \times \text{ overtime hours} \times (1 + 1 + 1/3)

Overtime pay for the third hour to the fourth hour* = hourly pay of a normal working day \times \text{ overtime hours} \times (1 + 1 + 2/3)

(3) Overtime pay on statutory holidays

Overtime pay for the first to the eighth hour = wage per hour \times \text{ overtime hours} (8 hours)*.

*Even if the actual overtime hours are less than 8 hours (for instance, 3 hours), companies are required to pay 8 hours’ worth of overtime pay per day.
(4) Overtime pay on mandatory non-work days

Overtime pay for the first to the eighth hour = (wage per hour × overtime hours (8 hours)* + one day of substitute holiday.
*Even if the actual overtime hours are less than 8 hours (for instance, 3 hours), companies are required to pay 8 hours’ worth of overtime pay per day.

4-3. Retirement allowance

Retirement plans in Taiwan are either the Old Retirement Plan under the Labor Standards Act or the New Retirement Plan under the Labor Pension Act (implemented from July 1, 2005). While both of these retirement plans are currently valid, the calculation method and the accumulation rules of retirement allowance are different.

(1) Eligible workers

Old Retirement Plan:
Employees who were hired up to June 30, 2005, and who did not select the New Retirement Plan before June 30, 2010. All foreign employees are subject to the application of the Old Retirement Plan irrespective of the time that they joined the company (provided, however, that the New Retirement Plan is applied to foreign employees who married a Taiwanese national or foreign employees who divorced a Taiwanese national).

New Retirement Plan:
Employees who were hired from July 1, 2005, onward.

(2) Overview of plans

Old Retirement Plan:
According to the Labor Standards Act, companies are required to accumulate, in a special account, an amount corresponding to 2% to 15% of the monthly wage of employees to which the Old Retirement Plan is applied. Employees who (a) have worked for 15 years or longer for the same company and reached the age of 55, (b) have worked for 25 years or longer for the same company, or (c) have worked for 10 years or longer for the same company and reached the age of 60 can receive a retirement allowance. However, because the retirement allowance under the Old Retirement Plan is placed in a management account of each company, if an employee leaves the company and joins another company, as a general rule, that employee cannot withdraw the retirement allowance that was accumulated in the previous company.

Amount to be paid:
Two months’ worth of the average monthly wage (average monthly wage of the six-month period before resignation/retirement)
for each year of service up to 15 years of service, and one month worth of the average monthly wage for each year of service in excess of 15 years of service are to be paid in a lump sum. However, the upper cap shall be 45 months’ worth of the average monthly wage.

**New Retirement Plan:**

According to the Labor Pension Act, companies are required to make a contribution at a rate that is not less than 6% of the monthly wages of employees to which the New Retirement Plan is applicable and deposit such contribution in a special account of the Bureau of Labor Insurance. Note that employees can, on a personal basis, additionally contribute to the retirement allowance within a range of 6% of their monthly wage. (a) Employees who have reached the age of 62 (irrespective of whether or not they have actually resigned/retired) and (b) the bereaved family of employees who have died before reaching the age of 62 may receive the accumulated retirement allowance. Because the retirement allowance of the New Retirement Plan is placed in a management account of each employee, even if an employee leaves the company and joins another company, that employee will take over the previously accumulated retirement allowance.

**Amount to be paid:**

- Monthly payment: The monthly payment is determined based on various coefficients such as the annuity table and the interest rate in light of (actually accumulated personal retirement allowance + cumulative investment income)
- Lump-sum payment: Actually accumulated personal retirement allowance + cumulative investment income

**Revisions to the Labor Pension Act in 2018 and 2019**

In 2018, because of concerns about an aging society, Taiwan decided to gradually raise the age that applicable employees can claim pension until 2026, from the age of 60 before the revision to 65. Furthermore, Taiwan enforced the revision of the Labor Pension Act in which the scope of the applicable person is widened and penalties for misconduct by a company or pension trust are strengthened. Key points of the revisions are as follows:

1. Because of the revision to the Labor Pension Act in 2018, it has been determined that the age at which applicable employees can claim pension will be raised once in two years. The age will be raised to 62 in 2020, 63 in 2022, 64 in 2024, and 65 in 2026.
2. Because of the revision to the Labor Pension Act in 2019, foreigners with permanent resident status become covered by the Act and will receive protection for after-retirement life. Those who had voluntarily paid pension contributions, such as sole-proprietors, until the revision can now enjoy the tax benefits, which is in line with the measures to promote participation in the government pension scheme.
3. Companies who have violated the provisions of the Act and become subject to administrative penalties will be disclosed as to their company name, name of the person in charge, date of the administrative penalty, and the details of the penalty and the amount of the fine.
4. Based on Article 78 of the Labor Standards Act, the amount of any delinquency charge to be imposed to the employers who fail or delay to pay retirement allowance or pension within the timeline set forth in the relevant Act is increased from the previous 900,000 Taiwan dollars to 1,500,000 Taiwan dollars.
5. When an employer fails to pay pension or the delinquency charge and its assets are insufficient to pay off the debt, its representative or responsible person shall be personally liable.
4-4. Bonus

According to Article 29 of the Labor Standards Act, after the end of a fiscal year, if a company has gained profits, the company is required to pay a bonus or distribute profits to employees who have continuously worked for one year without fault. Note that, on a practical level, it is customary for Taiwanese companies to pay a certain bonus to employees before the Chinese New Year.
5. Methods and points to consider regarding dismissal in Taiwan

In Taiwan, employees are protected under the Labor Standards Act and cannot be dismissed unless there are statutory grounds.

The dismissal of employees in Taiwan can be broadly classified into the following two types: specifically, dismissal with notice under Articles 11 and 20 of the Labor Standards Act and summary dismissal under Article 12 of the Labor Standards Act, depending on whether or not there is a notice period.

5-1. Dismissal with notice

(1) Statutory grounds for dismissal:

When there is any one of the following grounds, a company may notify its employee and terminate the employment contract:

1. The company has closed its business or its business operations or property has been transferred, and the company has lost its corporate status.
2. The company has suffered operating losses or reduced its operation.
3. The company is required to suspend its business for one month or longer due to a force majeure event.
4. The company is required to reduce its workforce due to changes in the nature of its business, and the terminated employees cannot be reassigned to other suitable positions.
5. A particular employee is clearly unable to perform satisfactorily the duties required of the position held by that employee.
6. The company is reorganized or acquired.
(2) Notice period:

<table>
<thead>
<tr>
<th>Service Years</th>
<th>Notice period</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employees who worked for 3 months or longer and less than 1 year</td>
<td>At least 10 days in advance</td>
</tr>
<tr>
<td>Employees who worked for 1 year or longer and less than 3 years</td>
<td>At least 20 days in advance</td>
</tr>
<tr>
<td>Employees who worked for 3 years or longer</td>
<td>At least 30 days in advance</td>
</tr>
</tbody>
</table>

If a company terminates an employment contract without notice, the company is required to pay wages corresponding to the notice period to the employee.

(3) Duty to report:

According to the Employment Service Act, when a company is to dismiss an employee based on dismissal with notice, the company is required to submit to local competent authorities and public service institutions, at least 10 days before the employee leaves the company, the material containing the name, gender, age, address, phone number, job description, grounds for dismissal, and necessity of vocational guidance of the employee to be dismissed. This will enable the competent authorities and public service institutions to provide proper information for reemployment to the employee to be dismissed.

(4) Dismissal allowance:

**Employees to which the Old Retirement Plan is applied:**

Companies must pay a dismissal allowance of one month’s worth of average monthly wage (average monthly wage of the six-month period before dismissal) for each year of service within 30 days after the termination of the employment contract.

**Employees to which the New Retirement Plan is applied:**

Companies must pay a dismissal allowance of 0.5 months’ worth of average monthly wage for each year of service within 30 days after the termination of the employment contract. However, the upper cap shall be 6 months’ worth of the average monthly wage.
5-2. Summary dismissal

When there are statutory grounds that are attributable to the employee, the company may immediately terminate the employment contract without notice and without any obligation to pay the dismissal allowance.

(1) Statutory grounds for dismissal:

A company may terminate an employment contract without any notice to the employee in the event of any one of the following grounds:

(a) The employee misrepresents any fact at the time of signing an employment contract in a manner that might mislead the company and thus cause damage to the company.

(b) The employee commits a violent act against or grossly insults the employer, the employer's family member or agent, or a fellow employee.

(c) The employee has been sentenced to imprisonment for fixed-term or more severe punishment by a final and conclusive judgment, but the sentence has not been suspended nor the employee has been permitted to pay fine in lieu of imprisonment.

(d) The employee is in serious breach of the employment contract or work rules.

(e) The employee deliberately damages or abuses machinery, tools, raw materials, products, or other property of the employer or deliberately discloses any technical or confidential information of the employer thereby causing damage to the employer.

(f) The employee is, without good cause, absent from work for three consecutive days, or a total six days in any month.

With regard to the termination of the employment contract under Items (a), (b), (d), (e), and (f) above, the company is required to terminate the employment contract within 30 days from the day that the company learns of such grounds for dismissal.

5-3. The period during which dismissal is prohibited

To protect female employees and employees suffering from an occupational accident, companies are prohibited from dismissing such employees during the maternity leave period and the leave period for the occupational accident, unless the continuation of business becomes impossible because of calamities or other inevitable reasons.

5-4. Act for Worker Protection of Mass Redundancy

The Act for Worker Protection of Mass Redundancy is applicable when a company hiring less than 30 employees is to dismiss more than 10 employees within 60 days, a company hiring 30 or more employees or less than 200 employees is to dismiss more than 10 employees within 60 days or dismiss more than 20 employees in one day, a company hiring 200 or more employees and less than 500 employees is to dismiss 1/4 of its employees within 60 days or dismiss more than 50 employees
in one day, or a company hiring 500 or more employees is to dismiss 1/5 of its employees within 60 days or dismiss more than 80 employees in one day, or dismiss more than 200 employees within 60 days or more than 100 employees in one day.

The Act for Worker Protection of Mass Redundancy prescribes procedures that are more complex than the general dismissal with the notice described above. For example, a company is required to submit its dismissal plan to the competent authorities, labor unions, and employees to be dismissed or publicly announce such dismissal plan at least 60 days before the mass discharge. Note that the company is required to hold a joint labor management conference within 10 days from submitting the dismissal plan. If an agreement is not reached between labor and management regarding the dismissal, the competent authorities will organize a consultative committee and actively intervene in the labor-management consultation. On a practical level, in order to avoid the application of the Act for Worker Protection of Mass Redundancy, there are cases where companies provide employees with an allowance in an amount that is greater than the statutory discharge allowance and thereby ask employees to voluntarily resign.
6. Types of foreign national passes and acquisition requirements

6-1. Regulations for employing foreign nationals

In Taiwan, the basic law for employing foreign nationals is Chapter 5 of the Employment Service Act. As a general rule, when employing foreign nationals, a company must foremost file for a work permit with the Workforce Development Agency. Subsequently, the company is required to file for a residence pass with the Bureau of Consular Affairs, Ministry of Foreign Affairs, and file for a resident certificate with the National Immigration Agency within 15 days after the foreign employee arrives in Taiwan.

If a foreign national works in Taiwan without a work permit, the employer and the foreign national may be ordered to pay a fine or leave Taiwan.

Note that the lines of work and job descriptions of foreign nationals are limited, and the regulations need to be checked individually because there are different regulations regarding the qualification of employers, qualification of employees, and minimum wage for each line of work.

The lines of work and job descriptions of foreign nationals are as follows:

1. Specialized or technical work
2. Director/Manager/Executive of a business invested in or set up by foreign nationals with the authorization of the government of Taiwan
3. Teacher at a public or registered private college/university or school established especially for foreign residents, teacher teaching foreign languages at a high school or below, and teacher teaching courses at a high school’s bilingual department or bilingual school
4. Full-time teacher teaching courses on foreign languages at a short-term class registered for supplementary schooling in accordance with the Supplementary Education Act
5. Sports coach and athlete
6. Religious, artistic, and show business work
7. Crew member of a vessel
8. Marine fishing/netting work
9. Household assistant and nursing-related work
10. Work designated by the Central Competent Authority in response to the national major construction projects or economic/social development needs
11. Other specialized work ad hoc approved by the Central Competent Authority due to the lack of such specialist in the domestic employment market and the business necessity to retain the service of such specialist therefor
For (1) and the second manager onward of (2) above, there is a limit to the minimum wage of 47,971 Taiwan dollars. For details, companies need to refer to the Regulations on the Permission and Administration of the Employment of Foreign Workers, the Qualifications and Criteria Standards for foreign nationals undertaking the jobs specified under Article 46.1.1 to 46.1.6 of the Employment Service Act and the Reviewing Standards and Employment Qualifications for Foreign nationals Engaging in the Jobs Specified in Items 8 to 11, Paragraph 1, to Article 46 of the Employment Service Act.

6-2. Types of passes

As a general rule, foreign nationals to stay in Taiwan for an extended period are required to hold a residence pass. There are the following types of residence passes depending on the purpose of residency.

<table>
<thead>
<tr>
<th>Type of pass</th>
<th>Eligible persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Entrepreneur</td>
<td>In order to promote the investment by foreign national entrepreneurs in Taiwan, from 2015, individuals and project teams that satisfy the entrepreneur qualification set out by the Investment Commission can apply for an entrepreneur pass.</td>
</tr>
<tr>
<td>Employment</td>
<td>Foreigner who is to obtain a work permit and work in Taiwan</td>
</tr>
<tr>
<td>Investment</td>
<td>Foreign investor who received the permission of the Investment Commission and whose investment in a Taiwanese company is 200,000 USD or more</td>
</tr>
<tr>
<td>Interns</td>
<td>Foreigner to work as an intern in Taiwan upon obtaining the permission of competent authorities such as the Ministry of the Interior, the Investment Commission, and the Ministry of Health and Welfare</td>
</tr>
<tr>
<td>Family members</td>
<td>Foreign spouse and minor child of a Taiwanese national</td>
</tr>
<tr>
<td>Study</td>
<td>Foreign student to study in a Taiwanese university, high school or other schools</td>
</tr>
<tr>
<td>Training</td>
<td>1. Foreigner to study in a Chinese language center of a Taiwanese university 2. Foreigner to study religion in a Taiwanese religious organization upon obtaining the permission of the Ministry of the Interior and local competent authorities</td>
</tr>
<tr>
<td>Religious propaganda</td>
<td>Foreigner to be a missionary in Taiwan pursuant to the request of a religious organization</td>
</tr>
</tbody>
</table>

Furthermore, (1) a foreign national who legally resides in Taiwan for a consecutive period of 5 years in excess of 183 days per year, and (2) a spouse or a child of a Taiwanese national who has legal resident status in Taiwan for 10 years or longer and who, of such 10-year period, resided in Taiwan for a period of 5 years in excess of 183 days per year, may apply for permanent resident status. When a foreign national with a permanent resident status is to work in Taiwan, there is no need to apply for a work permit through one’s employer.
About this document

About the information compiled in this document

The various data and commentaries presented in this document have been compiled and written by One Asia Lawyers based on information released at the time of this document’s creation; its accuracy and completeness are not guaranteed. In addition, One Asia Lawyers bears absolutely no responsibility for any damages incurred as a result of the use of the information in this document.

● Author:
  One Asia Lawyers

● Writing date:
  February/2020

Contact information regarding this document

Persol Research & Consulting Co., Think Tank Headquarters
Overseen by the Persol HR Data Bank, APAC
E-mail:thinktank-rc@persol.co.jp