**外籍老師就業服務法 Foreign Teacher**

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| **Employment Services Act**    Article 42 For the purpose of protecting nationals' right to work, no employment of Foreign Worker may jeopardize nationals' opportunity in employment, their employment terms, economic development or social stability.  Article 43 Unless otherwise specified in the present Act, no Foreign Worker may engage in work within the territory of the Republic of China should his/her Employer have not yet obtained a Permit via application therefore.  Article 44 No one may illegally let Foreign Worker stay and engage in work.  Article 45 No one may illegally refer Foreign Worker to work for any third party.  Article 46 Unless otherwise provided for in the present Act, the work a Foreign Worker may be employed to engage in within the territory of the Republic of China is limited to the following: 1. Specialized or technical work; 2. Director/Manager/Executive of a business invested in or set up by oversees Chinese or foreigner(s) with the authorization of the Government of the Republic of China; 3. Teacher at the following schools, as indicated: 1)Teacher at a public or registered private college/university or school established especially for foreign residents; 2)Approved teacher teaching course(s) on foreign language(s) at a public or registered private high school or below; 3)Teacher teaching course(s) at a public or registered private experimental high school's bilingual department or at bilingual school; 4. Full-time teacher teaching course(s) on foreign language(s) 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 merchant vessel, working vessel, and vessel ad hoc permitted by the Ministry of Transportation and Communication; 8. Marine fishing/netting work; 9. Household assistant; 10. Work designated by the Central Competent Authority in response to national major construction project(s) or economic/social development needs; and 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 therefore.  The Central Competent Authority shall consult the Central Competent Authority(s) administering the work in question to determine the working qualification(s) and standard of review thereof in respect of the Foreign Worker engaging in work as referred to in Paragraph 1 of this Article.  Employer, when employing Foreign Worker to engage in work as referred to in Subparagraphs 8 to 10 of Paragraph 1 of this Article, shall execute labor contract in writing with the employed Foreign Worker and with fixed duration only; in case where it is not so fixed, the duration of his/her employment shall be deemed as the same with the duration of Employment Permit thereof. The foregoing in this Paragraph shall hold true in the case of extension of such labor contract.  Article 47 With respect to the employment of Foreign Worker(s) to engage in work as referred to in Subparagraphs 8 to 11 of Paragraph 1 of Article 46, Employer shall first make domestic recruitment with reasonable labor terms; only when such domestic recruitment cannot acquire sufficient number of employee(s) to satisfy his/her business needs may Employer apply for Permit to recruit Foreign Person(s) with a view to filling up such insufficiency. Furthermore, when conducting recruitment of Foreign Worker(s) under such circumstances, Employer shall notify the labor union or labor of the business entity of the full and entire content concerning such recruitment and shall publicly announce the same in the work place designated for such Foreign Worker(s) to engage in work.  When conducting the domestic recruitment in accordance with Paragraph 1 of this Article, Employer, unless otherwise justified, may not refuse to employ Job Applicant(s) as referred by Public Employment Services Agency(s).  Article 48 Prior to employing Foreign Worker to engage in work, Employer shall apply to the Central Competent Authority for Employment Permit with relevant documents submitted. However, such a requirement of Employment Permit is exempted where the Foreign Worker in question is to be employed as counsel or researcher by the respective governmental organs or their subordinate academic research institutes, or the Foreign Worker in question has been married to a Republic of China national with a registered permanent residence in the territory of the Republic of China and has been permitted to stay therein.  The Central Competent Authority shall collaborate with the Central Competent Authority(s) administering the occupations in question to promulgate the regulations regarding the application for Permit and annulment thereof as referred to in Paragraph 1 of this Article and other matters related to the employment and administration of Foreign Workers.  The Central Competent Health Authority(s) shall collaborate with the Central Competent Authority to promulgate the regulations administering the health examinations conducted upon the employed Foreign Worker as referred to in Paragraph 1 of this Article prior to his/her entry into the territory of the Republic of China and thereafter.  The hospital(s), as may be designated by the Central Competent Health Authority(s), shall conduct the health examinations as referred to in Paragraph 3 of this Article upon the employed Foreign Worker after his/her entry into the territory of the Republic of China; the Central Competent Health Authority(s) shall promulgate the regulations regarding the qualification(s) of the Hospital(s) for such designation, the designations, the termination of such designation and other matters related to administration thereof. Should an employed Foreign Worker fail such health examinations and be ordered to depart from the territory of the Republic of China within a specified period, his/her Employer shall immediately urge and facilitate such departure.  The Central Competent Authority may prescribe the country of origin and the quota thereof regarding the Foreign Workers that engage in the work as referred to in Subparagraphs 8 to 11 of Paragraph 1 of Article 46.  Article 49 While stationed in the Republic of China, Foreign Embassies/Consulates, Foreign Agencies, international organizations and the staff thereof intending to employ Foreign Worker(s) to engage in work therefore in the Republic of China shall apply to the Ministry of Foreign Affairs for Permit to that effect; the Ministry of Foreign Affairs shall collaborate with the Central Competent Authority to promulgate the regulations regarding the issuance and annulment of such Permit and other matters related to the employment and administration thereof.  Article 50 The scope of works as limited in Paragraph 1 of Article 46 does not apply to the following categories of students to be employed to engage in work in the Republic of China; with the exception of the winter and summer vacations, their sum of working hours shall not exceed sixteen (16) hours per week: 1. Foreign students enrolled in a public or registered private college/university; and 2. Oversees Chinese Students and other Foreign Students of Chinese Origin enrolled in a public or registered private high school or above.  Article 51 Where the employed Foreign Worker is amongst any of the following, the requirements as referred to in Paragraphs 1 and 3 of Article 46, Article 47, Article 52, Paragraphs 3 and 4 of Article 53, Subparagraph 5 of Article 57, Subparagraph 4 of Article 72 and Article 74 are exempted, and his/her Employer is also exempted from paying the Employment Security Fees as required under Article 55: 1. A refugee permitted to stay in the territory of the Republic of China; 2. One who has been continuously employed, with permission of the relevant Competent Authority(s), to engage in work in the territory of the Republic of China, has maintained a settled practice of good-mannered behavior, and has kept a residence in the said territory for at least five (5) consecutive years; 3. One permitted to live with his/her lineal relative who has a registered domestic residence in the Republic of China; or 4. One permitted to stay permanently in the territory of the Republic of China.  The Foreign Workers as referred to in Subparagraphs 1, 3 and 4 of Paragraph 1 of this Article may, without their Employers' initiation, apply on their own initiatives to the Central Competent Authority for Permits to engage in work in the territory of the Republic of China.  Where the performance of contract(s) of construction, sale, technical cooperation and so forth necessitates a foreign legal person's appointing a Foreign Worker to engage in work as referred to in Subparagraph 1 or 2 of Paragraph 1 of Article 46 in the territory of the Republic of China, and where such foreign legal person has not established any branch office or representative agency in the said territory, the business entity with whom such foreign legal person contracted or the agent duly authorized by such foreign legal person shall apply therefor in accordance with the regulations promulgated pursuant to Paragraphs 2 and 3 of Article 48.  Article 52 Where a Foreign Worker is employed to engage in work as referred to in Subparagraphs 1 to 7 and Subparagraph 11 of Paragraph 1 of Article 46, the duration of the Permit therefor shall not exceed three (3) years; , upon the expiration of which the Employer may apply for extension thereof pursuant to his/her business needs.  Where a Foreign Worker is employed to engage in work as referred to in Subparagraphs 8 to 10 of Paragraph 1 of Article 46, the duration of the Permit therefore shall not exceed two (2) years; , upon the expiration of which the Employer may apply for one (1) time for extension thereof; the extended duration shall not exceed one (1) year. Should some major and special circumstances occur, Employer may apply for a further extension thereof. The Executive Yuan shall promulgate the duration of such further extension.However, in the event of a major construction, the duration of such further extension shall not exceed six (6) months.  The Central Competent Authority shall invite and consult with representatives of the relevant governmental agency (s), labor, Employers, and scholars to decide, pursuant to the Foreign Workers Employment Alert Index, the maximum number of Foreign Workers permitted per year to be introduced into the territory of the Republic of China to engage in work as referred to in Paragraph 2 of this Article.  An employed Foreign Worker who has violated no laws or regulations within the duration of Employment Permit, and has departed from the territory of the Republic of China due to the termination of employment, or the expiration of the Employment Permit, or an employed Foreign Worker who failed the health examinations, but accepted medical treatment thereafter at his/her national country and then passed health examinations therein, may re-enter the territory of the Republic of China to engage in work. However, as for a Foreign Worker who engages in work as referred to in Subparagraphs 8 to 10 of Paragraph 1 of Article 46, such re-entry may be allowed only after one (1) day following his/her departure, but the aggregate duration in which such Foreign Worker engages in work in the said territory shall not exceed nine (9) years.  Article 53 Should an employed Foreign Worker have to transfer to a new Employer or be employed for two (2) or more Employers within the duration of the Employment Permit, the new Employer(s) shall apply for Permit therefore; in case of transfer to a new Employer, the new Employer shall submit upon such application the relevant document(s) certifying the termination of the previous employment.  The requirement as referred to in Paragraph 1 of this Article is exempted in the case where the Foreign Workers as referred to in Subparagraphs 1, 3 and 4 of Paragraph 1 of Article 51 have obtained the Permit from the Central Competent Authority.  Where a Foreign Worker who has been employed to engage in work as referred to in Subparagraphs 1 to 7 of Paragraph 1 of Article 46 transfers to a new Employer or new work, he/she is prohibited from engaging in work as referred to in Subparagraphs 8 to 11 of same Paragraph of same Article for his/her new Employer or as his/her new work.  Unless otherwise authorized by the Central Competent Authority on account of the respective circumstances as referred to in Paragraph 1 of Article 59, a Foreign Worker who has been employed to engage in work as referred to in Subparagraphs 8 to 11 of Paragraph 1 of Article 46 may not transfer to a new Employer or new work.  Where an employed Foreign Worker as referred to in Paragraph 4 of this Article is authorized to transfer to a new Employer or new work, the duration of the previous employment and the new one, as calculated in aggregate, shall be subject to the restriction as referred to in Article 52.  Article 54 Should any of the following circumstances have arisen or existed with respect to the employment of Foreign Worker(s) to engage in work as referred to in Subparagraphs 8 to 11 of Paragraph 1 of Article 46, the Central Competent Authority shall not issue the Permit for recruitment, employment, or the extension thereof; in case the Permit for recruitment has already been issued, the Central Competent Authority may halt the introduction of Foreign Workers: 1. The work place in which the Foreign Worker(s) is designated to engage in work once employed has been subject to a legal strike or industrial dispute as referred to in Article 10; 2. During the domestic recruitment, the Employer has unjustifiably refused to employ Worker(s) referred by Public Employment Services Agency(s) or Job Applicant(s) appeared on his/her/their own initiative(s); 3. The number of Foreign Workers whose whereabouts are untraceable or who are deliberately hidden by the Employer has reached a certain figure or percentage as prescribed by the Central Competent Authority; 4. The Employer has ever illegally employed Foreign Worker(s) to engage in work; 5. The Employer has ever illegally laid off/discharged national worker(s); 6. The local Competent Authority(s) has/have investigated and proven that the employment of Foreign Worker(s) has undermined the labor terms in the employment contract(s) with national worker(s); 7. The employed Foreign Worker(s) has/have disturbed the tranquility and public orders of the local community and has/have been adjudicated upon and punished on that account in accordance with the Social Order Maintenance Act; 8. The Employer has ever illegally withheld passport(s)/ residence certificate(s) of Foreign Worker(s), or embezzled belongings of Foreign Worker(s); 9. The Employer has failed to pay within the prescribed period the travel expenses required for dispatching the employed Foreign Worker(s) out of the territory of the Republic of China or the necessary expenses for the detention of his/her employed Foreign Worker(s) prior to the departure; 10. When entrusting Private Employment Services Agency(s) with recruiting Foreign Worker(s), the Employer has demanded, agreed to be paid at a later stage, or accepted unjust interests from such Agency(s); 11. The Employer has submitted false information when processing the application for the employment of Foreign Worker(s) or matters regarding the recruitment, introduction, or administration thereof; 12. The Employer has made false recruitment advertisement(s); 13. The Employer's application has not been made in conformity with the relevant requirements and he/she has failed to make necessary supplements and/or rectifications thereof within the specified period of time; 14. The Employer has violated the provision(s) of the present Act or the regulations promulgated pursuant to Paragraphs 2 or 3 of Article 48 or Article 49; or 15. Other than the above, the Employer has been in serious violation of applicable laws and regulations protecting labor.  For the purpose of this Article, the circumstances as referred to in Subparagraphs 3 to 15 of Paragraph 1 of this Article shall be limited to those have arisen or existed within the two (2)-year period prior to the day of application.  The Central Competent Authority shall promulgate the figure or percentage of number as referred to in Subparagraph 3 of Paragraph 1 of this Article.  Article 55 Where employing Foreign Worker(s) to engage in work as referred to in Subparagraphs 8 to 10 of Paragraph 1 of Article 46, the Employer shall pay Employment Security Fees into the specific account for Employment Security Fund as established by the Central Competent Authority to be utilized for the purposes of processing matters regarding promotion of employment of nationals, enhancement of labor welfare, and handling the employment and administration of Foreign Workers.  The amount of the Employment Security Fees as referred to in Paragraph 1 of this Article shall be determined by the Central Competent Authority in accordance with economic development of the state, labor supply and demand and related work conditions; the amount may be varied according to characteristis of industries and occupations after consultation with other relevant competent authorities.  The Employer is exempted from paying the Employment Security Fees as required in accordance with Paragraph 1 of this Article as long as the Employer duly reported pursuant to applicable legal procedures the fact that the employed Foreign Worker had been unjustifiably absent from his/her work and had not been in contact for three (3) consecutive days or that the Employment regarding the employed Foreign Worker had been terminated, and as a result thereof the Employment Permit was annulled  Where Employer fails to pay off the Employment Security Fees within the specified period, an extension thereof for thirty (30) days may be granted; where Employer fails to pay off the said Fees within the grace period, a late payment fine of one percent (1%) of the outstanding accrued Fees shall be levied per day from the day following the expiration of the grace period until the day prior to the complete payment thereof; but the aggregate sum of such fine shall not exceed the full amount of the outstanding accrued Employment Security Fees.  Should Employer fail to pay off the said Fees by the end of thirty (30) days after the late payment fine was levied daily as referred to in Paragraph 4 of this Article, the Central Competent Authority shall thereafter seek legal compulsory proceedings to collect the then unpaid Fees as well as the late payment fine levied but yet paid, and annul in whole or in part his/her Employment Permit.  The Competent Authority shall post the utilization of the Employment Security Fund and the records of related meetings on its website.  Article 56 Should an employed Foreign Worker have been unjustifiably absent from his/her work and not in contact for three (3) consecutive days or should the employment of a Foreign Worker be terminated, the Employer shall notify in writing the local Competent Authority(s) and the Police of such event within three (3) days thereafter.  Article 57 As for employment of Foreign Worker(s), Employer shall not engage in any of the following: 1. Employing a Foreign Worker without Permit or after the expiration of Permit therefore, or a Foreign Worker that has been permitted to be employed at the same time by a third party; 2. Employing in the name of the Employer a Foreign Worker, but in reality causing that Foreign Worker engage in work for a third party; 3. Appointing the employed Foreign Worker to engage in work that is not within the sphere of the Permit; 4. Commanding, without permission therefore, an Foreign Worker who is employed to engage in the work as referred to in Subparagraphs 8 to 10 of Paragraph 1 of Article 46 to change his/her work place; 5. Failing to arrange for the employed Foreign Worker to undergo health examinations or failing to submit the health examinations report(s) to the Competent Health Authority(s) in accordance with the applicable laws and regulations; 6. Dismissing or laying off national worker(s) as a result of having employed Foreign Worker(s) by the Employer; 7. Exerting coercion, threat, or any other illegal means upon the employed Foreign Worker(s) to enforce him/her/them to engage in work contrary to his/her/their free will; 8. Illegally withholding the passport(s)/ residence certificate(s) of Foreign Worker(s) or embezzling belongings of Foreign Worker(s); or 9. Having violated, other than the above, the provision(s) of the present Act or the regulations promulgated pursuant to the present Act.  Article 58 Where Foreign Worker(s) have departed from the territory of the Republic of China or deceased within the duration of the Employment Permit due to reason(s) not attributable to their Employer, the Employer may apply to the Central Competent Authority for replacement thereof.  Where employing Foreign Worker(s) to engage in family nursing work as referred to in Subparagraphs 10 of Paragraph 1 of Article 46, the Employer may apply to the Central Competent Authority for replacement thereof should no reasons be attributable to their Employer and any of the following circumstances have arisen or existed:  1. Where Foreign Worker(s) whose whereabouts are untraceable at airports of entry or departure countries or detained institutions, the Employer have notified the Police pursuant to applicable legal procedures; or 2. Foreign Worker(s) whose whereabouts are untraceable at Employer's location, they have not been captured after the Employer have notified the Police pursuant to applicable legal procedures for six (6) months, and native care takers have been referral in accordance with legal procedures but failed.  The duration of the permitted replacement as referred to in Paragraphs 1 and 2 of this Article shall be restricted to the remainder of the original duration of the Employment Permit regarding the replaced Foreign Worker(s); the application for replacement shall not be permitted should the remainder of the said original duration be less than six (6) months.  Where employed Foreign Worker(s) whose whereabouts are untraceable prior to the effective date of the amendment on May 4, 2007 of the present Act, the Employer apply to the replacement as referred to in Paragraphs 2 of this Article should they had notified the Police pursuant to applicable legal procedures.    Article 59 Should any of the following circumstances have arisen or existed, the Foreign Worker employed to engage in work as referred to in Subparagraphs 8 to 11 of Paragraph 1 of Article 46 may transfer to work for a new Employer or to engage in new work upon the authorization of the Central Competent Authority: 1. His/Her original Employer or the One who was intended to be taken care of by the employed Foreign Worker has deceased or emigrated; 2. The vessel he/she works on has been seized, has sunk, or has been under repair so as to compel the discontinuation of the work; 3. The discontinuation of the work caused by the fact that His/Her original Employer has shut down the factory, suspended the business, or failed to pay the wage/salary pursuant to the employment contract resulting in the termination thereof; 4. Other than the above, similar circumstances not attributable to the employed Foreign Worker.  The Central Competent Authority shall promulgate the procedures governing the transfer to a new Employer or new work as referred to in Paragraph 1 of this Article.  Article 60 Should an employed Foreign Worker be dispatched out of the territory of the Republic of China by the Police in accordance with applicable laws and regulations, the travel expenses required for such dispatch and the necessary expenses for the detention prior to the departure shall be paid by the following order:  1. Person(s) illegally accommodate, employ or introduce Foreign Worker to engage in works;  2. Foreign Worker's Employer whom are attributable to reasons of dispatch; and  3. Foreign Worker to be dispatched.  Should there be more than one person as referred to in Subparagraph 1 of Paragraph 1 of this Article, all shall take joint responsibility.    The expenses as referred to in Paragraph 1 of this Article shall be advanced by the Employment Security Fund and to be repaid by responsible person(s), upon which the Competent Authority administering the said Fund shall notify the person(s) of such and specify a certain period of time for the person(s) to reimburse the Fund the advanced money; should the person(s) fail to make the reimbursement within the specified time limit, the said Competent Authority shall seek legal compulsory proceedings to collect therefore.  Where Employer has paid the Bond may apply to the Central Competent Authority for return of said Bond by submitting said Bond payment and relevant certifying document(s).  Article 61 Should an employed Foreign Worker decease during the duration of the employment contract, his/her Employer shall deal on behalf of the deceased with and be responsible for the relevant funeral matters.  Article 62 The Competent Authorities, the Police or Coastal Patrol and Defense Agencies may appoint personnel to carry certificates and conduct inspections in places where Foreign Worker(s) engage(s) in work or places suspected of having Foreign Worker(s) illegally engaged in work therein.  No Employer may evade, impede, or refuse the inspections as referred to in Paragraph 1 of this Article.  CHAPTER 6 PENAL PROVISIONS    **就業服務法**  第   42    條  為保障國民工作權，聘僱外國人工作，不得妨礙本國人之就業機會、勞動條件、國民經濟發展及社會安定。  第   43    條  除本法另有規定外，外國人未經雇主申請許可，不得在中華民國境內工作。  第   44    條  任何人不得非法容留外國人從事工作。  第   45    條  任何人不得媒介外國人非法為他人工作。  第   46    條  雇主聘僱外國人在中華民國境內從事之工作，除本法另有規定外，以下列各款為限：  一、專門性或技術性之工作。  二、華僑或外國人經政府核准投資或設立事業之主管。  三、下列學校教師：  (一) 公立或經立案之私立大專以上校院或外國僑民學校之教師。  (二) 公立或已立案之私立高級中等以下學校之合格外國語文課程教師。  (三) 公立或已立案私立實驗高級中等學校雙語部或雙語學校之學科教師。  四、依補習教育法立案之短期補習班之專任外國語文教師。  五、運動教練及運動員。  六、宗教、藝術及演藝工作。  七、商船、工作船及其他經交通部特許船舶之船員。  八、海洋漁撈工作。  九、家庭幫傭。  十、為因應國家重要建設工程或經濟社會發展需要，經中央主管機關指定之工作。  十一、其他因工作性質特殊，國內缺乏該項人才，在業務上確有聘僱外國人從事工作之必要，經中央主管機關專案核定者。  從事前項工作之外國人，其工作資格及審查標準，由中央主管機關會商中央目的事業主管機關定之。  雇主依第一項第八款至第十款規定聘僱外國人，須訂立書面勞動契約，並以定期契約為限；其未定期限者，以聘僱許可之期限為勞動契約之期限。續約時，亦同。  第   47    條  雇主聘僱外國人從事前條第一項第八款至第十一款規定之工作，應先以合理勞動條件在國內辦理招募，經招募無法滿足其需要時，始得就該不足人數提出申請，並應於招募時，將招募全部內容通知其事業單位之工會或勞工，並於外國人預定工作之場所公告之。  雇主依前項規定在國內辦理招募時，對於公立就業服務機構所推介之求職人，非有正當理由，不得拒絕。  第   48    條  雇主聘僱外國人工作，應檢具有關文件，向中央主管機關申請許可。但有下列情形之一，不須申請許可：  一、各級政府及其所屬學術研究機構聘請外國人擔任顧問或研究工作者。  二、外國人與在中華民國境內設有戶籍之國民結婚，且獲准居留者。  三、受聘僱於公立或經立案之私立大學進行六個月內之短期講座、學術研究經教育部認可者。  前項申請許可、廢止許可及其他有關聘僱管理之辦法，由中央主管機關會商中央目的事業主管機關定之。  第一項受聘僱外國人入境前後之健康檢查管理辦法，由中央衛生主管機關會商中央主管機關定之。  前項受聘僱外國人入境後之健康檢查，由中央衛生主管機關指定醫院辦理之；其受指定之資格條件、指定、廢止指定及其他管理事項之辦法，由中央衛生主管機關定之。  受聘僱之外國人健康檢查不合格經限令出國者，雇主應即督促其出國。  中央主管機關對從事第四十六條第一項第八款至第十一款規定工作之外國人，得規定其國別及數額。  第   49    條  各國駐華使領館、駐華外國機構、駐華各國際組織及其人員聘僱外國人工作，應向外交部申請許可；其申請許可、廢止許可及其他有關聘僱管理之辦法，由外交部會商中央主管機關定之。  第   50    條  雇主聘僱下列學生從事工作，得不受第四十六條第一項規定之限制；其工作時間除寒暑假外，每星期最長為十六小時：  一、就讀於公立或已立案私立大專校院之外國留學生。  二、就讀於公立或已立案私立高級中等以上學校之僑生及其他華裔學生。  第   51    條  雇主聘僱下列外國人從事工作，得不受第四十六條第一項、第三項、第四十七條、第五十二條、第五十三條第三項、第四項、第五十七條第五款、第七十二條第四款及第七十四條規定之限制，並免依第五十五條規定繳納  就業安定費：  一、獲准居留之難民。  二、獲准在中華民國境內連續受聘僱從事工作，連續居留滿五年，品行端正，且有住所者。  三、經獲准與其在中華民國境內設有戶籍之直系血親共同生活者。  四、經取得永久居留者。  前項第一款、第三款及第四款之外國人得不經雇主申請，逕向中央主管機關申請許可。  外國法人為履行承攬、買賣、技術合作等契約之需要，須指派外國人在中華民國境內從事第四十六條第一項第一款或第二款契約範圍內之工作，於中華民國境內未設立分公司或代表人辦事處者，應由訂約之事業機構或授權之代理人，依第四十八條第二項及第三項所發布之命令規定申請許可。  第   52    條  聘僱外國人從事第四十六條第一項第一款至第七款及第十一款規定之工作，許可期間最長為三年，期滿有繼續聘僱之需要者，雇主得申請展延。  聘僱外國人從事第四十六條第一項第八款至第十款規定之工作，許可期間最長為二年；期滿後，雇主得申請展延一次，其展延期間不得超過一年。  如有重大特殊情形者，得申請再展延，其期間由行政院以命令定之。但屬重大工程者，其再展延期間，最長以六個月為限。  前項每年得引進總人數，依外籍勞工聘僱警戒指標，由中央主管機關邀集相關機關、勞工、雇主、學者代表協商之。  受聘僱之外國人於聘僱許可期間無違反法令規定情事而因聘僱關係終止、聘僱許可期間屆滿出國或因健康檢查不合格經返國治癒再檢查合格者，得再入國工作。但從事第四十六條第一項第八款至第十款規定工作之外國人，應出國一日後始得再入國工作，且其在中華民國境內工作期間，累計不得逾九年。  第   53    條  雇主聘僱之外國人於聘僱許可有效期間內，如需轉換雇主或受聘僱於二以上之雇主者，應由新雇主申請許可。申請轉換雇主時，新雇主應檢附受聘僱外國人之離職證明文件。  第五十一條第一項第一款、第三款及第四款規定之外國人已取得中央主管機關許可者，不適用前項之規定。  受聘僱從事第四十六條第一項第一款至第七款規定工作之外國人轉換雇主或工作者，不得從事同條項第八款至第十一款規定之工作。  受聘僱從事第四十六條第一項第八款至第十一款規定工作之外國人，不得轉換雇主或工作。但有第五十九條第一項各款規定之情事，經中央主管機關核准者，不在此限。  前項受聘僱之外國人經許可轉換雇主或工作者，其受聘僱期間應合併計算之，並受第五十二條規定之限制。  第   54    條  雇主聘僱外國人從事第四十六條第一項第八款至第十一款規定之工作，有下列情事之一者，中央主管機關應不予核發招募許可、聘僱許可或展延聘僱許可；其已核發招募許可者，得中止引進：  一、於外國人預定工作之場所有第十條規定之罷工或勞資爭議情事。  二、於國內招募時，無正當理由拒絕聘僱公立就業服務機構所推介之人員或自行前往求職者。  三、聘僱之外國人行蹤不明或藏匿外國人達一定人數或比例。  四、曾非法僱用外國人工作。  五、曾非法解僱本國勞工。  六、因聘僱外國人而降低本國勞工勞動條件，經當地主管機關查證屬實。  七、聘僱之外國人妨害社區安寧秩序，經依社會秩序維護法裁處。  八、曾非法扣留或侵占所聘僱外國人之護照、居留證件或財物。  九、所聘僱外國人遣送出國所需旅費及收容期間之必要費用，經限期繳納屆期不繳納。  十、於委任招募外國人時，向私立就業服務機構要求、期約或收受不正利  益。  十一、於辦理聘僱外國人之申請許可、招募、引進或管理事項，提供不實資料。  十二、刊登不實之求才廣告。  十三、不符申請規定經限期補正，屆期未補正。  十四、違反本法或依第四十八條第二項、第三項、第四十九條所發布之命令。  十五、其他違反保護勞工之法令情節重大者。  前項第三款至第十五款規定情事，以申請之日前二年內發生者為限。  第一項第三款之人數、比例，由中央主管機關公告之。  第   55    條  雇主聘僱外國人從事第四十六條第一項第八款至第十款規定之工作，應向中央主管機關設置之就業安定基金專戶繳納就業安定費，作為加強辦理有關促進國民就業、提升勞工福祉及處理有關外國人聘僱管理事務之用。  前項就業安定費之數額，由中央主管機關考量國家經濟發展、勞動供需及相關勞動條件，並依其行業別及工作性質會商相關機關定之。  第一項受聘僱之外國人有連續曠職三日失去聯繫或聘僱關係終止之情事，經雇主依規定通知而廢止聘僱許可者，雇主無須再繳納就業安定費。  雇主未依規定期限繳納就業安定費者，得寬限三十日；於寬限期滿仍未繳納者，自寬限期滿之翌日起至完納前一日止，每逾一日加徵其未繳就業安定費百分之一滯納金。但以其未繳之就業安定費一倍為限。  加徵前項滯納金三十日後，雇主仍未繳納者，由中央主管機關就其未繳納之就業安定費及滯納金移送強制執行，並得廢止其聘僱許可之一部或全部。  主管機關並應定期上網公告基金運用之情形及相關會議紀錄。  第   56    條  受聘僱之外國人有連續曠職三日失去聯繫或聘僱關係終止之情事，雇主應於三日內以書面通知當地主管機關及警察機關。  第   57    條  雇主聘僱外國人不得有下列情事：  一、聘僱未經許可、許可失效或他人所申請聘僱之外國人。  二、以本人名義聘僱外國人為他人工作。  三、指派所聘僱之外國人從事許可以外之工作。  四、未經許可，指派所聘僱從事第四十六條第一項第八款至第十款規定工作之外國人變更工作場所。  五、未依規定安排所聘僱之外國人接受健康檢查或未依規定將健康檢查結果函報衛生主管機關。  六、因聘僱外國人致生解僱或資遣本國勞工之結果。  七、對所聘僱之外國人以強暴脅迫或其他非法之方法，強制其從事勞動。  八、非法扣留或侵占所聘僱外國人之護照、居留證件或財物。  九、其他違反本法或依本法所發布之命令。  第   58    條  外國人於聘僱許可有效期間內，因不可歸責於雇主之原因出國或死亡者，雇主得向中央主管機關申請遞補。  雇主聘僱外國人從事第四十六條第一項第十款指定之家庭看護工作，因不可歸責之原因，並有下列情事之一者，得向中央主管機關申請遞補：  一、外國人於入出國機場或收容單位發生行蹤不明之情事，依規定通知警察機關。  二、外國人於雇主處所發生行蹤不明之情事，依規定通知警察機關滿六個月仍未查獲，並依規定經推介本國籍照顧服務員，而未能推介成功。  前二項遞補之聘僱許可期間，以補足原聘僱許可期間為限；原聘僱許可所餘期間不足六個月者，不予遞補。  雇主聘僱之外國人於本法中華民國九十六年五月四日修正生效前發生行蹤不明情事，已依規定通知警察機關者，適用第二項規定。  第   59    條  外國人受聘僱從事第四十六條第一項第八款至第十一款規定之工作，有下列情事之一者，經中央主管機關核准，得轉換雇主或工作：  一、雇主或被看護者死亡或移民者。  二、船舶被扣押、沈沒或修繕而無法繼續作業者。  三、雇主關廠、歇業或不依勞動契約給付工作報酬經終止勞動契約者。  四、其他不可歸責於受聘僱外國人之事由者。  前項轉換雇主或工作之程序，由中央主管機關另定之。  第   60    條  雇主所聘僱之外國人，經警察機關依規定遣送出國者，其遣送所需之旅費及收容期間之必要費用，應由下列順序之人負擔：  一、非法容留、聘僱或媒介外國人從事工作者。  二、遣送事由可歸責之雇主。  三、被遣送之外國人。  前項第一款有數人者，應負連帶責任。  第一項費用，由就業安定基金先行墊付，並於墊付後，由該基金主管機關通知應負擔者限期繳納；屆期不繳納者，移送強制執行。  雇主所繳納之保證金，得檢具繳納保證金款項等相關證明文件，向中央主管機關申請返還。  第   61    條  外國人在受聘僱期間死亡，應由雇主代為處理其有關喪葬事務。  第   62    條  主管機關、警察機關或海岸巡防機關得指派人員攜帶證明文件，至外國人工作之場所或可疑有外國人違法工作之場所，實施檢查。對於前項之檢查，雇主不得規避、妨礙或拒絕。 |