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Handbook Of Foreign Workers' Rights

Workers' Rights

Wages

Your employer or broker cannot force you to deposit your wages.

Your employer or broker may request that you deposit your wages in his/her account, in order to prevent you from running away, or to “help” you save for flight tickets. Such request is forbidden.

You should receive a full salary.

Your employer or broker cannot hold your salary for any reason. Also, they must provide you with a bilingual pay slip to help you see what your salary adds up. Employer or broker may charge you boarding fees according to Foreign Worker's Affidavit Regarding Expenses Incurred For Entry Into The Republic of China To Work And The Wage/Salary

The boarding fee shall not exceed NT\$5,000. Employer and broker cannot extra charges. Employer and broker cannot impose extra fees. According to Article 27-2 of the Regulations on the Permission and Administration of the Employment of Foreign Workers, “The contents of the affidavit ...should not be altered on account of unfavorable interests.”

Broker shall not withhold domestic workers' income tax.

Overtime Pay

Factory Worker

Regular working hours per day may not exceed 8 hours. In case of working overtime, the workers shall receive 1.33 times of wage payment per hour for the first 2 hours and 1.66 times of wage payment per hour for the 3rd and 4th hour.

Formula:

Regular hourly wage = regular wage \div 30 days \div 8 hours

Overtime pay for the first 2 hours = regular hourly wage
x 1.33

Overtime pay starting for the 3rd and 4th hour = regular hourly wage x 1.66

Housemaid, domestic caregiver or caregiver in institutional settings

If you work with no holidays, you should be paid NT\$2,112 for the extra 4 days worked every month.

Formula:

Regular daily wage = 15,840 \div 30 days = 528

Keep Your Personal Identification Documents

If you are asked by your employer or broker to hand

over your passport or ARC, you have the right to reject his/her request. Even if you are asked to sign a certificate of entrustment, indicating you agree to do so, you still have the right to reject. You have the right to keep safe your personal identification documents. According to the law, the employer is forbidden to confiscate your passport, ARC, or any property.

If you did not know your rights until reading this handbook, you still have the right to alternate at any time the certificate of entrustment that you have signed.

*According to subsection 8, section 1, article 57 of the Employment Services Act, employer shall not engage in ... illegally withholding the passport(s)/ residence certificate(s) of foreign worker(s) or embezzling belongings of foreign worker(s)

Change Your Broker Freely

You can change your broker freely without your employer's permission.

You do not necessarily need to have a broker. If you do not have a broker, you need to remind your employer to help you with medical examination, and the extension of ARC and other documents.

Change Your Employer under Specific Situations

If you are a victim of sexual assault or human trafficking, you have the right to change your employer regardless of the restriction of occupation categories.

If you are sexually assaulted, you can use table 2. (2) Tips for Collecting Evidence of Sexual Assault and Harassment to collect evidence. Detailed evidence can help the law enforcement to convict your abuser.

Before the announcement of the verdict, you can change employer according to the Employment Services Act to work for another employer.

After the announcement of the verdict:

If the employer is convicted, his/her hiring permission will be cancelled, and you can continue to work in Taiwan;

If the employer is innocent or is not prosecuted, the Workforce Development Agency will evaluate your situation, and see if you can continue to work in Taiwan.

Direct Hiring

When you have worked for the same employer for 3 years, and you and your employer both hope that you can continue to work in Taiwan, your employer can re-

hire you through direct hiring service instead of a broker.

Through direct hiring, neither you nor your employer need to pay for the brokerage fee for you to work in Taiwan again.

You may start the direct hiring process within 4 months prior to the expiration of your Employment Permit.

Direct Hiring Service Center

<http://dhsc.evta.gov.tw/eng/home-eng.jsp>

Direct Hiring Service Center in Taipei

Tel: (02)6613-0811 (Chinese, English, Thai, Vietnamese, and Bahasa services available)

Address: 11F, No.39, Sec. 1, Zhonghua Rd., Zhongzheng Dist., Taipei, Taiwan

Email: dhscservice@dhsc.org.tw

Organize or Join a Labor Union

Types of Labor Unions

Enterprise union: a form of labor union where all members work for the same company

Industrial union: a labor union to which all the workers of a particular industry can belong

Craft Union: a labor union for workers with particu-

lar skills in the same city or county

Steps to Organizing a Labor Union

Step 1: Start a petition which shall be signed by at least 30 workers as initiators

Step 2: Set up a preparatory committee, and hold meetings at least twice

Step 3: Openly recruit members

Step 4: Draft union charter, and convene the inaugural meeting

Step 5: Submit the union charter, and the register of members and the Board of Directors to the competent authority within 30 days following the convention of the inaugural meeting to apply for a registration certificate

Join a Labor Union: The Yilan County Fishermen's Trade Union is the only labor union organized by foreign workers in Taiwan.

Verification Process of the Termination of Employment Relationship

Even if you are threatened by the employer with repatriation, your contract will not be terminated unless the local competent authority verifies that both you and your employer wish to terminate the employment rela-

tionship.

You can appeal to the local competent authority if threatened or facing a misfortune.

Holidays

According to law, you shall have at least one regular day off in every 7 days, but the law does not apply to domestic workers and caretakers.

If your employer requests that you do not take days off, and you agree, your employer should pay overtime.

If your rights are infringed...

Checklists

There are some situations where your rights may be infringed when working in Taiwan. Below are 3 checklists for you to use. The first one helps you examine if you have been treated unreasonably at work; the second one lists some scenarios of human trafficking so you can self-identify; the last one helps you examine if you have been sexually harassed or assaulted. Check the box that describes your situation.

Checklist of Working Conditions

My working hours are very long, but my employer does not pay overtime.
My employer requests that I do not take days off, but does not pay overtime.
My employer requests me to work that is not as indicated in the Employment Permit
My employer deduct my salary for no reason.
My employer does not provide me with pay slips.
My employer provides me with pay slips only in Chinese.
My employer broker confiscate my passport/ARC. I will need to pay a deposit if I want to borrow and use my passport/ARC.
If I do not accept the requests above, my employer or broker would threaten to deport me.

Checklist of Human Trafficking

My employer hits me.
My employer or broker threatens to hurt my family if I do not obey him/her.
I cannot go out alone. My employer always appoints someone to keep me company.
I cannot go out because the door is locked from the outside, and I am under surveillance.
When I talk on the phone, my employer is eavesdropping.
I need to ask my employer for my cell phone if I want to contact my family or friends.
Although I do not want this job, my employer/broker told me that if I refuse to work, they will find my family in my hometown.
At first my employer or broker told me I only need to take care of the elders, but I end up doing extra works, such as cooking in the restaurant, or working in the factory.

	I came to Taiwan to work in a factory, but my employer requested that I do the housework in his/her home after work. I was told that if I reject, he/she will deport me.
	My employer or broker asks me to sign some documents that I do not know about. They later told me that I owed them a lot of money, and I need to do the work they assign to pay off the debt; or that I already agreed to work very long hours, so they do not need to pay overtime.
	My employer or broker deducts my salary for many reasons. I receive few salaries and can never pay off my debts.
	Because I ran away, I have no choice but to enter prostitution/engage in illegal work.
	Because I do not speak Chinese, I have no choice but to enter prostitution/engage in illegal work.

Checklist for Collecting Evidence of Sexual Assault and Harassment

	My employer or his/her family used sexually suggestive words, making me uncomfortable.
	My employer or his/her family touched my body, making me uncomfortable.
	My employer or his/her family asked me to touch his/her body, making me uncomfortable.
	My employer or his/her family forced me to have sex with him/her.

(1) Collecting Evidence

According to the checklists above, you may find that you have been treated unreasonably. Now we can try to collect evidence. Use the 2 checklists below to record what

has happened to you. Please recall all the details at your best, for these details will help you strive for your rights.

You Can Collect Evidence as Follows when Being Treated Unreasonably

Who:	The name, phone number and address of my employer.
How:	The situation I am in; the details of my works
When:	The time I am on duty and off duty, break time, and days off
Where:	The place(s) where I perform my work duties
What:	Keep your monthly pay slips. You can keep a record of your salary if pay slips are not provided. When you talk to your employer, use cell phone, recorder, or MP3 to record your conversation and to take photos.

You Can Collect Evidence as Follows when Being Sexually Assaulted

Who:	Write down the name, appearance and characteristics of the perpetrator
How:	What did the perpetrator do to me? How did I resist? Whom did I talk to about it?
When:	When did it happen? For how many times?
Where:	Where did it happen? Where specifically in the house? What is the name of the hotel?
What:	Keep the evidence. Do not take a shower or change clothes. Go to the hospital to get an injury certificate within 3 days. Collect the evidence that contains the perpetrator's DNA, such as tissues and condoms.
What do I feel about it?	What is my physical and mental condition?

Migrant Worker's Right to Appeal

1955 24-Hour Counseling and Protection Hotline for Foreign Workers

The 1955 Hotline set up by the Ministry of Labor provides 24/7 multilingual services (Chinese, English, Thai, Bahasa, and Vietnamese.) You can make a toll-free call from local telephone, mobile phone, or public phone. After you dial 1955, press the number in accordance with your preferred language after the greetings in Chinese. A dispatcher who speaks the language you select will answer the phone. The dispatcher will refer your case to the local labor department. If you need to appeal, please clearly tell the dispatcher that:

- * I do not need consultation. I want to appeal that...
- * Name and passport number.
- * Please refer my case to the local labor department.
- * I will need a social worker from a NGO to accompany me when the case proceeds. (Provide the name of the NGO if have one)

Call 1955, 113, or 110 If You Are Sexually Assaulted

If you are sexually assaulted, call 1955, the Protection Hotline 113, or the emergency telephone number 110. 1955 will report simultaneously to labor and po-

lice departments; 113 provides Mandarin, Taiwanese, Bahasa, Vietnamese, Thai, and Khmer services.

If You Are Reported As A Missing Migrant Worker

Payments before You Return Home

You might think that you will be able to go home soon once you are found by the police; however, it is likely that you will be detained in the detention center, and you will have to pay for your return flight ticket. The followings are the payments you might have to pay if reported as missing:

If you overstay your visa, you will be fined according to the days you overstay. The fine is up to NT\$10,000.

You might be detained in the detention center for no more than 120 days.

You will have to pay for your return flight ticket.

If your passport is expired, and you need to apply for a travel document, you need to pay for the application fee.

For example, if you overstay a visa for one year, and if your passport is expired, the highest amount you have to pay is:

Overstay fine NT\$10,000+

Return airfare NT\$10,000+

Travel document application fee NT\$1,500

Approximate total: NT\$21,500

Turn Yourself Into the Specialized Operations Brigades of NIA

If you turn yourself in, you might not be detained, but you will need to leave Taiwan within 30 days.

If you turn yourself in, but have involved in criminal cases in Taiwan, according to the law, you will need to stay in the detention center to wait for the legal proceedings.

-- Some common situations:

* Your employer reported to the police that you stole their belongings before running away.

* You shipped some stolen items for your friends.

If you consider yourself to be undeserved, you can consult the attorney from the Legal Aid Foundation during his/her monthly consultation service at the detention center, or ask the officials in the detention center for help, referring your case to the Legal Aid Foundation.

Get Back the Salary That Is Owed to You

If your employer owe you salary, regardless of the fact that he/she hired you legally or illegally, you may ask the local labor department for help to get the salary

you deserve, or you may ask NGOs to help you remit your salary.

Prepare the following items if you can:

- * Work records in detail, including time sheets
- * Information about your employer and your workplace
- * The amount of salary you deserve and the amount you were actually paid

Case Examples

Labor Dispute

Ani came to Taiwan to work as a domestic caretaker. However, when she got to Taiwan, she ended up working in two employers' houses. Usually she worked at the house of employer A who did not legally hire her. She took care of a 3-year old child, and took the child to and from a learning institute. Besides, she also needed to clean the house, cook, do the laundry, wash a car, water the garden, and iron clothes. Sometimes she had to work in the chocolate factory to make chocolate, and sell chocolate near Taipei 101. She got up at 5:30 in the morning every day, and worked until midnight. What made it worse was that she never received her salary. Her employer deposited her salary in the employer's bank account, and kept the deposit book.

The grandmother she should have taken care of stayed in employer A's house for only 3 to 4 days per week. Ani also needed to clean the house of employer B who legally hired her once or twice a week. Only when employer A went abroad would Ani go back to employer B's house to work.

Sexual Assault

Wenny had come to Taiwan for 2 months as a caregiver. She is 21 years old and single. She did not speak Chinese well. Her employer is a 60-year old elderly man, and the one she took care of was his paralyzed wife, an elderly woman. In the house there were 3 adults who are the children of her employer. Wenny's job is to take care of the elderly woman, clean the house, and cook. Her workload was heavy. She did not have any days off, and did not understand Chinese. The woman had a bad temper.

On Chinese New Year's Eve, her employer planned to have dinner in a restaurant with Wenny and his children. Her employer gave Wenny a ride to the restaurant first. When they got there, he took Wenny to a beautiful room. Wenny had never seen such a beautiful room that she kept complimenting. But soon she found it strange that the restaurant did not have any table. She asked her employer

where other people were. He said they would arrive later. Wenny was raped by her employer in that room. Her underpants were stained with blood. Her employer forced her to clean her clothes immediately, and gave her NT\$5,000. She did not take the money. She ran away to a police station to report her case. Since she did not have any evidence, she was suggested to report the rape case as labor dispute, and to request for change of employer.

(3) Sexual Exploitation

Mei decided to work in Taiwan in order to earn money for her ill mother and her son who was studying in elementary school in Indonesia. The broker told her that her job in Taiwan would be to take care of an elderly man. Mei worked really hard, but the elderly man passed away at her third month working in Taiwan. Her employer told her that she would be sent back to Indonesia since the elderly man passed away. Having worried that she could not pay off her debt in Indonesia (a brokerage fee of US\$6,000 that she borrowed,) she chose to run away that night.

As Mei ran away, she met an Indonesian girl who offered to introduce her a job. The girl took Mei to a house, where there was a woman. The woman took away Mei's cell phone and passport, and gave her some sexual clothes

to wear. Mei became so nervous that she asked the woman what kind of job it would be. The woman told her that the job was to sleep with men, and she requested Mei to receive clients right away. Mei refused to do it and cried, but the woman threatened her, “if you refuse, I will call the police so they will come to arrest you! You will be sent back home! I also know where your family lives. You’d better listen to me.”

Mei was forced to sleep with men. She had to receive many clients, and could only stay in the room during break time. Her door was locked from the outside, so even though she wanted to run away, she did not know how to. Mei worked for the woman for 2 months without any pay. The woman claimed that she already remitted her salary to Indonesia, but Mei did not know whether it was true since she could not get in touch with her family...

(4) Labor Exploitation

Having hoped to earn more money for his family, Ming borrowed US\$6,400 to pay for the brokerage fee to come work in a factory in Taiwan. He worked every day from 8 am to 8 pm, with only one hour lunch break. Sometimes his employer would ask him to clean his house after work. Although Ming was exhausted, he still cleaned

the house to avoid being scolded.

Ming and other workers lived in an old dormitory. His employer never came to fix the broken toilet. Sometimes they did not have hot water for a shower. His employer asked for a monthly boarding fee of NT\$5,000 for such a bad living condition. The dorm was not locked, but there was a surveillance camera at the entrance. The employer would know if anyone sneaked out, and he would rebuke the person.

Ming had worked in Taiwan for a year but only received salary once. On average he only got a few thousands dollars per month. His employer did not provide pay slips in Vietnamese, so Ming did not know how his salary added up. His employer also refused to explain to him. Ming once called 1955 to appeal, but was threatened by his employer to deport him...

