

## **Introduction of Foreign Professionals Applying For A Working Permit in Taiwan**

In accordance with the Employment Service Act, foreigners who would like to work in Taiwan shall be subject to the requirements as set forth by the law, and their intended employers shall first obtain approval for the employment permit in advance from the authorities. This newsletter will provide an introduction of related regulations and relevant applications in connection with “working permit” in Taiwan.

### **I. Legal basis for foreigners legally working in Taiwan :**

In accordance with Article 43 of the Employment Service Act, “Unless otherwise specified in the Act, a foreigner shall not engage in work within the Republic of China unless his/her employer has first applied for and obtained an employment permit.”

The aforesaid term “work” means “any provision of service” or “any substantive fact of work”, with or without remuneration, as defined in the “Working in Taiwan Guidance” issued by Workforce Development Agency (WDA), Ministry of Labor.

### **II. Nature/status of foreign workers can be divided into four categories as below :**

1. **Foreign Professionals.** (referred to those foreigners who have been granted a working permit in accordance with Subparagraphs 1 to 6 , Paragraph 1 of Article 46 of the Employment Service Act);
2. **Foreign Workers.**(referred to those foreigners who have been granted a working permit in accordance with Subparagraphs 8 to 11 , Paragraph 1 of Article 46 of the Employment Service Act);
3. **Overseas Chinese Students 、 Foreign Students.** (referred to those foreigners who have been granted a working permit in accordance with Subparagraphs 1 or 2 , Article 50 of the Employment Service Act); and
4. **Foreigners with Special Status:** Mainly referred to refugees, those who have been legally employed in Taiwan for at least 5 consecutive years, those who are permitted to live with their lineal relatives who have a registered

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domestic domicile in the Republic of China, and those who are permitted to stay permanently in the territory of the Republic of China. (referred to those foreigners who have been permitted to work in accordance with Subparagraphs 1 to 4, Paragraph 1, Article 51 of the Employment Services Act).

### **III. The scope of jobs which foreign professionals can engage in Taiwan :**

Article 46 of the Employment Services Act is read: “Unless otherwise provided for in the Act, the work that a foreign worker may be employed to engage in within 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 overseas Chinese or foreigner(s) with the authorization of the Government of the Republic of China.**
3. Teacher at the following schools:
  - (1) Teacher at a public or registered private college/university or school established especially for foreign nationals.
  - (2) Qualified teacher teaching course(s) on foreign language(s) at a public or registered private primary or high school.
  - (3) Teacher teaching course(s) at a public or registered private experimental high school's bilingual department or at bilingual school(s).
4. Full-time teacher teaching course(s) on foreign language(s) at a short-term tutorial school registered in accordance with the Supplementary Education Act.
5. Sports coaches and athletes.
6. Religious, artistic, and show business work.
7. Crewmen of a merchant vessel, working vessel, and vessel chartered by the Ministry of Transportation and Communication.
8. Marine fishing/netting work.
9. Housemaid and nursing work.
10. Workers designated by the Central Competent Authority in response to national major construction project(s) or economic/social development needs.

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11. Other specialized workers 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.”

#### **IV. Qualification of Foreign Professionals and their employers<sup>1</sup>**

1. Article 2 of the Qualifications and Criteria for foreigners undertaking the jobs specified under Subparagraphs 1 to 6, Paragraph 1 of Article 46 of the Employment Service Act (hereinafter referred to as the “Criteria”) is read as: “To be employed for the jobs specified in Subparagraphs 1 to 6, Paragraph 1 of Article 46 of the Act. Foreigners have to comply with the Criteria stipulated herewith.”
2. The qualifications of each position listed as below :
  - (1) **Specialized or technical work**
    - A. The qualification of foreign professionals in general shall follow Article 5 of the Criteria which is stipulated as :

“Other than meeting with other criteria specified in the Criteria, foreign employees have to acquire one of the following qualifications before undertaking the jobs/assignments specified here above:

      1. Acquire certificates or operation qualifications through the procedures specified in the Examinations of Specific Profession and Technician Guidelines.
      2. Acquire credentials of Master degree or higher degree from universities in the Republic of China or in foreign countries or acquire Bachelor degree and with more than two years working experiences in the specific field.
      3. Expatriates to the Republic of China that have been employed in multi-national companies for more than one year.
      4. Specialists who have been trained professionally or self-taught in the specific field and have more than five years related experiences and have demonstrated outstanding

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<sup>1</sup> Since the regulations involved are complicated and numerous, this newsletter only focus on the introduction of Subparagraph 1 and 2 of Paragraph 1 of Article 46 of the Employment Service Act.

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performances.”

**B. Qualification of each professional position and requirements of their employers :**

According to Articles 4 to 37 of the Criteria, the qualifications are listed as below :

<b>Specialized or technical work</b>		
<b>Position considered professional: (The employer shall additionally meet the operating performance criteria for the work which is marked with*)</b>	<b>Other qualifications for foreign professional</b>	<b>Requirements for employer</b>
1. Construction or architecture work: technical instruction or quality control in construction; or planning, design, supervision, and/or technical consultations in architectural engineering.	N/A	The employer shall meet one of the following criteria : 1. Construction enterprises that have obtained relevant permits and have registered with the competent authorities in charge of specific business. 2. Architects who have obtained operation certificates and have more than 2 (two) years' experiences in the construction field.
2. Transportation industry : Land transportation. Sea transportation. Postal industry. Telecommunications. Tourism industry. Meteorology industry. Planning and management jobs related to above industries.	Please refer to Articles 11 to 14. 17 and 20 of the Criteria.	The employers shall acquire the business license issued by the competent authorities in charge of specific business at the central government level and comply with Articles 15 to 16 and 18 to 19 of the Criteria.
3. Tax and financial service : Securities and future trading. Financial industry. Insurance industry. Assisting business accounting affairs. Assisting businesses or services specified by the CPA Law.	N/A	The employer shall acquire the business license about securities, futures trading, financial industry, or insurance industry issued by the competent authorities in charge of specific business at the central government level or the CPA's practice registration.
4. <b>Real estate broker work* :</b> Broker business or selling of	Obtain a real estate broker certificate issued by the	N/A

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real estates.	municipality or county (city) competent authority, or a real estate broking operator certificate issued by the organization or association designated by the competent authorities in charge of specific business at the central government level.	
5. <b>Immigration service*</b> : Conducting immigration funds counseling related to investment and brokerage, which are exclusively needed for the protection of immigrants' rights and other consultation services related to immigration.	Shall meet one of the following criteria : 1. Have more than two-year experience in the immigration business specified in Article 23. (As listed in right column). 2. Worked as immigration officer and has been responsible for immigration visa issuance for more than one year. 3. Qualified as attorney and has been working on immigration-related business for more than one year.	N/A
6. Attorney	Shall meet one of the following criteria : 1. Attorneys admitted in the Republic of China. 2. Foreign Attorneys specializing in foreign laws and admitted in foreign jurisdiction.	Shall meet one of the following criteria : 1. Attorneys admitted in the Republic of China. 2. Attorneys specialize in foreign laws and admitted in foreign jurisdiction.
Patent attorney	Qualified as patent attorneys.	A firm that operates and handles patent business, and satisfies one of the following criteria: 1. Patent attorneys of the Republic of China; 2. Attorneys of the Republic of China; 3. Patent agents of the Republic of China.
7. Professional engineer	Obtain the license issued by the central competent authority as defined in the Professional Engineers Act.	shall acquire one of the following documents: 1. Professional engineering consulting firm registration certificate; 2. Business license issued by the competent authorities in charge of specific business.
8. Healthcare work in a medical	Shall qualify for one of the	Medical institution

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<p>institution</p>	<p>following:                      1. A medical professional who has obtained a medical professional certificate issued by any of the competent authorities in charge of specific business at the central government level, including physician, traditional Chinese medical practitioner, dentist, pharmacist, medical technologist, medical radiation technologist, physical therapist, licensed nurse, nutrition specialist, clinical psychologist, counseling psychologist, respiratory therapist, speech pathologist, dental technician, licensed midwife, an occupational therapist, or audiologist; or                      2. Other than the professionals as set forth in the preceding Paragraph, any other medical specialist or technician whom is recognized as necessary in healthcare business by the Central Competent Authority, after consultation with the competent authorities in charge of specific business at the central government level.</p>	<p>should be within the following categories:                      1. Medical organizations.                      2. Health-care organizations.                      3. Pharmacists and pharmacies.                      4. Non-profit healthcare organizations.                      5. Other organizations allowed for foreigner-recruitment that recognized by the Central Competent Authority, after consultation with the competent authorities in charge of specific business at the central government level.</p>
<p><b>9. Environmental protection work* :</b>                      Personnel training/ research and development of techniques/ installations, operations and maintenances of pollution-prevention instruments.</p>	<p>N/A</p>	<p>Employers have to be within the following categories :                      1. Environment examination organizations.                      2. Sewage disposal operators.                      3. Cleaning agencies that handle the sewage disposal facilities for (office and apartment) buildings.                      4. Garbage disposal agencies.                      5. Other enterprises allowed for foreigner-recruitment recognized by the Central Competent Authority, after consultation with the competent authorities in charge of specific business at the central government</p>

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		level.
10. Culture, sports, and recreation service work : Publication */Motion picture */ Terrestrial, cable, and satellite broadcasting industry*/ Service industry related to arts, culture and sports*/ Library and archive preserving industries/ Museums, historical heritages and other organizations dedicated to preserving cultural assets/ Recreation & service industries*	N/A	The employers of the foreigners referred to in Library and archive preserving industries/ Museums, historical heritages and other organizations dedicated to preserving cultural assets, shall acquire the publication industry license, archive preservation industry license, museum license or historical heritages license issued by the competent authorities in charge of specific business.
11. Academic research work	N/A	A college or higher level, or an academic research institution or teaching hospital whose registration is approved by the competent authorities in charge of specific business at the central government level pursuant to laws.
12. Veterinarian	Obtain the veterinarian certificate issued by the competent authorities in charge of specific business at the central government level.	Veterinarian clinic or other organizations recognized by the Central Competent Authority, after consultation with the competent authorities in charge of specific business at the central government level.
13. <b>Manufacturing industry*</b> Operational management, research, analysis, design, planning, maintenance, consultation, instrument installation and technical instruction.	N/A	N/A
14. <b>Wholesale business*</b> Operational management, design, planning and technical instruction.	N/A	N/A
15. <b>Other work designated by the Central Competent Authority, after consultation with the competent authorities in charge of specific business</b>	N/A	N/A

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at the central government level.*		
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**C. Regulation of employer’s operating performance :**

Article 36 of the Criteria is stipulated :

“An employer shall meet one of the following requirements:

1. Domestic company:

(1) For companies that are established for less than one (1) year, and its paid-up capital has reached five million (5,000,000) New Taiwan Dollars and above, or average turnover, actual import and export revenue, or commission has reached ten million (10,000,000) New Taiwan Dollars and above, one million (1,000,000) United States dollars and above, or four hundred thousand (400,000) United States dollars and above, respectively.

(2) For companies that are established for more than one (1) year, and its average turnover, actual import and export revenue, or commission in the most recent year or for the past three (3) years has reached no less than ten million (10,000,000) New Taiwan Dollars, one million (1,000,000) United States dollars, or four hundred thousand (400,000) United States dollars, respectively.

2. For Foreign or Mainland China branches established in the Republic of China:

(1) that are established for less than one (1) year, and its working capital, turnover, actual import and export revenue, or commission has reached five million (5,000,000) New Taiwan Dollars and above, ten million (10,000,000) New Taiwan Dollars and above, one million (1,000,000) United States dollars and above, or four hundred thousand (400,000) United States dollars and above, respectively.

(2) that are established for more than one (1) year, and its average turnover, actual import and export revenue, or commission in the most recent year or for the past three (3) years has reached no less than ten million (10,000,000) New Taiwan Dollars, one million (1,000,000) United States dollars, or four hundred thousand (400,000) United States dollars, respectively.

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3. The employer is a representative office of a foreign company or a Mainland China company approved by the competent authorities in charge of specific business at the central government level, and has actual tract records in Taiwan.
4. The employer is a research and development center, or a corporate operation headquarter, and its establishment has been approved by the competent authorities in charge of specific business at the central government level.
5. The employer has made substantial contribution to the domestic economic development. Alternatively, he, she, or it has a special circumstance that is treated as a special case by the Central Competent Authority, after its consultation with the competent authorities in charge of specific business at the central government level.”

**(2) Management work in a business entity invested by overseas Chinese or foreigners**

**A. Qualification of foreign manager**

The Article 38 of the Criteria regulates that “A foreigner to be hired to serve as a director or manager of a business invested or established by overseas Chinese or foreigner(s) and approved by the Government of the Republic of China, as set forth in Subparagraph 2, Paragraph 1 of Article 46, shall have met one of the following conditions:

1. The foreigner has ever acted as a manager of a company invested in by overseas Chinese or foreigner(s), pursuant to the Statute for Investment by Overseas Chinese, or Statute for Investment by Foreign Nationals, whereas the amount of shares held by or the capital contributed by the overseas Chinese or foreigner(s) exceeds one third (1/3) of the total amount of shares, or the total capital of the business, respectively.
2. The foreigner has ever acted as a manager of a foreign branch company.
3. The foreigner has ever acted as a representative of a

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representative office, approved by the competent authorities in charge of specific business at the central government level.

4. The deputy manager or higher level of a department or the same level staff in a new venture which was approved in accordance with Subparagraph 2 of Article 6.

If the number of foreigners to be hired by the employer pursuant to the preceding Subparagraph 1 to 3 exceeds one (1), the qualifications of the foreigners and the employer, or other qualifications thereof shall conform to provisions set forth in Chapter 2.”

**B. Requirements of foreign investment enterprises**

According to Article 39 of the Criteria, “The employer who is to hire a foreigner specified in the preceding Article shall meet one of the following requirements:

1. For companies established for less than one (1) year, and its paid-up capital or working capital in Taiwan has reached five hundred thousand (500,000) New Taiwan Dollars and above, or average turnover, actual import and export revenue, or commission have reached three million (3,000,000) New Taiwan Dollars, five hundred thousand (500,000) United States Dollars and above, or two hundred thousand (200,000) United States dollars and above, respectively.

2. For companies established for more than one (1) year, and its average turnover, actual import and export revenue, or commission in the most recent year or for the past three (3) years have reached no less than three million (3,000,000) New Taiwan Dollars, five hundred thousand (500,000) United States dollars, or two hundred thousand (200,000) United States dollars, respectively.

3. Whereas the employer is a representative office of a foreign company, whose establishment has been approved by the competent authorities in charge of specific business at the central government level, with actual tract records, provided that no such performance records are needed, if it has been established for less

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than one (1) year.

4. The employer has made substantial contribution to the domestic economic development. Alternatively, he, she, or it has a special circumstance that is treated as a special case by the Central Competent Authority, after its consultation with the competent authorities in charge of specific business at the central government level.”

**V. Procedures of Work Permit Application**

**1. Apply for employment permit**

**(1) Applicant : employer**

According to Article 43 of the Employment Services Act, “Unless otherwise specified in the Act, a foreigner shall not engage in work within the Republic of China unless his/her employer has firstly applied for and obtained an employment permit.”

**(2) Application submitted to : Workforce Development, Ministry of Labor, Executive Yuan**

In general, Ministry of Labor, Executive Yuan is responsible to issue work permits to foreign professionals. (Except for the foreign professionals who work in Science-based Industrial Parks or Export Processing Zones shall apply work permit with the related Administrations)

**(3) Documentary requirements :**

<b>Specialized or technical work</b>	<b>Management work in a business entity invested by overseas Chinese or foreigners</b>
1. Application form ◦ 2. Photocopy of the company owner’s ID card or foreign passport. 3. The certificates of the company incorporation/organization registration /business registration, Photocopy of company’s revenue statement and photocopy of the license for specially permitted	1. Application form ◦ 2. Photocopy of the company owner’s ID card or foreign passport. 3. The certificates of the company incorporation/organization registration/business registration, Photocopy of company’s revenue statement and photocopy of the license for specially permitted

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<p>businesses.</p> <ol style="list-style-type: none"><li>4. Copy or photocopy of the employment contract. (Must have employed foreigner's name nationality, position, scope of work, salary, employment period, and signature of both parties.)</li><li>5. Name List of the employed foreign workers.</li><li>6. Photocopy of the passport of the employed foreign worker.</li><li>7. Photocopy of the education diploma of the employed foreign worker.</li><li>8. Employed foreigner's general qualification documentation. (In accordance with Article 5 of the Criteria)</li><li>9. Original receipt for examination fee (NT \$500 per case).</li><li>10. The permission documents for the employment from the worker's legal agent if the worker is fewer than 20 of age and the photocopy of the passport of the legal agent.</li><li>11. When changing employer, the new employer shall submit an application form, document for transfer, photocopy of the ex-employer' work permit and photocopy of the latest years' income tax payment certificate.</li><li>12. In addition to all the documents listed as above, the specialized or technical work qualifications as listed in Article 4 to 37 of the Criteria.</li></ol>	<p>businesses.</p> <ol style="list-style-type: none"><li>4. Copy or photocopy of the employment contract. (Must have employed foreigner's name, nationality, position, scope of work, salary, employment period., and signature of both parties.) °</li><li>5. Name List of the employed foreign workers.</li><li>6. Photocopy of the passport of the employed foreign worker.</li><li>7. Original receipt for examination fee (NT \$500 per case).</li><li>8. The permission documents for the employment from the worker's legal agent if the worker is fewer than 20 of age and the photocopy of the passport of the legal agent.</li><li>9. When changing employer, the new employer shall submit an application form, document for transfer, photocopy of the ex-employer' work permit and photocopy of the latest years' income tax payment certificate.</li><li>10. Photocopy of the foreign investment approval for business invested in or set up by overseas Chinese or foreigner(s) issued by the competent authority.</li><li>11. Photocopy of the proving documents of the amount of company's capital or revenue or performance records.</li><li>12. Photocopy of company registration or changing items registration form (noted the manager column).</li></ol>
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**2. Apply for Resident Visa**

After received the work permit issued by competent authority, the foreign professionals shall apply for a visa through Taiwan's representative office stationed in their country. If the foreign professionals are already in Taiwan before the work permit issued, they shall apply for a change of visa status through Bureau of Consular Affairs.

**3. Apply for Alien Resident Certificate(ARC)**

Foreign professionals shall apply at regional service center of the National Immigration Agency for an ARC within 15 days upon arrival or change of visa.

