

我國相關機關回應意見表

| 標號 | 內 容 | 主辦 機關 | 回 應 意 見 (中文) | 回 應 意 見 (英文) |
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| 第一節 Section 1 | (4)任意逮捕 或羈押/ 逮捕程序與 拘留期間的 待遇 d. Arbitrary Arrest or Detention/ Arrest Procedures and Treatment of Detainees | 司法院 Judicial Yuan | 法律規定必須先申請 令狀或傳票，除非有 充分理由相信嫌犯可 能逃逸，或有《刑事 訴訟法》所定義的緊 急情況。法院可以裁 定被起訴者交保。檢 察官依法必須在逮捕 嫌犯後 24 小時內向法 院聲請繼續羈押。當 局一般遵守這些程 序，法庭審理通常在 起訴後 3 個月內開始 進行。檢察官可以向 法院聲請審前羈押未 起訴的嫌犯，最長 2 個月，並得再延長 2 個月。若案件最低刑 度為 5 年以上，或合 理懷疑嫌犯有逃亡、 與其他嫌犯或證人串 供，或者篡改、湮滅 相關重要證據之虞， 檢察官也可聲請審前 羈押。 法律允許被告與其律 | The law requires a warrant or summons, except when there is sufficient reason to believe the suspect may flee, or in urgent circumstances as specified in the Code of Criminal Procedure. Courts may release indicted persons on bail. Prosecutors must apply to the courts within 24 hours after arrest for permission to continue detaining an arrestee. Authorities generally observe these procedures, and trials usually take place within three months of indictment. Prosecutors may apply to a court for approval of pretrial detention of an unindicted suspect for a maximum of two months, with one possible two-month extension. Prosecutors may request pretrial detention in cases in which the potential sentence is at least five years and when there is a reasonable concern the suspect could flee, collude with other suspects or witnesses, or tamper with or destroy material evidence. When the court is asked by the public prosecutor to decide if the defendant should be detained during the criminal investigation phase, the law permits the defendant and his/her lawyer access to case files and |

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| | | | 師在偵查中羈押審查期間取得與羈押聲請案件有關的檔案與證據。法律也規定被告在羈押審查期間如果未自行選任辯護人，法院必須指定律師或公設辯護人協助。法律明確規定不得於深夜訊問嫌犯。 | evidence related to the decision. The law also stipulates that if a defendant during this phase does not have counsel, he/she shall be assigned a lawyer or public defender by the court for assistance. The law also specifies that suspects shall not be interrogated late at night. |
| 第一節 Section 1 | (5)不給予公正公開的審判 e. Denial of Fair Public Trial | 司法院 Judicial Yuan | 立法院於 2019 年 6 月三讀通過《法官法》部分條文修正案，加強懲戒違法失職的法官。經此修法，貪污行為經有罪判決確定或遭懲戒去職的法官，必須繳回在接受調查的停職期間所領的薪水。此外，修法後評鑑法官的流程變得精實，受評鑑法官所承辦已終結案件的當事人可以直接請求進行個案評鑑，不再需要透過公民團體代為請求。 所有被告在被證明有 | In June 2019, the Legislative Yuan passed an amendment to the Judges Act, toughening disciplinary action against judges who have committed wrongdoing. Under the amendment, judges found guilty of corruption in a final verdict or who are dismissed from office as the result of a disciplinary action, must return salary received while under suspension due to an investigation. The amendment also streamlined the process for evaluating judges, allowing parties to or victims of a finalized case to request a case evaluation directly, meaning that individuals no longer needed civil organizations to file a request on their behalf. All defendants are presumed innocent until proven guilty. They also have the right to an attorney and to be present at trial. Trials are |

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| | | | <p>罪前均被推定為無罪，並有權請律師出庭辯護。審理公開進行，但是涉及未成年人或可能因案情敏感而招來群眾的案件，旁聽可能需經法院許可。案件由法官裁決；所有的法官都由司法院任命並對之負責。原則上由律師及檢察官對證人交互詰問，但法官得補充訊問。被告有權立即知悉起訴的罪名、自行僱用律師或由法院指派辯護人、準備辯護意見，與對己方不利之證人對質，並且提出證人與證據。如有需要，自被起訴的那一刻開始到之後的每一次上訴期間，被告都有權得到免費的口譯服務。</p> <p>依法不得強迫嫌犯作證或認罪，被告的自白亦不得作為定罪的</p> | <p>public, although court permission may be required to attend trials involving juveniles or that address potentially sensitive issues that might attract crowds. Judges decide cases; all judges are appointed by and answer to the Judicial Yuan. Both prosecutors and defendants' attorneys may, in principle, cross-examine witnesses and the judge may also conduct supplemental questioning. Defendants have the right to be informed promptly of charges, hire an attorney of their choice or have one provided by the court, prepare a defense, confront hostile witnesses, and present witnesses and evidence. Defendants have the right to free interpretation service, if needed, from the moment they are charged and on through all appeals.</p> <p>By law, a suspect may not be compelled to testify or confess his/her guilt and a confession may not be the sole evidence used to find a defendant guilty. All convicted persons have the right to appeal to a higher court. The law extends the above rights to all suspects and convicted persons.</p> |

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| | | | 唯一證據。被定罪者均有權向上級法院提出上訴。依法所有的嫌犯/被定罪者皆有上述權利。 | |
| 第一節 Section 1 | (5)不給予公正公開的審判/ 政治犯及政治羈押 e. Denial of Fair Public Trial/ Political Prisoners and Detainees | 促進轉型正義委員會 Transitional Justice Commission | 有關撤銷威權統治時期司法不法判決與塗銷前科，促進轉型正義委員會 2019 年共辦理兩次刑事有罪判決撤銷公告，分別於 2 月與 5 月。自 2018 年 5 月促轉會成立以來，共有 5,837 名政治迫害受難者獲得平反。 | In regard to the annulment of wrongful convictions and expungement of criminal records created during the period of authoritarian rule, two announcements of annulment were made by the Transitional Justice Commission in February and May of 2019. Since the establishment of the Transitional Justice Commission in May 2018, 5,837 victims of political persecution have had their convictions overturned. |
| 第二節 Section 2 | (1) 表達自由，包括新聞自由 a. Freedom of Expression, Including for the Press | 國家通訊傳播委員會 National Communications Commission | 【針對第 2 段內容予以補充說明】 反滲透法係為維護台灣民主健全，對於涉有滲透或干預媒體自由之行為將依法送辦，並由檢察機關或司法警察機關偵辦追蹤。 | 【Supplemental to Paragraph 2】 The Anti-Infiltration Act aims to safeguard democracy in Taiwan. Any external forces that potentially pose a threat to freedom of the press shall be investigated by relevant authorities. |

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| 第二節 Section 2 | (6)保護難民 f. Protection of Refugees | 內政部 Ministry of the Interior | <p>7 月，移民署批准陸生李家寶依就學目的在臺停留 6 個月。李家寶是嘉南藥理大學藥學系交換生，4 月以政治庇護為由提出長期居留申請。他曾於 3 月間在推特上公開批評共領導人習近平，他的學生簽證於 7 月到期。</p> <p>7 月，移民署批准中國成都秋雨聖約教會 1 家 6 口延展在台停留的申請，以便他們在來台醫療旅遊期間向另 1 個國家申請政治庇護。中共當局近期掃蕩該教會，包括牧師在內已有多名重要教會成員入獄。</p> | <p>In July 2019, the National Immigration Agency (NIA) granted mainland Chinese student Li Jiabao a six-month student visa. In April 2019, Li, an exchange student at Chia Nan University of Pharmacy and Science, requested political asylum and long-term residence, having criticized mainland Chinese leader Xi Jinping on Twitter in March and because his student visa expired in July.</p> <p>In July 2019, the NIA approved the request of a family of six for a visa extension. The family, who were members of the Early Rain Covenant Church in Chengdu and had traveled to Taiwan to seek medical care, were seeking asylum in another country as mainland authorities had recently raided the church and imprisoned several of its key members, including its pastor.</p> |
| 第二節 Section 2 | (6)保護難民 f. Protection of Refugees | 大陸委員會 Mainland Affairs Council | <p>一、有關難民法草案部分，行政部門已多次提送草案，惟均未能完成立法程序；鑑於人權是普世價值，在我國難民處理機制完備前，政府處理相</p> | <p>1. The draft Refugee Act has been submitted multiple times by the administration, but has not yet finished going through the legislative process. Pending formulation of a comprehensive method of handling refugees in Taiwan, the government will handle refugee cases in view of the universal values of human rights, international practice, relevant laws and</p> |

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| | | | <p>關個案係整體考量國際慣例、我方相關法律規範、過往處理案例、人權保障及國際視聽等層面，妥適處理。</p> <p>二、有關陸生李家寶在臺停留許可，原係於 2019 年 7 月到期(報告中誤繕為 4 月)，移民署依就學目的延長其在臺停留 6 個月至 2020 年 2 月。目前李生已於 2020 年 2 月 21 日由移民署作成收容替代處分。</p> <p>三、有關中共 2018 年起大舉逮捕秋雨教會成員，2019 年底以「煽動顛覆國家政權罪」判處秋雨教會牧師有期徒刑 9 年等事，本會都持續關注。</p> | <p>regulations in Taiwan, precedent, human rights protection, and international perspectives.</p> <p>2. Mainland student Li Jiabao was originally permitted to stay in Taiwan until July 2019. (The report mistakenly stated April.) The NIA granted Li a six-month extension of stay in Taiwan to February 2020 for study purposes. On February 21, 2020, the NIA imposed settlement on Li in lieu of detention.</p> <p>3. Since 2018, the Chinese Communist Party (CCP) has made mass arrests of members of the Early Rain Covenant Church. At the end of 2019, the CCP sentenced the pastor of the church to nine years in prison for the crime of incitement to subvert state power. The Mainland Affairs Council will continue to observe this matter.</p> |
| 第三節 | 選舉與政治 | 內政部 | <u>政黨與政治參與</u> ：《政 | <u>Political Parties and Political Participation</u> : |

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| Section 3 | 參與 Elections and Political Participation | Ministry of the Interior | 黨法》促進政黨公平競爭並改善政黨組織運作的規範。該法禁止政黨從事營利事業，亦不得為獲利而購置不動產，違者處新台幣 500 萬以上、2,500 萬以下罰鍰。依該法公布施行前已依人民團體法備案之政黨，都必須在 12 月 7 日之前完成組織、章程及法人登記等補正事宜」。 | The Political Parties Act promotes fair political competition and better regulation of party activities. The Act bans political parties from operating for-profit businesses or investing in real estate for profit, and imposes fines of between NT\$5 million and NT\$25 million (US\$163,000 and US\$814,000) for each violation. Political parties that filed declarations with relevant departments in accordance with the Civil Associations Act prior to the enactment of the Political Parties Act and whose organizations, charters, or legal person registration do not comply with the provisions prescribed in the Political Parties Act, shall make revisions before December 7. |
| 第三節 Section 3 | 選舉與政治 參與/ 女性和少數 族群的政治 參與 Elections and Political Participation / Participation of Women and Minorities | 內政部 Ministry of the Interior | 2016 年勝選後，蔡英文總統成為台灣第 1 位女總統。新選出的立法委員席次中，女性立委佔了 38%，創下新高。2016 年，1 名出生於柬埔寨的女性成為台灣第 1 位新住民立委。立法院還有 6 個席次保留給台灣原住民選出的代表。在 2018 年 11 月的地方選舉中，22 個縣市長席 | With her election in 2016, President Tsai Ing-wen became Taiwan's first female president. In the most recent session of the Legislative Yuan, a record 38% of members were women. A Cambodian-born woman became Taiwan's first immigrant legislator in 2016. Six seats are reserved for representatives chosen by Taiwan's indigenous people. In the November 2018 local elections, voters elected women to seven of 22 mayoral and county magistrate seats. The number of women elected to local councils also continued to grow: women won 307 of the 912 city and county council seats— |

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| | | | 次中女性占有 7 席，縣市議員中當選的女性比例也持續成長：在 912 個席次中，女性贏得 307 席——從 2014 年的 30.7%，增加為 2018 年的 33.8%。 | an increase from 30.7% in 2014 to 33.8% in 2018. |
| 第四節 Section 4 | 官員貪腐與政府缺乏透明度 Corruption and Lack of Transparency in Government | 法務部 Ministry of Justice | 法務部廉政署係為法務部所屬之「專職」、「專業」、「專責」廉政機關，其承辦貪瀆或相關犯罪調查職務之廉政官，依據法務部廉政署組織法第 2 條第 2 項規定，具有司法警察職權，得以調查貪瀆不法案件。廉政署首創「法務部派駐檢察官」制度，由法務部遴選優秀檢察官派駐廉政署，直接參與貪瀆案件之調查程序，指揮廉政官即時偵辦貪瀆案件，以提升蒐證品質及偵查效能；另一方面，為了提高廉政署運作的透明度及獨立性， | The Agency Against Corruption (AAC) is a focused, specialized, and dedicated authority. Its investigators focus on corruption and related crime, as described in Article 2 of the Organic Act of the Agency Against Corruption; they are equivalent to judicial police. The AAC established the resident prosecutors system with prosecutors selected from the Ministry of Justice. These prosecutors monitor investigations and supervise AAC agents so that they investigate cases in an efficient and timely fashion. In addition, to ensure its transparency and independence when investigating corruption, the AAC set up the <u>Clean Politics Advisory Committee</u> . The committee provides consultation, comments, and suggestions for anticorruption policy and examines the AAC's information after investigations. With such an external review mechanism in place, the operations and investigations of the AAC are |

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| | | | <p>廉政署設置外部審議機制「廉政審查會」，除了提供廉政政策的諮詢及評議外，並針對廉政官調查後存查列參案件進行事後的審查監督，以增進廉政署業務推動及案件處理之超然性及公信力。</p> <p>有關財產申報部分，建議修正文字如後： 「<u>財產申報</u>：法律規定特定政務官、民選官員，以及全國與地方選舉候選人必須向監察院申報財產，並由監察院公布其財產申報。故意隱瞞財產而申報不實者，可處新臺幣 20 萬元至 400 萬元不等之罰鍰。法律也規定公職人員有義務說明不正常增加之財產來源，違者可施以懲處，並且面臨刑事責任與行政責任之追究。」，以符合實</p> | <p>more transparent and fair.</p> <p>We recommend that the first paragraph under Financial Disclosure in Section 4 read as follows: The law requires specific appointed and elected officials and candidates in national and local elections to disclose their assets to the Control Yuan. Those making false declarations with the intent to conceal assets are subject to an administrative fine ranging from NT\$200,000 to NT\$4 million. The law also provides that when public servants obliged to declare property who have an abnormal increase in their assets do not report this, they may be penalized and face both criminal and administrative investigations.</p> <p>With regard to the paragraph that states “the law stipulates 18 categories of politically exposed persons (PEPs) subject to strict oversight for money laundering activities. The PEPs include the president, vice president, heads of central and local governments, legislators, and leadership of state-owned enterprises, as well as family members and close associates of PEPs,” the categories so named are not the object of the Act on Property-Declaration by Public Servants, a</p> |

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| | | | <p>務規範。</p> <p>另有關「該法規定 18 類重要政治性職務人士必須受到嚴格的洗錢活動監控。重要政治性職務人士包括：總統、副總統、中央與地方政府首長、立法委員、國營事業董總、重要政治性職務人士的家庭成員以及與重要政治性職務人士關係密切者。」此段落所指涉者尚非公職人員財產申報法之內容，請確認有無訛誤或明確意指具體法令。</p> | fact that ought not be misconstrued. Please specify the law that is being referred to. |
| 第六節 Section 6 | 兒童 Children | 衛生福利部 Ministry of Health and Welfare | <p><u>出生登記</u>：公民身分來自於父母任一方。法律規定新生兒必須在出生 60 天內報戶口；違者無法享有教育津貼。出生之登記不因差別待遇而遭拒。</p> | <u>Birth Registration</u> : Citizenship is derived from that of either parent. Births must be registered within 60 days; failure to do so results in the denial of educational allowances. No discrimination is practiced with regard to registration. |
| 第六節 Section 6 | 兒童 Children | 法務部 Ministry of | <p><u>早婚與強迫結婚</u>：男子的法定結婚年齡為</p> | <u>Early and Forced Marriage</u> : The legal minimum age of marriage is 18 years for men |

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| | | Justice | 18 歲，女孩為 16 歲。 針對男女結婚年齡不一致之規定，法務部規劃於 2020 年完成修正民法第 980 條規定，將結婚年齡規定修正為男女一致，即男女之結婚年齡均定為 18 歲。 | and 16 for girls. Regarding differences in the age for marriage, the Ministry of Justice plans to complete amendments to Article 980 of the Civil Code in 2020 to specify the same marriageable age for men and women, i.e., 18. |
| 第六節 Section 6 | 身心障礙人士 Persons with Disabilities | 衛生福利部 Ministry of Health and Welfare | 法律禁止歧視有身體、感官、智能，以及精神障礙之人士，並規定當局必須對身心障礙者提供特定服務與計畫。身心障礙人士有權投票以及參與公民事務。台灣已經依照《聯合國身心障礙者權利公約》的精神修改其法律。 | The law prohibits discrimination against persons with physical, sensory, intellectual, or mental disabilities and stipulates that authorities must provide certain services and programs to persons with disabilities. Persons with disabilities have the right to vote and participate in civic affairs. Taiwan has incorporated the terms of the UN Convention on the Rights of Persons with Disabilities into domestic law. |
| 第六節 Section 6 | 身心障礙人士 Persons with Disabilities | 內政部 Ministry of the Interior | 內政部於 1988 年公告新建公共建築物應設置無障礙設施，未符合規定者不得核發建築執照，並逐步擴大適用範圍；於 2012 年公告擴及新建、增建之公共及非公共建築 | The Ministry of the Interior (MOI) announced in 1988 that accessible facilities must be included in newly constructed public buildings and that building permits would not be issued for any public buildings not in compliance. The scope of the application of this announcement was expanded gradually and, in 2012, the MOI announced that the |

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| | | | <p>物均須設置無障礙設施。為推動既有公共建築物無障礙設施改善，內政部自 2004 年起邀集專家學者、相關單位及身心障礙福利團體組成建築物無障礙生活環境督導小組，督導地方政府落實執行清查與改善工作，列管案件數共計 50,655 件，至 2019 年已改善完成之比例為 59.99%，並將持續進行分類、分期、分區之改善。</p> | <p>inclusion of accessible facilities would be required for both new and expanded constructions of all buildings. In 2004, the MOI formed the Accessible Living Environment Supervisory Team composed of experts, scholars and relevant authorities and disabled persons' advocacy groups to improve the accessibility of existing public buildings. The team is responsible for supervising investigation and improvements by local governments. Out of 50,655 cases listed for improvement, 59.99% had been completed by 2019.</p> |
| 第六節 Section 6 | 身心障礙人士 Persons with Disabilities | 交通部 Ministry of Transportation and Communications | <p>依據「公路公共運輸多元推升計畫(2017-2020 年)」，累積至 2019 年底補助公路客運及市區公車業者購置 864 輛低地板公車(含通用無障礙大客車)，至同年底，全國市區客運無障礙公車比例已逾 64.7%。</p> <p>公路總局於 2016 年起推動「需求反應式公</p> | <p>In accordance with the Highway Public Transport Multi-Promotion Programs (2017 to 2020), intercity and local bus companies were subsidized by the Directorate General of Highways (DGH) to purchase 864 low-floor buses (including barrier-free buses). By the end of 2019, the coverage rate of barrier-free public transport across the country had reached 64.7%.</p> <p>Since 2016, the DGH has overseen a pilot project for responsive transport in 10 remote townships such as Jianshi Township in</p> |

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| | | | 路公共運輸」試辦計畫，針對新竹縣尖石鄉等 10 個偏鄉導入多元化運具服務（中型巴士、計程車、鄉鎮小巴、租賃車及遊覽車）及彈性營運模式。至 2019 年底除原有試辦鄉鎮持續推動外，另新增補助屏東縣來義鄉等 7 個偏鄉，至 2019 年底止偏鄉地區公共運輸涵蓋率已達 81.63%。除服務偏鄉民眾外，身心障礙人士亦包括在內。 | Hsinchu County. As a result, diversified and flexible transportation services (including minibuses, taxis, city minibuses, and rental and tour buses) have been introduced. In 2019, in addition to the original townships included in the pilot program, subsidies were granted to seven other rural townships, including Laiyi Township in Pingdong County. By the end of 2019, the coverage rate of public transport in remote areas had reached 81.63%. Persons with disabilities are also benefiting from these expanded services. |
| 第六節 Section 6 | 身心障礙人士 Persons with Disabilities | 教育部 Ministry of Education | 特殊教育法第 24 條第 2 項規定「各級學校對於身心障礙學生之評量、教學及輔導工作，應以專業團隊合作進行為原則，並得視需要結合衛生醫療、教育、社會工作、獨立生活、職業重建相關等專業人員，共同提供學習、生活、心理、復健訓 | Paragraph 2 of Article 24 of the Special Education Act states that “educational institutions at all levels shall undertake the assessment, teaching, and counseling of special needs students on the basis of an interdisciplinary team approach, and if required may combine the services of professionals in the fields of health and medical treatment, education, social work, independent living, and vocational rehabilitation to provide assistance in the form of guidance and services, encompassing |

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| | | | <p>練、職業輔導評量及轉銜輔導與服務等協助。」另依據前揭規定訂定「身心障礙學生支援服務辦法」其中明定身心障礙學生如有輔具、教育輔助器材、服務人力、家庭支持及無障礙校園環境等需求均可向主管機關申請提供協助，如依前揭辦法有不足之需求服務，仍可以專案方式提出申請，目前法令規章已有完善規範且中央均有補助經費協助地方政府落實執行。</p> | <p>learning, living, psychological, rehabilitation training, and occupational guidance, assessment, and transitions.” The <u>Regulations Governing Support Services for Students with Disabilities</u>, which were formulated for the implementation of the above provisions, state that educational institutions may apply to the competent authority for assistance if students with disabilities require assistive equipment, educational auxiliary devices, assistive personnel, family support, and/or barrier-free campus environments. If the services available in accordance with the provisions of the abovementioned Regulations are not sufficient to meet an educational institution’s requirements, the institution may file an application for assistance which will be considered on a case-by-case basis. Related legislation, ordinances, and regulations have been put in place and the Ministry of Education provides financial assistance to local governments to implement them.</p> |
| 第六節 Section 6 | 身心障礙人士 Persons with Disabilities | 衛生福利部 Ministry of Health and Welfare | <p>有關臺北市轄內 3 起居民反對在社區辦理身心障礙服務的案件，2019 年底，地方政府已協助社福團體進駐並提供服務。</p> | <p>Although there were three cases wherein local residents expressed opposition to the presence of institutions serving people with disabilities in Taipei City, by the end of 2019, the local government had helped these institutions move in and provide services.</p> |

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| 第六節 Section 6 | 少數民族/ 種族/族裔 National/Ra cial/Ethnic Minorities | 內政部 Ministry of the Interior | <p>按「國籍法」第 4 條規定，外籍配偶在國內合法居留連續滿 3 年，每年逾 183 日可申請歸化。依「入出國及移民法」第 10 條規定，於歸化我國國籍後，連續居住滿 1 年，或居留滿 2 年且每年逾 270 日，或居留滿 5 年且每年逾 183 日，即可辦理定居並取得國民身分證。大陸地區人民按「大陸地區人民在臺灣地區依親居留長期居留或定居許可辦法」第 25 條規定，經許可依親居留滿 4 年，每年逾 183 日，得申請長期居留，長期居留符合在臺灣地區合法居留連續 2 年，且每年居住逾 183 日，即可申請定居並取得國民身分證。</p> <p>外籍配偶在臺依親居留即可工作，無須向</p> | <p>According to Article 4 of the Nationality Act, a foreign spouse who legally resides in Taiwan for 183 days or more each year for three consecutive years may apply for naturalization. Article 10 of the Immigration Act stipulates that a naturalized person shall reside in Taiwan for one year continuously; reside in Taiwan for two years for 270 days or more each year; or reside in Taiwan for five years for 183 days or more each year to apply for permanent residence and receive a National ID Card. People from mainland China shall follow Article 25 of the Rules Governing Permits for People from Mainland China Setting Up Permanent Residence or Residence in Taiwan and, after having lived in Taiwan for four years with family for more than 183 days each year, may apply for long-term residency. If they then they legally stay in Taiwan for two consecutive years for more than 183 days each year, they may apply for residency and a National ID Card.</p> <p>Foreign spouses living in Taiwan may work without needing to apply for a work permit from the Ministry of Labor (MOL).</p> <p>The time needed for a mainland spouse and a foreign spouse to obtain citizenship is now</p> |

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| | | | <p>勞動部申請。</p> <p>現行大陸配偶與外籍配偶取得身分所需時間業已相近，將持續修正相關法律，以保障渠等權益。</p> | <p>similar. Related laws will be further amended to protect individuals' rights and interests.</p> |
| 第六節 Section 6 | 少數民族/ 種族/族裔 National/Racial/Ethnic Minorities | 大陸委員會 Mainland Affairs Council | <p>一、因兩岸情勢特殊，我政府依憲法授權制定「臺灣地區與大陸地區人民關係條例」以規範兩岸往來事務；中國大陸配偶來臺團聚、定居或在臺工作係適用兩岸條例及相關許可辦法，而外籍配偶則適用國籍法及移民法等規定，兩者依據的法令有所不同。</p> <p>二、中國大陸配偶經許可來臺團聚後，即可申請依親居留，居留滿4年（每年合法居住逾183日），</p> | <p>1. In view of the special circumstances across the Taiwan Strait, the Republic of China (Taiwan) government formulated the Act Governing Relations between the People of the Taiwan Area and the People of the Mainland Area as authorized under the Constitution to regulate cross-strait interactions. Mainland Chinese spouses coming to Taiwan to be with family, reside permanently, or work are governed by the Act and related regulations. Foreign spouses are governed by the Nationality Act, Immigration Act, and other regulations. Therefore, different laws apply for each category.</p> <p>2. Mainland Chinese spouses with permission to visit family members in Taiwan can apply for dependent-based residency. After four years of residency (with legal residence in Taiwan for more than 183 days each year), mainland spouses may apply for permanent residency. After two consecutive</p> |

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| | | | <p>得申請長期居留，居留連續滿2年（每年合法居住逾183日），得申請定居，因此並非報告所指在臺6年始取得居留權。另中國大陸配偶經許可依親居留後，即可在臺工作。</p> <p>三、外籍配偶在臺居留滿3年以上（每年合法居住逾183日）即可申請歸化，且依國籍法規定，應於許可歸化之日起，1年內提出喪失原有國籍證明。</p> <p>四、中國大陸配偶與外籍配偶要如何達到實質平等，不僅是將取得身分證之年限修改為一致之問題，例如是否須歸化、是否須通過</p> | <p>years of long-term residency (with legal residence in Taiwan for more than 183 days each year), they may apply for permanent residency. Therefore, it is not the case, as the report claimed, that mainland spouses must stay in Taiwan for six years to obtain residency. Moreover, mainland spouses with dependent-based residency are allowed to work in Taiwan.</p> <p>3. Foreign spouses residing in Taiwan for more than three years (with legal residence in Taiwan for more than 183 days each year) may apply for naturalization. Under the Nationality Act, they are required to present a certificate of loss of original nationality within one year from the date of naturalization.</p> <p>4. Achieving substantive equality in the treatment of mainland spouses and foreign spouses involves more than just equalizing the number of years of residency required to obtain a National ID Card. It also pertains to such matters as whether obtaining such status is dependent on naturalization and passing an examination. Furthermore, the parents of mainland spouses may apply to reside in Taiwan if they meet certain requirements, whereas the parents of foreign spouses are not allowed</p> |

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| | | | <p>考試才能取得我國身分等，另中國大陸配偶之父母符合一定要件即可申請在臺定居，而外籍配偶父母無法申請在臺居留，爰中國大陸配偶與外籍配偶要達到實質平等，尚須就各自所適用之法律體系做衡平考量。</p> <p>五、中國大陸配偶與外籍配偶取得身分證年限問題，涉及外來人口移入制度，政府未來會完整考量新住民之權益保障、社會承載與國家安全等因素，並在取得社會共識下，逐步檢討相關之政策，持續落實對新住民生活權益的照顧。</p> | <p>to apply for residence in Taiwan. Consequently, achieving substantive equality in the treatment of mainland spouses and foreign spouses requires balanced consideration of the applicable respective legal systems.</p> <p>5. The validity period of National ID Cards for mainland spouses and foreign spouses is an issue pertinent to the foreign immigrant system. The government will gradually review relevant policies while protecting the rights of new residents, keeping in mind the social burden and national security, and considering the social consensus.</p> |

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| 第六節 Section 6 | 原住民 Indigenous People | 原住民族委員會 Council of Indigenous Peoples | <p>【針對第 2 段內容予以補充說明】</p> <p>我國自 2017 年 6 月 14 日原住民族語言發展法公布施行，明定原住民族語言為國家語言，使原住民族語言的保存、使用、傳習、研究及發展上獲得在法制上的保障，並賦予原住民族在官方場合使用族語的權利。</p> <p>目前我國已有 32 所學校辦理學校型態原住民族實驗教育，以深化原住民族教育內涵，建立符合原住民族需求之教育模式及嶄新的教育模式。</p> | <p>【Supplemental to Paragraph 2】</p> <p>Since the promulgation and implementation of the Indigenous Peoples Languages Development Act on June 14, 2017, indigenous languages have been defined as national languages, so that the preservation, use, teaching and learning, and research and development of indigenous languages are protected by law. Further, the Act gives indigenous peoples the right to use indigenous languages in public settings.</p> <p>At present, the nation maintains 32 schools offering experimental indigenous education in a school setting. To improve the content of indigenous education, an educational model will be established that is innovative and serves the needs of indigenous people.</p> |
| 第六節 Section 6 | 原住民 Indigenous People | 原住民族委員會 Council of Indigenous Peoples | <p>【針對第 4 段內容予以補充說明】</p> <p>我國於 1995 年 2 月 5 日施行之原住民族基本法中規定，原住民族土地包含原住民族傳統領域土地及原住民保留地，其中原住</p> | <p>【Supplemental to Paragraph 4】</p> <p>The Indigenous Peoples Basic Law that came into effect on February 5, 1995, stipulates that indigenous land refers to the traditional territory and reservation land of indigenous people. About 90% of traditional indigenous territory remains government-owned land. There have been no instances of land seizure</p> |

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| | | | <p>民族傳統領域土地大約 9 成仍為公有土地，並無所謂在數 10 年間遭到奪取或私有化等情事。</p> <p>另外，原住民保留地之政策方向，是希望將土地歸還給原住民個人，所以原住民個人可以透過增劃編及權利回復等程序取得原住民保留地之所有權，且原住民保留地僅限由原住民取得所有權。</p> <p>我國目前持續辦理增劃編原住民保留地計畫，原住民於 1988 年 2 月 1 日前即使用之祖傳公有土地，可以透過程序，將土地歸還給原住民，自 2007 年起至 2019 年底止，全國共計核定 1 萬餘筆土地，面積約 3,300 公頃。另族人依山坡地保育利用條例第 37</p> | <p>or privatization in decades.</p> <p>Moreover, the policy concerning reservations has the aim of returning the land to indigenous individuals. An indigenous person may obtain ownership of reservation land by applying for an additional allocation and a restoration of rights. Moreover, only indigenous persons may obtain ownership of indigenous reservation land.</p> <p>The government continues to increase allocations for reservations. Indigenous people can apply to obtain ownership of government-owned land passed down from their ancestors and in use by indigenous people prior to February 1, 1988. From 2007 to the end of 2019, more than 10,000 units of land were returned to indigenous people, covering an area of 3,300 hectares. In addition to that, 368,751 applications for the restoration of land rights to indigenous reservation land have been processed according to the Regulations on Development and Management of the Lands Reserved for Indigenous People; these regulations were drafted in line with Article 37 of the Slopeland Conservation and Utilization Act. The total land area covered by applications to</p> |

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| | | | 條授權訂定之原住民保留地開發管理辦法相關規定，申請原住民保留地土地權利回復者，迄至目前已辦理近 36 萬 8,751 筆，總面積達 12 萬 3,221 公頃，約計 12 萬 7,000 位原住民回復其土地權利。 | restore land rights is 123,221 hectares and approximately 127,000 indigenous individuals saw their land rights restored. |
| 第六節 Section 6 | 原住民 Indigenous People | 原住民族委員會 Council of Indigenous Peoples | <p>【針對第 5 段內容予以補充說明】</p> <p>我國為民主法治國，與世界上各民主國家相同，憲法內以保障個人財產權為重要人權，政府與他人均不得任意侵害，是以，當我國領先各國，將聯合國原住民族權利宣言所揭櫫之「事先自由知情同意(FPIC)原則」納入原住民族基本法中時，僅將前述諮商同意制度適用於公有土地。不過，除原住民族基本法之外，我國另有國土計畫法、文化資產保存</p> | <p>【Supplemental to Paragraph 5】</p> <p>Taiwan is a democracy governed by the rule of law and, like other democracies, personal property rights are a fundamental human right protected by the Constitution. Such rights are not to be infringed upon by the government or others. As such, Taiwan became the first nation to include the principle of free, prior, and informed consent of the UN Declaration of the Rights on Indigenous Peoples into its Indigenous Peoples Basic Law, although consultation and consent were limited to public land. The protection of indigenous peoples' traditions and rights is also stipulated in the Spatial Planning Act, the Cultural Heritage Preservation Act, the Forestry Act, and the Wildlife Conservation Act. According to the Spatial Planning Act, for spatial development plans that concern the land,</p> |

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| | | | 法、森林法、野生動物保育法等法規，均有保障維護當地原住民傳統權益之明文規範，尤其國土計畫法當中更明文規定，攸關公私有土地使用管制之國土計畫，若其內容涉及原住民族土地及自然資源時，仍必須透過前述諮商同意制度，取得原住民族之同意。因此，原住民族業得以透過各項法律制度之規範，實質地參與當地土地使用管制型態之管制法令訂定程序。 | whether public or private, and the natural resources of indigenous people, consultation and consent procedures must be followed to obtain indigenous peoples' consent. Therefore, through this regulatory framework, indigenous peoples are able to fully participate in the formulation of laws and regulations pertaining to land use. |
| 第六節 Section 6 | 原住民 Indigenous People | 原住民族委員會 Council of Indigenous Peoples | 【針對第 7 段內容予以補充說明】 我國蔡英文總統在「總統府原住民族歷史正義與轉型正義委員會」第 4 次會議中作出裁示，由政府部門邀請太魯閣族當地部落代表，與亞洲水泥公司展開 3 次 3 方會談會議及 7 次真相 | 【Supplemental to Paragraph 7】 At the fourth meeting of the Indigenous Historical Justice and Transitional Justice Committee of the Office of the President, President Tsai gave the following instructions: government ministries shall invite Truku community representatives to three trilateral meetings with Asia Cement Corporation and hold seven investigative task force meetings to coordinate efforts on issues concerning soil and water conservation and environmental |

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| | | | 調查小組會議，就當地水土保持及環境影響等問題協調並請亞洲水泥公司落實礦場安全，已達初步成效，真相調查報告作業也完成初稿，亞洲水泥公司並於 2020 年 6 月 22 日發佈新聞表示，將於礦業法修正前主動依據原住民族基本法精神踐行諮商同意程序，對此原住民族委員會基於維護族人權益之立場，將積極協助後續諮商同意程序之進行。 | impact. Asia Cement Corporation was also instructed to ensure mine safety. Initial results have been achieved, with the investigative task force having completed a draft of the investigative report. Asia Cement Corporation also issued a press release on June 22, 2020, stating that before amendments are made to the Mining Act, the corporation will take the initiative in consulting with and obtaining consent from indigenous peoples in line with the spirit of the Indigenous Peoples Basic Law. For its part, the Council of Indigenous Peoples will endeavor to facilitate the consultation process to protect and ensure the rights of indigenous peoples. |
| 第六節 Section 6 | 原住民 Indigenous People | 經濟部 Ministry of Economic Affairs | 經濟部核准亞洲水泥股份有限公司位於花蓮縣之礦業權展限 20 年，經台北高等行政法院判決應撤銷後，亞洲水泥股份有限公司已上訴，目前最高行政法院審理中，經濟部將依確定判決作出適法之處理。 礦業開發應尊重原住 | Asia Cement Corporation (ACC) has appealed after the Taipei High Administrative Court revoked the decision to extend its mining rights in Hualien County by 20 years, which had been approved by the Ministry of Economic Affairs (MOEA). The case is currently being heard by the Supreme Administrative Court. The MOEA will handle the case in accordance with the final legal decision. The rights and interests of indigenous peoples |

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| | | | 民族權益，經濟部刻正進行礦業法部分條文修正案，修法內容包含取得礦業開發與保障原住民權益間的平衡。 | should be respected during the development of mines. The MOEA is now amending certain articles in the Mining Act to achieve a balance between mining development and the protection of indigenous peoples' rights. |
| 第六節 Section 6 | 基於性傾向和性別認同的暴力、歧視、和其他侵害 Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity | 內政部 Ministry of the Interior | 為兼顧社會秩序與性別變更者之權益保障，內政部已擬具專案報告，於 2015 年 9 月 16 日函報行政院擇定專責機關訂定專法規範性別認定及變更要件，建議將性別變更者區分為 3 類，並分 2 個階段推動法制化：(1)第 1 階段建議修正內政部 2008 年 11 月 3 日令釋規範，針對「已摘除性器官者」，僅須檢具手術完成診斷書辦理，不須經 2 位精神科專科醫師鑑定；針對「雙重性徵者」，無庸提憑手術完成診斷書及精神科專科醫師評估鑑定之診斷書，僅須持最近 6 個月內由國內醫 | To protect both the social order and the rights and interests of individuals who have undergone gender reassignment, on September 16, 2015, the MOI submitted a report to the Executive Yuan regarding the designation of a special authority to formulate specific laws regulating gender identity and reassignment conditions, recommending that gender reassignment individuals be divided into three categories and that a legal framework be created in a two-stage process: (1) The first stage involves amending existing laws. It was recommended that an order of the MOI issued on November 3, 2008, be amended so that in addressing the cases of persons who have already had genitalia removed, there would only be the need to check postsurgery documentation, without the need to have two psychiatrists confirm identity; and in addressing intersex persons, to change gender at one's discretion, it would not be necessary to check any postsurgery documentation or have two psychiatrists |

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| | | | <p>療機構開具雙重性徵之診斷書，自行決定變更性別；(2)第 2 階段建議訂定性別認定專法，因「不摘除性器官者」，其生理與心理事實不一致爭議較大，為落實人權保障及維護社會生活秩序，研議由相關部會制定專法規範性別認定及變更要件，並確認其權利義務及身分關係，並將第 1 階段之解釋令納入專法規範。</p> <p>依行政院 2020 年 4 月 29 日召開「性別變更認定要件法制化政策方向」研商會議，決議有關性別變更認定要件朝制定專法方式研處，後續由行政院性別平等處主政，並請規劃辦理專家學者委託研究案，提出具體法律規範建議。</p> | <p>confirm identity, but rather only require the submission of a medical certificate, drawn up by a domestic medical institution within the last six months, confirming intersex status. (2) The second stage involves formulating specific laws concerning gender identity. Given the significant dispute over the inconsistencies between the physiological and psychological makeup of individuals who do not seek to have their genitalia removed and to protect such individuals' rights and maintain social order, the relevant ministries and departments will deliberate in order to formulate specific laws regulating gender identification and reassignment requirements and confirm individuals' rights and obligations and identity relationships, incorporating rulings from the first stage of the process into these laws.</p> <p>In a policy meeting on the legal framework concerning gender reassignment on April 29, 2020, the Executive Yuan decided to move toward the creation of special laws. The Department of Gender Equality will lead this effort, inviting experts and scholars to make concrete suggestions on laws and regulations.</p> <p>Given that household registration is an act of</p> |

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| | | | <p>戶籍登記係依相關證明文件或法律事實所為之公示登記，屬後端工作，倘未來明定性別之認定標準及認定機關，內政部將配合訂定應備證明文件及登記程序。</p> <p>考量戶籍登記係依相關證明文件或法律事實所為之公示登記，係屬後端工作，倘未來明定性別之認定標準及認定機關，內政部將配合訂定應備證明文件及登記程序。</p> | <p>public registration based on related documentation or legal evidence, the MOI will set out the requirements for supporting documents and registration procedures once gender identification standards and the relevant competent authority have been established.</p> |
| 第六節 Section 6 | <p>基於性傾向和性別認同的暴力、歧視、和其他侵害</p> <p>Acts of Violence, Discrimination, and Other Abuses Based on Sexual</p> | <p>行政院 性別平等處</p> <p>Department of Gender Equality, Executive Yuan</p> | <p>為促進社會大眾對多元性別群體之認識，消除對於 LGBTI 群體之歧視，營造友善社會氛圍與環境，行政院已將「去除性別刻板印象與偏見」列入 2019 年至 2022 年聚焦處理之 5 大性別平等重要議題之一，編撰「多元性別權益保障」實體及數位教材、拍攝宣導影片，</p> | <p>The Executive Yuan seeks to promote public understanding of gender-diverse groups, eliminate discrimination against LGBTI people, and cultivate a social atmosphere and environment that is welcoming to all. The elimination of gender stereotypes and prejudices has now been designated as one of the five main gender equality issues to be focused on between 2019 and 2022. The government will compile physical and digital teaching materials on protecting gender diversity rights, produce public education films, organize training on protecting gender</p> |

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| | Orientation and Gender Identity | | 辦理「多元性別權益保障種子訓練」，委託辦理「性別變更認定要件法制化及立法建議研究」，並透過性平考核機制，引導各部會及地方政府推動多元性別權益宣導與措施。 | diversity rights, and commission research into gender reassignment assessment conditions and associated legislative proposals. A gender equality evaluation mechanism will also be implemented to guide central government agencies and local governments in implementing education and measures for the promotion of gender diversity rights. |
| 第七節 Section 7 | (1) 結社權和集體談判的權利 (1) Freedom of Association and the Right to Collective Bargaining | 勞動部 Ministry of Labor | <p>【針對第 2 段內容予以補充說明】</p> <p>有關經由派遣事業單位而聘僱的僱員(例如：臨時工)無權在他們工作的公司裡以集體方式組織或進行談判一節：</p> <p>(一)我國目前派遣勞工得於派遣事業單位內籌組企業工會，亦可依職業或產業性質，籌組產、職業工會，前開工會依團體協約法皆具有與派遣事業簽約團體協約之權利。</p> <p>(二)又為考量派遣勞工工作特性，進而</p> | <p>【Supplemental to Paragraph 2】</p> <p>Regarding the issue that employees hired through dispatching agencies (i.e., temporary workers) lack the right to organize and to bargain collectively with the enterprises for which they work:</p> <p>(1) Temporary workers may currently organize corporate unions in dispatching agencies, and may also organize professional or industrial unions according to their occupations or the nature of their industry, with such unions having the right to sign collective agreements with dispatching agencies in accordance with the Collective Agreement Act.</p> <p>(2) Furthermore, to protect temporary workers' right to bargain collectively given the nature of their work, the MOL specified in Letter Lao-Dong-Guan-Zi No. 1080125196 of January 31, 2019, that</p> |

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| | | | 保障團體協商權，勞動部業於 2019 年 1 月 31 日勞動關 2 字 第 1080125196 號函釋，就團體協約法第 6 條第 3 項規定，派遣勞工所加入之產(職)業工會是否取得「協商資格」之計算方式予以放寬，派遣勞工於行使協商權時，得受該法第 6 條第 1 項誠信協商之保護，以避免派遣事業單位任意拒絕團體協約之協商。 | when an industrial (professional) union of temporary workers seeks to engage in collective bargaining with a dispatching agency in accordance with Paragraph 3 of Article 6 of the Collective Agreement Act, the definition of bargaining qualifications that applies in such cases should be broadened, allowing temporary workers the protection to bargain in good faith as described in Paragraph 1 of Article 6 of the Act, and thus discouraging dispatching agencies from arbitrarily refusing to negotiate collective agreements. |
| 第七節 Section 7 | (1) 結社權和集體談判的權利 (1) Freedom of Association and the Right to Collective Bargaining | 勞動部 Ministry of Labor | 【針對第 3 段內容予以補充說明】 有關罷工權仍受嚴格限制，教師、公務員與國防工業員工沒有罷工權，且勞工僅可就調整事項進行罷工，涉及集體協議與勞動契約相關的權利事項罷工仍被禁止；此外，勞資仲裁時程 | 【Supplemental to Paragraph 3】 Regarding the issues that with the right to strike still being highly regulated, teachers, civil servants, and defense industry employees do not have the right to strike; that laborers may only strike over interests disputes, and are prohibited from striking over rights pertaining to collective agreements and labor contracts; and that, in addition, labor-management arbitration requires 45-79 days to reach a settlement: |

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| | | | <p>需 45 到 79 天才能底定一節：</p> <p>(一)查勞資爭議處理法第 54 條規定，主要係考量教育體系與國防部及所屬機關(構)、學校之正常運作攸關人民受教權及國家安全，影響至深且遠，因此禁止教師與國防部及其所屬機關(構)、學校之勞工罷工。惟為解決該等勞工、工會與雇主所發生之調整事項勞資爭議，該法第 25 條已另訂替代性解決機制，即調整事項之勞資爭議，工會可直接向直轄市縣(市)主管機關申請交付仲裁，不受仲裁需勞資雙方合意申請之限制，主管機關即須依法仲裁，爭議已有處理機制。又前揭機制</p> | <p>(1)Article 54 of the Act for Settlement of Labor-Management Disputes prohibits teachers and Ministry of National Defense employees and its affiliated agencies (institutes) or schools from going on strike out of consideration for the negative effect on people's right to an education and on national defense. However, the MOL has instituted alternative resolution mechanisms as per Article 25 of the Act for interests disputes (noted in the US report as "adjustment disputes") to allow unions to directly apply to the competent authority of their local municipality/county/city for arbitration. In these cases, arbitration is not subject to the restriction that both labor and management must agree to seek arbitration; rather, the competent authority is legally obliged to launch arbitration and seek to resolve the dispute. It should also be noted that this regulation complies with the requirements of Article 8 of the International Covenant on Economic, Social and Cultural Rights and Article 22 of the International Covenant on Civil and Political Rights, which specify that although a country may employ legal means to restrict or prohibit strikes due to national defense considerations or when it</p> |

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| | | | <p>尚符合經濟、社會與文化權利國際公約第 8 條及公民與政治權利國際公約第 22 條規定，即國家基於國家安全或認為保障他人權利自由所必要時，尚非不得以法律予以限制或甚至禁止罷工，惟應提供替代性處理機制，以解決爭議之原則。</p> <p>(二)又該法第 53 條第 1 項規定，勞資爭議，非經調解不成立，不得為爭議行為；權利事項之勞資爭議，不得罷工。係因權利事項爭議涉及權利之有無，除調解、仲裁程序外，尚可循訴訟途徑取得救濟，而調整事項爭議因無法透過訴訟方式得到解決，因此賦予工會爭議權，以謀爭議解決。且我</p> | <p>deems it necessary to protect others' rights and freedoms, alternative resolution mechanisms must be provided as a means of resolving disputes.</p> <p>(2)Furthermore, Paragraph 1 of Article 53 of the Act for Settlement of Labor-Management Disputes specifies that "industrial actions cannot be undertaken unless a mediation of labor-management dispute is not successfully concluded; for the rights dispute, strike is not allowed." Since rights disputes are concerned with the possession of rights or lack thereof, they can also be resolved through litigation. Litigation cannot be employed in cases of interests disputes, so unions are granted the right to dispute in order for such disputes to be resolved. Taiwan's current Labor Incident Act provides litigation procedures that favor workers and unions, and reduce obstacles to litigation. Workers involved in future rights disputes will be able to obtain quick settlements through judicial means.</p> <p>(3)According to Article 37 of the Act for Settlement of Labor-Management Disputes, an arbitration award rendered by the arbitration committee for rights disputes has the same effect as the final</p> |

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| | | | <p>國目前已訂有勞動事件法，提供更有利於勞工及工會之訴訟程序，減少訴訟障礙，加快審理程序，未來權利事項爭議案件將可透過訴訟途徑迅速獲得解決。</p> <p>(三)未依該法第 37 條規定，權利事項之勞資爭議所作成之仲裁判斷，於當事人間，與法院確定判決有同一效力。因仲裁制度具準司法地位，爰相較於調解程序當有較高要求，惟不論以仲裁人(需時 45-55 日)或仲裁委員會(需時 69-79 日)方式進行，且實務上各縣市政府受理之仲裁案均可於法定期間解決，均較訴訟途徑解決更為迅捷及經濟。另考量調解及仲裁制度之</p> | <p>ruling of a court on the parties to a labor-management dispute. Because the arbitration system has a quasi-judicial nature, prudence and thoroughness are required. This Act also specifies that there must be an option for having a sole arbitrator manage the arbitration process. Regardless of whether arbitration is conducted via a sole arbitrator (requiring 45-55 days) or an arbitration committee (requiring 69-79 days), in practice arbitration cases accepted by county and city governments can be settled within the prescribed period, and all such cases can be settled in a quicker and more economical manner than cases resolved through litigation. In addition, given that the purpose of the mediation and arbitration system is to resolve disputes and stabilize labor-management relations quickly, to avoid any worsening of disputes and increase in antagonism during the mediation and arbitration period and achieve the peaceful resolution of disputes, both parties must engage with one another calmly and jointly maintain an atmosphere of goodwill during such periods.</p> |

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| | | | 目的，係快速解決紛爭，穩定勞資關係，故於調解及仲裁期間，為避免爭議惡化，雙方對立加劇，爰規定於此期間，勞資雙方應冷卻其情緒，互負和平義務，目的係俾利爭議和平解決。 | |
| 第七節 Section 7 | (1) 結社權 和集體談判 的權利 (1) Freedom of Association and the Right to Collective Bargaining | 勞動部 Ministry of Labor | <p>【針對第 6 段內容予以補充說明】</p> <p>大型企業常以各種方式阻撓員工成立企業工會，例如列出工會組織者的黑名單，讓他們難以升遷或將他們調任至其他工作單位及除銀行業，產業工會並不發達一節：</p> <p>(一)為保障集體勞動權益，我國於 2011 年 5 月 1 日修正實施勞動三法（工會法、團體協約法及勞資爭議處理法），除了於工會法中規範雇主不</p> | <p>【Supplemental to Paragraph 6】</p> <p>Regarding the issue that, except in the banking industry, unions are not well developed because large enterprises commonly employ a range of methods to prevent employees from establishing corporate unions, such as compiling a blacklist of union organizers, making it difficult for union organizers to obtain promotions, and transferring such individuals to work in other divisions:</p> <p>(1)To safeguard collective labor rights, three labor laws, namely the Labor Union Act, the Act for Settlement of Labor-Management Disputes, and the Collective Agreement Act, were revised on May 1, 2011. The Labor Union Act specifies that employers may not engage in unfair labor</p> |

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| | | | <p>得不當勞動行為外，並於勞資爭議處理法中新增不當勞動行為裁決制度，透過個案審理判斷及裁罰，避免雇主藉其經濟優勢地位，對於勞工行使法律所賦予之團結權、團體協商權及集體爭議權時，採取反工會組織及相關活動之不當勞動行為，並迅速回復受侵害勞工之相關權益及集體勞動關係之正常運作。</p> <p>(二) 目前除銀行業外，汽車業、石化業及其他產業勞工亦有成立企業工會。為輔導勞工籌組工會，勞動部辦理推動協助組織工會三部曲，於勞工組織工會前、籌組中及組織成立新工會後，提供勞工補助及獎勵措施，俾</p> | <p>practices, while the Act for Settlement of Labor-Management Disputes introduced an unfair labor practice judgment system. Seeking to quickly repair any infringements of workers' rights and the normal functioning of collective labor relations, the system, through legal judgements and penalties, aims to prevent employers from using their economic advantage to engage in unfair labor practices targeting unions and related activities whenever workers exercise their legal rights to organize, engage in collective bargaining or act collectively in disputes.</p> <p>(2) At present, in addition to the banking industry, workers in the automotive, petrochemical, and other industries have established corporate unions. The MOL offers assistance measures and incentives designed to help workers prior, during, and after the establishment of a new union, thus promoting the smooth functioning of union affairs. For instance, the MOL has provided assistance to workers establishing unions, guiding those in the medical, high-tech, and financial and insurance industries. In 2019, the MOL assisted the establishment of six corporate (industrial)</p> |

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| | | | 利工會成立之際，會務得以順利運作。如：辦理協助輔導勞工成立工會相關措施，輔導醫療業、科技業、金融保險等行業之勞工，於 2019 年計輔導成立 6 家企(產)業工會、提供 7 家新成立 1 年內之工會辦理勞動教育，穩定會務運作，補助 6 家工會及工會聯合組織協助、輔導勞工成立工會獎勵金。 | unions, provided labor education to seven new unions that had been established for less than one year to stabilize their operations, and subsidized six unions and union federations assisting workers through the establishment of union incentive funds. |
| 第七節 Section 7 | (2)禁止強迫或強制勞動 (2)Prohibition of Forced or Compulsory Labor | 勞動部 Ministry of Labor | 【針對第 2 段內容予以補充說明】 一、有關勞動法規未涵蓋家事服務業，導致其從業人員易於受到勞動剝削一節： 家事服務業因工作型態、工作時間、休息時間與受僱於事業單位之勞工明顯不 | 【Supplemental to Paragraph 2】 1.Regarding the issue of labor laws not covering domestic workers, leaving them vulnerable to exploitation by their employers: Domestic workers have distinctively different work patterns, working hours, and rest times from workers employed by business entities. Their duties are difficult to clarify, to the extent that the Labor Standards Act cannot be applied to such cases. At present, the Labor Standards Act |

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| | | | <p>同，且不易釐清，目前不分本、外國人，均未納入勞動基準法適用對象。就業服務法已規定外籍勞工來臺前應簽訂書面勞動契約，勞動部已與外籍家事勞工來源國個別協商，各國並分訂有勞動契約範本。外籍家事勞工須與雇主簽訂書面勞動契約，且該勞動契約亦經外籍勞工來源國驗證，入國後，並受我國就業服務法有關聘僱規定之保障。</p> <p>二、有關移工最容易成為強迫勞動的受害者，尤其是臺灣籍漁船上的外籍漁工。部分仲介公司向移工收取高額仲介</p> | <p>does not apply to either Taiwanese or foreign domestic workers. The Employment Service Act stipulates that foreign workers must sign written labor contracts before coming to Taiwan. The MOL has established agreements with source countries providing foreign domestic workers and has formulated standard labor contracts with these countries. Foreign domestic workers must sign written labor contracts with their employers; these must be validated by their home countries. After entering Taiwan, foreign domestic workers are protected under the relevant employment provisions of the Employment Service Act.</p> <p>2. “Foreign workers were most susceptible to forced labor, especially when serving as crew members on Taiwan-flagged fishing vessels. Some labor brokers charged foreign workers exorbitant recruitment fees and used debts incurred from these fees in the source country as tools of coercion to subject the workers to debt bondage.” Regarding this issue:</p> <p>(1) To prevent human trafficking and protect workers from forced labor, the Human Trafficking Prevention Act, the Labor Standards Act, and the Employment</p> |

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| | | | <p>費，並利用其在母國積欠之債務強迫工作一節：</p> <p>(一)為防制人口販運行為及保護勞工免遭強迫勞動，現行人口販運防制法、勞動基準法及就業服務法等法令可為論處。另為避免移工受到強迫勞動，保障其權益，勞動部已建立入國前、入國後及出國前之保護體系，重要措施包含設立機場關懷服務站，提供移工接機服務，並進行法令宣導及講習；建置 24 小時雙語免付費 1955 勞工諮詢申訴專線，供移工以其母語進行法令諮詢及申訴；補助地方政府聘僱訪視及查察人員，於移工入國後辦理生活關懷訪視，並針對違法案</p> | <p>Service Act can all be applied to impose punishments. Furthermore, to protect the rights of migrant workers and ensure they are not made to perform forced labor, the MOL has established a system of protections that starts before workers enter Taiwan, continues after they enter the country, and extends until they leave. Key features of the system have included establishing airport care service stations, providing migrant workers with airport pick up services, and conducting legal awareness services and workshops. The free 24-hour 1955 bilingual consulting and complaint hotline also allows migrant workers to receive legal advice and complaint-handling services in their native languages. The MOL assists local governments to employ inspection and investigation personnel, who conduct visits to check up on migrant workers after they enter the country and impose sanctions in cases where workers have been subject to illegal actions. The introduction of a mechanism to verify midcontract annulments has ensured that employers cannot force migrant workers to return to their home countries. The MOL also assists in the placement of migrant workers, and</p> |

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| | | | <p>件進行裁罰；建立中途解約驗證機制，避免移工遭雇主強迫遣返；協助安置並提供必要生活扶助及轉換雇主等。</p> <p>(二)另移工多數透過國外仲介公司介紹始來臺工作，故有國外仲介費之產生，且因個人經濟因素須透過借貸方式先行支付。鑑於國外仲介費係由來源國律定管理，勞動部前已向各移工來源國建議國外仲介費以移工1個月薪資為上限，並建議調降移工於國外借款之利率，避免移工經濟負擔沉重。</p> <p>三、有關2018年6家違法仲介停業，但法律不禁止以其他人頭註冊新公司的方式重新</p> | <p>provides living support and other assistance to workers seeking to switch employers.</p> <p>(2)Furthermore, since most migrant workers are introduced to working in Taiwan via overseas labor brokers, and must therefore pay brokerage fees, their personal financial circumstances often require them to obtain loans ahead of time in order to pay these fees. Although these brokerage fees are governed by the laws and regulations of the countries in which the labor brokers operate, the MOL has advised foreign workers' countries of origin that workers should pay brokerage fees equivalent to no more than one month's average salary, and recommended that the interest rates on any loans taken out by migrant workers before entering Taiwan be reduced in order to ease their financial burden.</p> <p>3. "Authorities ordered six brokers convicted of illegal activities in 2018 to close; however, there was no legal prohibition against reopening a business through a proxy that registers as a new company. In November 2018 the Employment Service Act was modified to require brokers to report to law enforcement authorities within 24 hours if they learn of an employer</p> |

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| | | | <p>開業。2018 年 11 月修正就業服務法，要求仲介公司及其從業人員知悉移工遭不當對待於 24 小時內通報，即便切實執法，罰則卻不足以產生嚇阻作用一節：</p> <p>(一)依私立就業服務機構許可及管理辦法第 15 條規定，機構負責人、經理人、董(理)事或代表人曾任職私立就業服務機構，因其行為致使該機構有違反就業服務法第 40 條第 1 項第 4 款至第 9 款或第 45 條規定之情事，該次設立許可或籌設許可申請即不予許可。目前法令已有對曾違規之負責人再次申請之管制。</p> <p>(二)至仲介公司從業</p> | <p>mistreating a foreign worker. Penalties were not sufficient to deter violations, although authorities sought to enforce the law.”</p> <p>Regarding this issue:</p> <p>(1)In accordance with Article 15 of the Regulations for Permission and Supervision of Private Employment Services Institution, applications for preliminary permits or establishment permits for a private employment service agency will be denied if its head, manager, director, or representative has previously worked at a private employment service agency and their actions caused that institution to violate the regulations stipulated in Subparagraphs 4 to 9 of Paragraph 1 of Article 40 or Article 45 of the Employment Service Act. This has the effect of preventing new applications by persons who have committed violations in the past.</p> <p>(2)The reporting responsibilities of personnel at labor brokers prescribed under current laws are comparable with the reporting responsibilities prescribed under similar laws in Taiwan. For example, under Article 100 of the Protection of Children and Youth Welfare and Rights Act, personnel performing child and youth welfare work</p> |

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| | | | 人員通報責任，經檢視我國類此通報責任相關規定，如兒童及少年福利與權益保障法第 100 條規定略以，執行兒童及少年福利業務人員，違反該法通報規定而無正當理由者，處 6,000 元以上 6 萬元以下罰鍰。爰仲介公司及其從業人員從事就業服務業務有違反就業服務法第 40 條第 1 項第 19 款規定者，依同法處以 6 萬元以上 30 萬元以下罰鍰，相較類此規定之罰則額度已提高 10 倍，難謂無嚇阻作用。 | violating the Act's reporting regulations without legitimate cause will be fined from NT\$6,000 to NT\$60,000. Accordingly, it cannot be said that the fines of NT\$60,000 to NT\$300,000 imposed by the Employment Service Act on labor brokers and personnel providing employment services who violate Subparagraph 19 of Paragraph 1 of Article 40 of the Employment Service Act, which are ten times greater than those imposed under similar regulations through the Protection of Children and Youth Welfare and Rights Act, have no deterrent effect. |
| 第七節 Section 7 | (4)就業或職業歧視 (4) Discrimination with Respect to | 勞動部 Ministry of Labor | 【針對第 3 段內容予以補充說明】 有關學者表示這些數據根本無法反映性別歧視問題的嚴重程度，因為員工害怕雇 | 【Supplemental to Paragraph 3】 Regarding scholars' expressions of concern that the available data do not fully reveal the severity of gender discrimination because employees fear retaliation from their employers, and employees with a record of |

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| | Employment and Occupation | | <p>主報復，有申訴紀錄的員工很難找到新工作一節：</p> <p>(一)性別工作平等法第 36 條已明定：「雇主不得因受僱者提出本法之申訴或協助他人申訴，而予以解僱、調職或其他不利之處分。」，基此，倘受僱者發現雇主違反性別工作平等法規定，而向雇主、主管機關或檢查機構申訴者，雇主均不得因此予以解僱、調職或其他不利之處分。雇主違反上開規定，各地方勞動行政主管機關應依同法第 38 規定應處新臺幣 2 萬到 30 萬元，並公布其姓名或名稱、負責人姓名，並限期令其改善；屆期未改善者，應按次處罰。</p> | <p>complaints will have difficulty finding new jobs:</p> <p>(1) Article 36 of the Act of Gender Equality in Employment specifies that “employers may not terminate, transfer or take any disciplinary action that is adverse to employees who personally file complaints or assist other persons to file complaints pursuant to the Act.” On this basis, when an employee discovers that his/her employer has violated the Act and makes a complaint to the employer, competent authority, or investigative organization, the employer may not terminate, transfer, or take other unfavorable action against the employee. Moreover, in accordance with Article 38 of the Act, the local labor administration competent authority may fine employers that violate this regulation from NT\$20,000 to NT\$300,000; furthermore, “their names or titles and the persons-in-charge shall be put on public notice, and they shall be ordered to improve within a specified period. For those who have not improved within the specified period, they shall be fined and punished consecutively for each violation after the aforementioned period expires.”</p> <p>(2) The MOL holds 26 workplace equal rights and sexual harassment prevention</p> |

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| | | | (二)勞動部每年皆與各地方勞工行政主管機關共同辦理「職場平權暨性騷擾防治研習會」共計 26 場次，並持續透過多元管道(臉書及摺頁)，加強相關政策之宣導。 | workshops each year in conjunction with local labor administration competent authorities, and will continue to rely on various channels (e.g., Facebook and pamphlets) to strengthen policy awareness. |
| 第七節 Section 7 | (4)就業或職業歧視 (4) Discrimination with Respect to Employment and Occupation | 勞動部 Ministry of Labor | <p>【針對第 5 段內容予以補充說明】</p> <p>有關法律規定公務部門和民間企業必須進用身心障礙人士，比率分別為其員工總數的 3%和 1%。2018 年公務部門有 4.3%的員工為身心障礙人士，民間企業仍然落後於法定目標。身心障礙人士的失業率比非身心障礙者的失業率高出 3 倍一節：</p> <p>(一)依 2018 年 12 月統計，民營事業單位進用身心障礙者占員工總人數 1.56%，高於 1%法</p> | <p>【Supplemental to Paragraph 5】</p> <p>“The law requires 3 % of the workforce in the public sector and 1 % of the workforce in the private sector to be persons with disabilities. In 2018, 4.3 % of the public sector workforce were persons with disabilities; the private sector continued to fall short of the regulated target. The unemployment rate for persons with disabilities was three times higher than that for persons without disabilities.”</p> <p>Regarding this issue:</p> <p>(1)According to statistics from December 2018, persons with disabilities accounted for 1.56% of the total employees at private enterprises, which was higher than the 1% statutory ratio, and therefore did not fall short of the regulated target.</p> <p>(2)Furthermore, according to a 2019 survey conducted by the MOL, the unemployment</p> |

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| | | | <p>定比率，並無落後於法定目標情形。</p> <p>(二)另依勞動部 2019 年調查，身心障礙者失業率 8.1%，為同期全體國民失業率 3.67%之 2.2 倍，較 2016 年調查結果差距已有縮小。</p> | <p>rate for persons with disabilities was 8.1%, which was 2.2 times the unemployment rate of 3.67% for all citizens over the same period. The gap between the two unemployment rates had shrunk in comparison with the results of a 2016 survey.</p> |
| 第七節 Section 7 | (5)可接受的工作條件 e. Acceptable Conditions of Work | 勞動部 Ministry of Labor | <p>【針對第 2 段內容予以補充說明】</p> <p>有關勞動基準法工時規定說明：</p> <p>(一)加班時數彈性運用：有關加班時數之彈性規定，係在加班總時數不變之前提下，雇主經工會或勞資會議同意後，得以每 3 個月為區間總量管制，單月加班時數上限適度放寬為 54 小時，惟每 3 個月總時數仍不得超過 138 小時，且 30 人以上企業須報請當地主管機關備</p> | <p>【Supplemental to Paragraph 2】</p> <p>An explanation of working hour regulations in the Labor Standards Act:</p> <p>(1)Flexible use of overtime hours: Concerning flexibility of regulations on overtime hours, with the precondition that the total number of overtime hours not change, employers may determine, after obtaining consent from the labor union or a labor-management conference, how to allocate overtime over a three-month period. The upper limit on overtime hours within a single month has been increased to 54 hours, but the number of overtime hours within each three-month period may not exceed 138 hours. In addition, companies with at least 30 employees must report their overtime record to the local competent authority for reference.</p> |

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| | | | <p>查。</p> <p>(二)例假得彈性調整並增加政府把關機制：例假仍以 7 休 1、連續工作不得逾 6 日為原則，事業單位如欲實施例假彈性調整措施，除需為本部公告指定之行業外，且僅在公告所列之特定情形發生時，始能適用彈性規定，非允該行業之業者能長期持續讓勞工連續工作逾 6 日。另最瞭解個別事業單位勞動現場現況之工會或勞資會議，具有同意與否之權利，倘若其認為不宜實施例假彈性措施，雇主即應符合例假 7 休 1 規定。相關規範已有考量勞工之身心健康。</p> <p>(三)輪班換班之間距：輪班換班間距以 11 小時為原</p> | <p>(2)Flexible adjustment of days off and strengthened government control: The principle of having one day out of seven off still applies, and workers may not work more than six days in a row. Enterprises wishing to make flexible adjustments must be in an industry approved by the MOL, and may only do so under circumstances approved by the ministry; otherwise, employers may not make workers work for more than six days in a row. In addition, since the best understanding of enterprises' workplaces can be obtained by unions and labor-management conferences, these have the right to weigh in on flexible adjustments; if they believe that the flexible adjustment would be inappropriate, the employer shall continue to comply with the standard of one day out of seven off. The relevant standards must take the physical and mental health of workers into consideration.</p> <p>(3)Interval between shifts: The principle of having a rest period of at least 11 hours between shifts takes into consideration the business models and working hour arrangements of different industries. To make this more practical and feasible, a provision that enterprises may specify</p> |

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| | | | <p>則，考量各行各業有不同營運模式及工時安排需求，同時增加因工作特性或特殊原因，於經政府把關及工會、勞資會議同意之集體協商機制，才能另行約定休息時間，但不得少於 8 小時，使相關規定務實可行。</p> <p>(四)有關勞動基準法第 84 條之 1 說明：勞動基準法第 84 條之 1 規定意旨，在給予雇主與特定勞工合理協商工作時間的彈性。經核定為勞動基準法第 84 條之 1 規定之工作者，固得不受該法部分規定之限制，惟其工作時間並非完全不受限制或毫無例假與休假，勞雇雙方應就工作時間等事項為書面約定，且約</p> | <p>alternative rest schedules for work of a particular nature or special reasons has also been added, as long as the government approves the case and a union or labor-management conference agrees through collective bargaining. However, such rest times may not be less than eight hours.</p> <p>(4)Article 84-1 of the Labor Standards Act: Article 84-1 of the Labor Standards Act gives employers and specified workers reasonable flexibility in negotiating working hours. Workers belonging to the classifications of Article 84-1 of the Act are not subject to some of the restrictions of the Act. However, the working hours of such workers are not completely without restriction, nor do these workers not enjoy rest days or official holidays. Workers and management must enter a written agreement concerning working hours and related matters, and such agreements take effect only after being approved by the local competent authority. Until an agreement has been approved, the working hour restrictions of the Act still apply to the worker.</p> <p>(5)Working hour regulations for the freight and passenger transport industries: According to Paragraph 1 of Article 30 of</p> |

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| | | | <p>定書應報地方勞政機關核備後，始生效力；未經核備者，仍受勞動基準法一般工時規定限制。</p> <p>(五)貨運、客運業之工時規定：勞動基準法第 30 條第 1 項規定，勞工正常工作時間，每日不得超過 8 小時，每週不得超過 40 小時。第 32 條規定略以，雇主有使勞工在正常工作時間以外工作之必要者，雇主經工會同意，如事業單位無工會者，經勞資會議同意後，得將工作時間延長之。延長工作時間連同正常工作時間，1 日不得超過 12 小時，原則上 1 個月不得超過 46 小時。</p> | <p>the Labor Standards Act, the regular working time of workers may not exceed eight hours a day or 40 hours a week. Article 32 of the Act also states that when an employer needs to have employees work additional hours, the labor union must consent. If there is no labor union in the enterprise, the additional working hours may be worked following consensus reached through a labor-management conference. In any case, total working hours should not exceed 12 hours a day and 46 hours a month.</p> |

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| 第七節 Section 7 | (5)可接受的工作條件 e. Acceptable Conditions of Work | 勞動部 Ministry of Labor | <p>【針對第 3 段內容予以補充說明】</p> <p>有關法律無法保障外籍家事勞工休假，致影響其參加宗教活動一節：</p> <p>(一)目前家事勞工不分本、外國籍勞工，均不適用勞動基準法，由勞雇雙方依民法相關規定，以勞動契約釐定。另就業服務法及相關法規已明定，雇主聘僱移工，須訂立書面勞動契約，並應作成該外國人母國文字之譯本。且移工之工時及休假，另有其來源國驗證之勞動契約以為依循。目前來源國提供之勞動契約範本已有約定工作 7 日應有 1 日休息。</p> <p>(二)為保障移工宗教信仰自由，勞動部已設置 1955 勞工</p> | <p>【Supplemental to Paragraph 3】</p> <p>Regarding the issue that the law does not guarantee time off for foreign domestic workers, affecting their ability to participate in religious activities:</p> <p>(1)At present, the Labor Standards Act does not apply to either Taiwanese or foreign domestic workers. Domestic workers and their employers enter into a labor contract in accordance with the relevant provisions of the Civil Code. In addition, the Employment Service Act and relevant regulations stipulate that employers hiring a migrant worker must enter into a written labor contract and provide the migrant worker with a copy translated into his/her native language. Working hours and leave are subject to the labor contract, which must be verified by the source country. Currently, standard labor contracts provided by source countries stipulate one day of rest for every seven days of work.</p> <p>(2)To uphold the freedom of religion, the MOL established the 1955 Counseling and Protection Hotline for Foreign Workers, providing migrant workers with an immediate means of dealing with labor disputes in cases where an employer may have denied them leave. Public awareness</p> |

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| | | | <p>諮詢申訴專線，即時處理移工因雇主未依約給予休假之勞資爭議，並透過宣導手冊、廣播節目及平面媒體等多元宣導管道，向雇主、仲介團體與一般社會大眾宣導及透過地方政府辦理移工訪查時，向雇主宣導應尊重移工之宗教信仰，協助移工得自由參加宗教活動。</p> <p>(三)勞動部與衛生福利部共同推動「擴大聘僱外籍家庭看護工家庭使用喘息服務」，自 2018 年 12 月 1 日起，聘僱外籍家庭看護工之被照顧者，經評估失能等級為第 7 級或第 8 級者，補助其申請喘息服務。雇主使用喘息服務後，外籍家庭看護工即可安排休</p> | <p>is being raised through a variety of channels, including brochures, radio programs, and print media. When local government agencies conduct inspections, they also remind employers, agents, and the general public to respect migrant workers' religious beliefs and help them enjoy the freedom to participate in religious activities.</p> <p>(3)The MOL and the Ministry of Health and Welfare are jointly promoting the expanded use of household respite care for households employing foreign caregivers. Starting December 1, 2018, when a person cared for by a foreign caregiver is assessed as having a grade 7 or 8 disability, a household may apply for funding to cover respite care expenses. With respite care, employers may more easily make arrangements for the foreign caregiver to take leave for religious activities.</p> |

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| | | | 假參與宗教活動。 | |
| 第七節 Section 7 | (5)可接受的工作條件 e. Acceptable Conditions of Work | 勞動部 Ministry of Labor | <p>【針對第 4 段內容予以補充說明】</p> <p>有關員工因工作條件不安全而發生職業災害，雇主沒有刑事責任及貨運與客運超時工作的駕駛員事故比例高於平均一節：</p> <p>(一)雇主應提供安全健康的工作環境，如未落實安全衛生設施，導致勞工發生死亡或傷殘職業災害時，依職業安全衛生法第 40 條、第 41 條規定，可分別處 3 年及 1 年以下有期徒刑、拘役或科或併科罰金，另該災害實際從事業務之行為人，如涉有過失，則移送司法機關偵辦，爰雇主尚非無刑事責任。</p> <p>(二)客運業與貨運業均屬涉及重大公共</p> | <p>[Supplemental to Paragraph 4]</p> <p>Concerning the issues that when employees suffer occupational accidents due to unsafe working conditions, their employers bear no criminal liability; and that the accident rate of truckers and bus drivers working overtime is higher than the average rate:</p> <p>(1) Employers should provide a safe and healthy working environment. In the event that an employer fails to provide safe facilities and a healthy environment, leading a worker to have an occupational accident resulting in death or injury, Article 40 of the Occupational Safety and Health Act mandates imprisonment of up to three years or detention or a fine be levied on an employer, while Article 41 calls for imprisonment of up to one year, detention, or a fine. Furthermore, if the employer is found to have been negligent, the case will be referred to a judicial agency for further investigation. Therefore, the concern that in such cases employers bear no criminal liability is unfounded.</p> <p>(2) With respect to public safety, the bus and trucking industries hold great importance. The MOL has made investigating accidents</p> |

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| | | | 安全之行業，勞動部已針對該行業別規劃常態性專案檢查，並將駕駛是否工作超時、輪班間隔休息不足、連續出勤等，納為重點檢查項目，另藉由與各地方勞動行政主管機關及交通部公路總局合作稽查機制，強化督促業者落實法令規定，確保駕駛員之勞動權益。 | involving these industries routine practice. It takes into consideration whether the drivers were working overtime, had insufficient time to rest between shifts, or had to make consecutive trips. In addition, through a cooperative audit mechanism involving local administrations' competent labor authorities and the Directorate General of Highways under the Ministry of Transportation and Communications, the government has strengthened the supervision of employers' compliance with laws and regulations and provided stronger protections for truck and bus drivers' labor rights. |
| 第七節 Section 7 | (5)可接受的工作條件 e. Acceptable Conditions of Work | 勞動部 Ministry of Labor | <p>【針對第 5 段內容予以補充說明】</p> <p>有關勞動檢查無法有效嚇阻違反勞動法規的行為或不安全的工作條件及勞檢人員的人數不足以產生嚇阻作用一節：</p> <p>(一)勞動部補助地方政府增聘安全衛生及勞動條件檢查員，目前全國勞動檢查人力已逾千人，與勞工人數之</p> | <p>【Supplemental to Paragraph 5】</p> <p>With regard to the issues that inspections cannot effectively deter labor law violations or prevent unsafe working conditions and that the number of inspectors is insufficient to have a deterrent effect:</p> <p>(1)The MOL has helped local governments increase the number of inspectors of health, safety, and working conditions to over 1,000 nationwide. The ratio of inspectors to workers is approximately 1:11,200, which meets the standard set by the International Labour Organization for developed countries.</p> |

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| | | | <p>配置比約為 1 : 1.12 萬，已達到國際勞工組織 (ILO) 建議已開發國家水準。</p> <p>(二)我國近年來已修正相關法律提高罰鍰金額，例如職業安全衛生法之一般性違規罰鍰金額提高 2 倍，特定場所未定期實施製程安全評估致發生職災者，處最高新臺幣 300 萬元罰鍰，勞動基準法之罰鍰亦提高至上限新臺幣 150 萬元；事業單位違反前開規定時，公布其事業單位名稱及負責人姓名。另每年依風險分級管理方式對事業單位實施高強度之勞動監督檢查逾 15 萬場次，有效嚇阻事業單位違反勞動法令。</p> | <p>(2) In recent years, Taiwan has amended relevant laws in order to increase fines. For instance, fines for general violations of the Occupational Safety and Health Act have been doubled, and the maximum fine for failure to regularly conduct process safety assessments in designated premises leading to accidents has been raised to NT\$3 million. The maximum fines under the Labor Standards Act have been similarly raised to NT\$1.5 million. When enterprises violate the aforementioned statutes, the name of the enterprise and responsible person(s) are publicly announced. In addition, the MOL conducts more than 150,000 stringent labor supervisory inspections of enterprises each year in accordance with a risk grade management scheme, thereby effectively deterring enterprises from violating labor laws.</p> |

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| 第七節 Section 7 | (5)可接受的 工作條件 e. Acceptable Conditions of Work | 勞動部 Ministry of Labor | <p>【針對第 6 段內容予以補充說明】</p> <p>有關台灣國際勞工協會 (TIWA) 認為，繁瑣耗時的程序造成直接聘僱聯合服務中心無法大規模拓展業務，仲介業者持續從外籍勞工身上牟利一節：</p> <p>(一)為提供雇主多元聘僱移工之管道，減輕移工來臺工作負擔，勞動部於 2007 年 12 月底成立「直接聘僱聯合服務中心」。自開辦迄 2020 年 5 月底，總計服務 16 萬 3,767 名雇主及 17 萬 1,096 名移工，為雇主及移工減省登記介紹費及海外仲介費計新臺幣 73 億 1,491 萬元。</p> <p>(二)為擴大直接聘僱服務範圍，配合來源國直接聘僱開放</p> | <p>【Supplemental to Paragraph 6】</p> <p>With regard to the issue that the Taiwan International Workers' Association believes that red tape prevents the Direct Hire Service Center from achieving widespread implementation, thus enabling labor brokers to continue to exploit foreign workers:</p> <p>(1) In order to provide employers with multiple channels to hire foreign workers and to relieve the burden of foreign workers coming to Taiwan, the MOL established the Direct Hire Service Center at the end of December 2007. As of the end of May 2020, the Center had provided services to a total of 163,767 employers and 171,096 migrant workers, saving a total of NT\$7.31491 billion in registration, introduction, and foreign agency fees for employers and foreign workers.</p> <p>(2) To expand the scope of direct employment services and align with the direct employment processes of source countries, the MOL adopted a phased strategy for direct employment services. In 2008, it became possible to rehire a migrant worker. In 2015, the Center also worked with migrant worker source countries to launch a migrant worker selection program. Customization services have</p> |

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| | | | <p>作業，勞動部係採階段性策略辦理直接聘僱服務，2008年開放重新招募同一名移工，並自2015年起與來源國合作初次招募「專案選工」移工，客製化協助雇主需求進行招募，並安排選工及移工引進作業，迄2020年5月底，已成功協助雇主初次招募新聘引進超過2,000名移工。</p> <p>(三)為簡化直接聘僱流程，勞動部2018年起推動移工申請案線上申辦服務，雇主得採網路方式申辦文件，縮短郵寄時程，並持續加強跨部會系統介接，有效減少應備文件，另推動一案到底服務，每位雇主申辦案件均配有專人主動追蹤</p> | <p>helped employers recruit needed workers and provided worker selection and migrant labor orientation operations. As of the end of May 2020, the MOL worker selection program had helped employers recruit over 2,000 new migrant workers.</p> <p>(3)To further streamline the direct employment process and encourage employers to use direct employment services, in 2018 the MOL launched an online migrant worker application service to save employers time normally needed for postal services. It also continues to enhance the cross-ministerial system interface, thus reducing the number of documents to be submitted. In addition, the MOL has promoted the One-Stop Employment Service, so that each application is assigned to a dedicated person who tracks its progress, thereby simplifying the hiring process. Furthermore, to simplify migrant worker management, the MOL now uses phone calls, cell phone messages, and emails to notify employers of matters that need to be addressed. The MOL has also launched an app and an official website to provide assistance with applications and deliver the latest news.</p> |

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| | | | <p>雇主案件申辦事項進度，簡化雇主辦件程序。另為降低移工聘僱管理困難，主動以電話、簡訊及電子郵件通知雇主應辦事項，並建置「聘僱移工小幫手 APP」及「直接聘僱官方網站」服務，提供申辦流程、最新消息及管理事項等相關服務。</p> | |
| 第七節 Section 7 | <p>(5)可接受的工作條件 e. Acceptable Conditions of Work</p> | <p>勞動部 Ministry of Labor</p> | <p>【針對第 8 段內容予以補充說明】 有關移工因擔心雇主終止契約並將其遣返，而無法償還在母國積欠之債務，即便遭雇主虐待也不願檢舉一節： (一)勞動部定期辦理專案訪查及地方政府安排有不定期訪查，以適時瞭解移工之聘僱狀況。另移工如有遭受剝削、虐待或強迫遣</p> | <p>【Supplemental to Paragraph 8】 Regarding migrant workers who are abused by their employers but unwilling to report the abuse out of fear that their contracts may be terminated, resulting in their being deported and unable to repay debts back home: (1)To gain an understanding of migrant workers' working conditions, the MOL regularly conducts special inspections as well as other occasional inspections in conjunction with local governments. In addition, if migrant workers are exploited, abused, or forced to travel back to their home country, they may call the 1955 hotline for labor consultation or visit the</p> |

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| | | | <p>返，得撥打 1955 勞工諮詢申訴專線或至地方政府勞資爭議協處。另移工受到剝削或虐待等，屬不可歸責移工之事由，依就業服務法第 59 條規定，經本部核准，得轉換雇主或跨業別轉換工作。</p> <p>(二)為保護外籍勞工之工作權益，避免遭雇主強迫終止聘僱關係致強行遣送出國，勞動部已依雇主聘僱外國人許可及管理辦法第 45 條規定，建立中途解約驗證機制，凡提前解約出國之移工，均應至各地方主管機關辦理驗證程序，確認為合意終止聘僱關係，如非合意情形，則將依勞資爭議處理，倘雇主有強迫遣返之情事，</p> | <p>local government labor administration's dispute resolution office. Furthermore, when migrant workers are exploited or abused and bear no fault, in accordance with Article 59 of the Employment Service Act, they may switch employers or industries after obtaining MOL approval.</p> <p>(2)To protect the rights and interests of foreign workers, the MOL aims to ensure that they are not forced to return to their home country when their contracts have been terminated unilaterally by their employers. Therefore, the MOL specified verification procedures for employer termination of labor relationships with foreigners in accordance with Article 45 of the Regulations on the Permission and Administration of the Employment of Foreign Workers. Accordingly, migrant workers whose labor contracts have been terminated early must go to the local competent authority to initiate verification procedures to confirm that the labor relationship was terminated by mutual consent. If the labor relationship was not terminated by mutual consent, the case will be handled as a labor-management dispute. An employer found to have coerced a migrant worker into returning to his or her</p> |

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| | | | 經查證屬實，將依違反就業服務法相關規定處以罰鍰，並不予核發或廢止雇主許可，且管制申請案 2 年。 | home country is in violation of the stipulations of the Employment Service Act. Such employers are subject to a fine and their permits may be revoked or denied reissue for up to two years. |
| 第七節 Section 7 | (5)可接受的工作條件 e. Acceptable Conditions of Work | 勞動部 Ministry of Labor | <p>【針對第 9 段內容予以補充說明】</p> <p>一、有關仲介公司往往要求勞工以高利率向臺灣的銀行在當地的海外分行貸款，來支付「訓練費」或其他名義的費用一節：</p> <p>(一)由於移工多數均透過國外仲介公司介紹始來臺工作，故有國外仲介費之產生，又出國工作尚有相關手續及費用，包含國外仲介費、訓練費及來臺工作相關費用，常因個人經濟因素須透過借貸方式先行支付。又國外仲介費係由各移工來源</p> | <p>【Supplemental to Paragraph 9】</p> <p>1. Regarding brokerage agencies that often require foreign workers to take out training fee loans at high interest rates from local branches of Taiwan banks in their home countries:</p> <p>(1) As the majority of migrant workers rely on introductions by foreign labor brokers to come to Taiwan to work, they must pay brokerage fees locally and processing fees and other expenses when traveling abroad, such as training fees and expenses incurred when moving to Taiwan. Depending on their individual economic circumstances, migrant workers often must take loans to cover such costs. As foreign brokerage fees are governed by the laws and regulations of the source countries, the MOL has recommended that they cap brokerage fees at one month's wages and reduce the interest rates on related loans in order to ease the economic burden on migrant workers. Many expenses are incurred prior</p> |

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| | | | <p>國律定管理，勞動部前已向各移工來源國建議國外仲介費以移工 1 個月薪資為上限，及調降移工於國外借款之利率，避免移工經濟負擔沉重，惟因相關費用均發生於移工來臺前，尚難干預移工來源國政府。</p> <p>(二)勞動部為使移工來臺工作所繳納的收費項目及費用透明化，避免移工來臺前遭受不當剝削，移工來臺工作前所借貸之金額、海外支出相關項目及費用均應記載於「外國人入國工作費用及工資切結書」(以下簡稱工資切結書)上，並經來源國政府勞工部門驗證確認，同時使移工能清楚了解其來臺工作所應</p> | <p>to the arrival of migrant workers, and Taiwan cannot easily influence the governments of their countries.</p> <p>(2)Taiwan aims to ensure that the fees, including their amounts, which migrant workers must pay when coming to Taiwan for employment are transparent and to prevent the unfair treatment of migrant workers prior to their arrival. Thus, the personal loans taken and various fees paid overseas must be listed in the Foreign Worker's Affidavit for Wage/Salary and Expenses Incurred before Entering the Republic of China for Employment (hereinafter "salary affidavit"). In addition, salary affidavits must be notarized by the labor departments of the source countries. This procedure helps migrant workers clearly understand the fees and expenses accrued when coming to Taiwan to work. Through bilateral communication channels and during bilateral labor conferences, the MOL will continue to urge migrant workers' source countries to improve management over such fees, set collection standards, and faithfully notarize salary affidavits. The MOL also requests that source countries strengthen their oversight of brokerage agencies. Should a foreign</p> |

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| | | | <p>負擔費用。勞動部亦持續透過雙邊聯繫管道或雙邊勞工會議，請各移工來源國加強管理移工來臺工作之國外仲介費及相關費用，並明確訂定移工來臺工作支出費用項目及相關金額標準，且確實辦理工資切結書之驗證工作。另請各移工來源國加強查察國外仲介公司，如發現有收費違反規定情形，應依照該國相關法令予以裁處，以維護勞工權益。</p> <p>二、有關部分外籍家事勞工每月實得工資只有法定貧窮線的 6.7% 一節：</p> <p>(一)有關家事移工每月實際所領薪資僅有貧窮線之 6.7% (約 830 元至 1,200 元，依 2020</p> | <p>agency be found guilty of collecting illegal fees, it should be punished by its own country in accordance with related laws so as to maintain migrant workers' rights.</p> <p>2. Regarding NGO reports that the monthly take-home pay of some foreign domestic workers was as low as 6.7 % of the official poverty level:</p> <p>(1) With regard to the claim that the monthly take-home pay of some migrant domestic workers was only 6.7 % of the official poverty level (approximately NT\$830-1,200; according to the MOHW and the local municipality competent authorities, the minimum cost of living is currently NT\$17,005 in Taipei, NT\$13,099 in Kaohsiung, and NT\$12,388 elsewhere in Taiwan), the Employment Service Act stipulates that employers must pay the full amount of their foreign workers' salaries. Take an Indonesian domestic worker as an example. If the worker's salary is NT\$17,000, with no food and lodging expenses deducted, and the employer deducts only NT\$335 monthly for health insurance, the migrant domestic worker will receive an actual monthly salary of about NT\$16,600. However, if the worker must repay an overseas loan</p> |

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| | | | <p>年衛生福利部及直轄市所公布最低生活費，現行臺北市新臺幣(以下同)1萬7,005元，高雄市1萬3,099元，臺灣省1萬2,388元)一節，查依就業服務法相關規定，雇主須全額給付外國人薪資，以印尼籍家事勞工為例，如薪資為1萬7千元，且扣膳宿費，雇主僅每月代扣健保費335元情形下，家事移工每個月所領取薪資約有1萬6,600元，然其如須另行償還國外借款(約3,700元，分9期)，並支付入國後健檢費用(約2,000元)、居留證規費(1,000元)、國內仲介公司服務費(來臺第1年每月1,800</p> | <p>(approximately NT\$3,700, divided into nine installments) and must also pay a physical examination fee (approximately NT\$2,000), Alien Resident Certificate fee (NT\$1,000), and domestic labor broker's service fee (NT\$1,800 every month for the first year in Taiwan) after arriving, the worker's remaining monthly wages will be only approximately NT\$8,200 for the first month. However, this will not happen every month, and it is not true that workers' actual take-home pay is below the official poverty level.</p> <p>(2) With regard to the minimum cost of living, which is commonly referred to as the statutory poverty level, this amount is specified in Article 4 of the Public Assistance Act. It is used to determine whether households should be classified as low-income and calculated as the total household income divided by the number of household members. The nature of this metric makes it irrelevant to migrant workers, who are working alone in Taiwan with their families back home. Thus, it would be inappropriate to compare their salaries with the minimum cost of living.</p> <p>(3) Employers are responsible for covering the food and lodging expenses of migrant</p> |

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| | | | <p>元)等項目後，僅第 1 個月所餘財物約 8,200 元，然並非每月均如此，亦非所稱每月實得僅有貧窮線數字之收入。</p> <p>(二)按最低生活費即俗稱法定貧窮線，為社會救助法第 4 條規定之數額，係用以計算國人是否納入低收入戶之利弊條件之一，並以家戶總收入平均分配全戶人口計算，其性質與移工個人在臺工作無涉，且移工家戶在母國，二者不宜比附援引。</p> <p>(三)另家事移工在臺均由雇主負責提供膳宿，每月薪資除法令規定可扣除項目外，均由雇主全額給付。</p> | <p>domestic workers while they are in Taiwan. Employers must pay the full amount of workers' salaries, apart from deductions that may be subtracted from wages in accordance with the law.</p> |
| 第七節 Section 7 | (5)可接受的 工作條件 | 行政院農業委員會 | 一、有關勞動權利部分： | 1. Regarding labor rights: (1)Working hours: The Regulations on the |

| 標號 | 內 容 | 主辦 機關 | 回 應 意 見 (中文) | 回 應 意 見 (英文) |
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| | e. Acceptable Conditions of Work | Council of Agriculture | <p>(一)工時：現行「境外僱用非我國籍船員許可及管理辦法」已參考國際勞工組織第 188 號公約規定，律定每日休息最少 10 小時及每月休息日數 4 日。</p> <p>(二)保險：遠洋漁船長年在海外作業，僅少數因整修或轉換漁場等因素返回國內，故針對遠洋漁船所僱非我國籍船員之保險，係由經營者為其投保商業保險之方式辦理，經營者應替非我國籍船員投保意外、醫療保險及一般身故險，一般身故險不低於新臺幣 100 萬元。</p> <p>二、有關非政府組織指出薪資遭扣除不明費用部分：</p> <p>(一)現行「境外僱用非我國籍船員許可</p> | <p>Authorization and Management of Overseas Employment of Foreign Crew Members have taken the provisions of the Work in Fishing Convention (C188) of the International Labour Organization into consideration, regulating that the minimum hours of rest be no less than 10 hours in any 24-hour period and the minimum number of rest days per month be no less than four days.</p> <p>(2)Insurance: Since distant water fishing vessels operate at sea all year round and only on the rare occasion return to Taiwan to conduct repairs, shift fishing grounds, or other purposes, the owners of such vessels are required to arrange commercial insurance for foreign crews employed overseas. The vessel owners must also provide foreign crew members accident, medical, and life insurance, and the life insurance amount must not be less than NT\$1 million.</p> <p>2. Regarding NGO reports of unknown fees being deducted from wages:</p> <p>(1)The Regulations on the Authorization and Management of Overseas Employment of Foreign Crew Members stipulates that the employment contract must specify all related items. Standard employment</p> |

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| | | | <p>及管理辦法」規定，簽訂之勞務契約應載明相關事項，勞務契約範本亦明列非我國籍船員之借款項目，故除明列於契約之借款外，經營者不可自薪資扣留任何費用。</p> <p>(二)遠洋漁船進國內外港口時，由檢查員或訪查員對非我國籍船員進行訪查，發現有薪資未達最低標準，或不當扣款情形，均會立案調查，查有違規時，則依法裁處。</p> | <p>contracts are also to list the loans of foreign crew members, if any. Therefore, except for payments for foreign crew member loans included in the employment contract, vessel owners are not allowed to deduct any additional fees from their wages.</p> <p>(2)Inspectors or investigators are to interview foreign crew members when distant water fishing vessels reach domestic or foreign ports. In the event that the monthly wage of a foreign crew member is lower than the standard minimum wage or that inappropriate deductions were made, the competent authority must investigate the issue. If any violations are found, the violators are to be punished in accordance with the law.</p> |