

Dismissal -108-V01

# Operational Manual for Reviewing Dismissal of Foreign Professionals



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**Manual Instructions:**

This operational manual was published to make information public and improve the transparency of reviewing operation. It is compiled in accordance with relevant Laws and Regulations, but the reviewing criteria are still subject to the recent Laws and Regulations. In order to flexibly response various categories of application, it will be continuously added and revised then announced for any incomplete issue.

# Category of Dismissal

## 1. Items of job

Serial No.	Items	Relevant Regulations	Notices
1	Termination of employment relationship (dismiss in advance)	<p>1. The 56<sup>th</sup> Article of the “Employment Services Act” (ESA) and the 45<sup>th</sup> Article of the “Regulations on the Permission and Administration of the Employment of Foreign Workers” stipulate if foreign workers are successively absent for 3 days and lose contact or quit the employment relationship, the employer should notify in writing the local authorities, immigration management agency, the police and the central authorities within 3 days to report relevant matters. In the event that the employed foreign worker has been falsely reported by the employer of having been unjustifiably absent from his/her work and not in contact at least three days, the engaged foreign worker may file an appeal to the local competent authority.</p>	<p>Delivery time: basically, when the employment relationship is terminated early, the employer should deal with the dismissal within 3 days. But if the foreign worker has no renewal after expiry of their term, then, the employer need not apply for handling the dismissal.</p>

		<p>Where such falsity is verified, the central competent authority shall cancel the original disciplinary sanction of terminating employment permit and the order to depart from the Republic of China within a specified period.</p> <p>2. According to the 73<sup>rd</sup> Article of ESA, when the foreign worker hired by the employer has been absent for 3 consecutive days and lost contact, or quit the employment relationship, his/her employment permit should be revoked.</p> <p>3. According to the 74<sup>th</sup> Article of ESA, when the period of employment permit has expired or the employment permit has been abolished in accordance with the 73<sup>rd</sup> Article of ESA, the foreigner must not work in the ROC.</p>	
2	Follow-up control for foreigners absent from duty & lost contact	As the 4 <sup>th</sup> subparagraph of 2-1 Article of Qualifications and Criteria Standards for foreigners undertaking the jobs specified under Article 46.1.1 to 46.1.6 of the Employment Service Act, it stipulates that if foreigners have	<p>1. The punishment of absenteeism and out of contact should be done in case of both “being absent for 3 days” and “lost contact”.</p> <p>2. The dismissal day should be</p>

		<p>been successively absent and lost contact for 3 days during the 3 years before application, he/she should not engage in any job stated in Articles 46.1.1, 46.1.2, 46.1.4 to 46.1.6 of the ESA.</p>	<p>the 1<sup>st</sup> day of the 3 successive days the employee is absent (e.g. the employee is absent from Oct.11-13, then, Oct. 11 should be the dismissal day based on the Order No. 1010504838 on 8 May 2012 by Ministry of Labor).</p> <p>3. If the foreigner departs from the ROC during or before the 3 days he is absent, then his leaving has eliminated the employment relationship due to the contract being terminated early by one of the parties through he/she being absent. It doesn't meet the requirements of absenteeism and loss of contact, and doesn't belong to the alleged successive absenteeism for 3days and lost contact stated in the 56<sup>th</sup> Article of ESA.</p>
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## 2. Documents for Application

Serial No.	Documents for Application	Review Principles	Notices
1	Application form	<p>1. The fields in the application which must be filled in include the application item, name of</p>	<p>1. Applying earlier dismissal needn't pay for the review.</p> <p>2. If those fields that must be</p>

		<p>unit applicant and its uniform number, the person in charge, address of the unit, return mail address for the application, contact person and his/her telephone number.</p> <p>2. The application form should be signed by the seals of the unit and the person in charge; also, the name of the unit applicant should be consistent with the seal of the unit applicant.</p> <p>3. If the application is entrusted to a private service agency, the agency's name, courtesy name, professionals, the seal of the unit, signature and contact phone should be filled in.</p>	<p>filled in are not completed, it would be sent to the employer for completion.</p>
2	Photocopy of original employment permit	It should be signed by the unit's small and big stamps and be noted it is "consistent with the original".	If the original permission letter is lost or can't be provided, the applicant should provide an explanation letter.
3	Photocopy of ARC (Alien Resident Certificate)		If the employer can't provide the ARC, the applicant should offer an explanation letter.
4	Certified document of termination agreement signed	1. The cancellation agreement or relevant certified document of departure should state the following matters:	If the foreigner can't go to work or immigrate to the ROC for certain reason, the dismissal day should be set on the first date of the

	<p>by the employer-employee</p>	<p>(1) Name of the unit applicant.</p> <p>(2) The employee should fill in his/her full name (it must be consistent with the full name in the original employment permit letter or passport, ARC).</p> <p>(3) The date of terminating employment relationship agreed by both parties (i.e. the next day of the last working day).</p> <p>(4) It should be sealed with the stamps of the unit applicant and the person in charge.</p> <p>(5) It should be signed with the foreigner's name (if he/she has a Chinese name, he/she should attach a supporting document.</p> <p>2. If the employer and the employee agree to terminate the employment relationship, but the foreigner has left the ROC or can't enter the ROC and sign the agreement due to certain reason,</p>	<p>working period stated in the employment permit letter.</p>
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		<p>the employer should provide a deposition stating the following matters:</p> <p>(1) The one making the deposition should be the unit applicant.</p> <p>(2) The hired foreigner’s full name (it should be consistent with the employment permit letter or passport, ARC).</p> <p>(3) Specific cause.</p> <p>(4) The date of terminating employment relationship (the day after the last working day).</p> <p>(5) It should be sealed with the signets of the unit and the person in charge.</p> <p>※ The template of cancel contract agreement or deposition (applicable to foreigners who have left or haven’t entered the ROC but the agreement has been consented by both parties) is available on the website of the Workforce Development Agency, MOL. (<a href="https://ezworktaiwan.wda.gov.tw">https://ezworktaiwan.wda.gov.tw</a>) Please download and use the “application form// EZ Work Taiwan”.</p>	
5	The employer’s Relevant certified document of	Besides stating the 4 <sup>th</sup> matter mentioned above, the employer should indicate that terminating the	

	<p>terminating the employment relationship based on the 12<sup>th</sup> Article of the Labor Standards Act stipulating unilateral termination of the relationship</p>	<p>employment relationship means the foreigner has known it or the employer has tried the best to contact the foreigner without response(contact situation). The employer should also provide relevant supporting documents as follows:</p> <ol style="list-style-type: none"> <li>(1) personnel data and attendance record of the foreign employee.</li> <li>(2) relevant handover documents which were signed when the foreigner left.</li> <li>(3) photocopy of double registered mail or deposit letter (including a return receipt).</li> <li>(4) relative communication files (e.g. email, Line screenshots, short messages, etc. The author of the files which is not written in Chinese should attach a version of Chinese translation) should illustrate some matters as follows:</li> </ol> <p>①the employee’s full foreign</p>	
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		<p>name (it should be consistent with the original employment permit letter or passport, ARC).</p> <p>②the blank field of the employer should be filled with the name of the unit applicant.</p> <p>③the main content of terminating employment relationship and the expression of what it means.</p> <p>④the date of terminating employment relationship (i.e. the day after the last working day) and notify the MOL.</p> <p>⑤Stamp the seal of the unit applicant and the signet of the person in charge.</p> <p>(5) If the foreigner is absent without reason, can't be contacted, the employer could provide a certificate of report from the Service Team of Immigration Agency about the foreigner's lost contact.</p>	
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6	Labor dispute	<p>When the employer and employees can't make an agreement on terminating the employment relationship, they should ask the local authority of labor administration for reconciliation. If the reconciliation record has stated the date of terminating employment relationship consented by both sides, or lists it as a matter of no dispute between the two parties, such record should be provided when engaged in a dismissal issue.</p>	
7	<p>Process flow of punishing absenteeism &amp; lost contact and documents should be attached</p>	<p>1. Process flow of punishing absenteeism and lost contact:</p> <p>(1) Separately write mails to ask the employer and the employee to provide a description of the absence.</p> <p>①Employer: write to ask the employer to provide specific proof about the foreign employee's absenteeism.</p> <p>②Foreigner: if the foreigner still stays in the ROC, write to ask him/her to explain the absenteeism.</p> <p>(2) Write to ask local authority of labor administration and immigration agency to</p>	<p>1. The punishment of absenteeism and out of contact should be done in case of both "being absent for 3 days" and "lost contact".</p> <p>2. The dismissal day should be the 1<sup>st</sup> day of the 3 successive days the employee is absent (e.g. the employee is absent from Oct.11-13, then, Oct. 11 should be the dismissal day based on the Order No. 1010504838 on 8 May 2012 by Ministry of Labor).</p> <p>3. If the foreigner departs from the ROC during or before the 3 days he is absent, then his</p>

		<p>perform an inspection.</p> <p>(3) Verify the data provided by both parties of the employer and the employee or relative organization. If the foreigner has been absent and actually lost contact, his/her employment permit should be abolished and he/she should be restricted for 3 years since the date the official document is posted. If the evidence certifies there is no absenteeism and lost contact, then, it should further recognize whether they are meeting the requirements of dismissal. If so, the foreigner's employment permit should be abolish according to general termination rules.</p> <p>2. When the employer reports the absenteeism and lost contact of a foreign employee, he/she should provide a deposition illustrating the specific causes (for the items that should be specified, please refer to the 4.2 and 5<sup>th</sup> items), and relevant supporting documents as follows:</p>	<p>leaving has eliminated the employment relationship due to the contract being terminated early by one of the parties. Though he/she has been absent, it doesn't meet the requirements of absenteeism and loss of contact, and doesn't belong to the alleged successive absenteeism for 3 days and lost contact stated in the 56<sup>th</sup> Article of ESA.</p> <p>4. When reporting the foreign employee's absenteeism and lost contact, the employer should provide specific causes and the foreigner's address. If the employer doesn't want to provide the foreigner's contact information, he/she would be not able to report his/her absenteeism and lost contact.</p>
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		<p>(1) personnel data and attendance record of the foreigner.</p> <p>(2) double registered mail or photocopy of certificate letter (including receipt).</p> <p>(3) relevant communication Files (e.g. email, LINE screenshots, short messages, etc. The author whose document is not written in Chinese should attach a Chinese translation.) which states matters as follows:</p> <p>①the employee should fill in full name (it should be consistent with original employment permit letter or passport, ARC).</p> <p>②the employer should fill in the name of the unit applicant.</p> <p>③describe the specific reasons for termination of the employment relationship and express it.</p> <p>④the date of terminating employment relationship (the day after the last working day) and notify the MOL.</p> <p>(4) Report certificate: i.e. report to the service team of immigration agency about the</p>	
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		foreigner's lost contact.	
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### 3. Other Regulations

Serial No.	Items	Relevant Regulations and Descriptions	Notices
1	Statement of getting the application in person	For those want to get the application in person, he/she should deliver the case to the counter of the MOL and fill in a personal declaration for getting the application personally. It can't be managed by registered mail.	
2	Principles of using seals	The application document should be sealed with the signets of the application unit and the person in charge. If the document is a photocopy, it should add the words "This copy is consistent with the original version".	All the documents attached by the employer basically should be sealed with the signets of the applicant unit and the person in charge of it. Applications filed by a government agency or school should be sealed with the signet of the unit or the department & graduate school, while the application and the dismissal agreement consented to by both parties should be signed with customs seal.
3	Document translation	If the document sent by the employer is not written in Chinese, a Chinese translation version should be attached. (based on the order No. 10705009021 on 9 Feb. 2018 by Ministry of Labor.)	

4	Prepared documents are not complete, and do not finish before the deadline after receiving notice	Those who do not finish the application would be deemed to have not completed the application for early dismissal of foreigners. If it is still necessary to apply for the foreign employee's early dismissal, please submit the case separately.	
5	Foreigner died	The employer should check the death certificate separately to handle the dismissal.	