

受聘僱外國人連續曠職三日失去聯繫認定基準

Identification Criteria for Foreign Workers Absent from Work Without Cause and Out of Contact for Three Consecutive Days

一、為執行就業服務法(以下簡稱本法)第五十六條第一項、第七十三條第三款、第七十四條第一項所定「受聘僱之外國人有連續曠職三日失去聯繫」之規定，特訂定本基準。

二、「連續曠職三日」，指外國人與雇主間之聘僱關係尚未終止，且無正當理由，而於其實際應工作日連續三日不到工者。

三、「失去聯繫」，指外國人離開工作場所及住宿地點，且雇主、接受雇主或外國人委任之私立就業服務機構，或相關單位無法確知外國人住宿地點或聯繫方式，並有下列情形之一者：

1. These identification criteria are based on a situation when “an employed foreign worker has been unjustifiably absent from his/her work and out of contact for three consecutive days” pursuant to the provisions of Paragraph 1, Article 56, Subparagraph 3, Article 73 and Paragraph 1, Article 74 of the Employment Service Act (hereinafter The Act).
2. “Unjustifiably absent from work and not in contact for three consecutive days” refers to a situation when the employment relationship between a Taiwanese employer and foreign worker has not yet been terminated, there is no justifiable reason for the absence and the worker is absent for three consecutive days on which he/she should work.
3. “Out of contact” refers to a situation whereby a foreign worker leaves his/her workplace and accommodation, and an employer or private employment agency or related organization commissioned by the employer or foreign worker is unable to confirm where the worker is living or how to get in contact with him/her, when one of the following situations pertains:

(一) 無法聯繫外國人。

(二) 接獲外國人聯繫，但無法確知係外國人本人所為。

(三) 接獲外國人本人聯繫，但其未明確告知可供查認之住宿地點、住宿期間及聯繫方式。

(四) 接獲外國人本人告知其住宿地點、住宿期間及聯繫方式，經查認並非屬實。

- (1) The foreign worker cannot be contacted.
- (2) Communication is received from the foreign worker but it is impossible to confirm whether the contact came from the worker him or herself.
- (3) Communication is confirmed as having been received from the foreign worker but he/she provides no verifiable accommodation location, duration of time living there or method for being contacted.
- (4) Communication is confirmed as having been received from the foreign worker

detailing an accommodation location, duration of time living there and method of being contacted, but on checking the information is found to be false.

四、外國人於離開工作場所及住宿地點之日起三日內，已向下列相關單位之一申訴或求助，且有明確告知住宿地點、住宿期間及聯繫方式或安置之紀錄，經查認屬實者，即非屬「失去聯繫」：

- (一) 中央主管機關(包括運用 1955 勞工諮詢申訴專線通報)。
- (二) 當地主管機關。
- (三) 經中央主管機關備案之安置單位。
- (四) 原籍國駐臺代表處。

4. When a foreign worker files an appeal with or seeks assistance from one of the following agencies within three days of leaving his/her place of work and accommodation, where a clear record of accommodation location, duration of time living there and method of being contacted or record of settlement is provided and confirmed, the worker is not classified as “being out of contact.”

- (1) Central Competent Authority (including reports using the 1955 consultation & complaint service hotline).
- (2) Local competent authority.
- (3) Settlement agencies registered with the Central Competent Authority.
- (4) Representative office from the foreign worker’s country of origin in Taiwan.

五、外國人之住宿地點非屬雇主依「雇主聘僱外國人許可及管理辦法(以下簡稱聘僱許可辦法)」第三十三條第二項第五款規劃者，外國人自行變更住宿地點後，未告知雇主或委任之私立就業服務機構，或雖有告知，但經當地主管機關進行訪視時，未會晤外國人本人，且未依該機關之通知到場說明，致無法探求真意者，由主管機關依第二點至第四點規定認定處理。

5. If the accommodation of a foreign worker is not arranged by an employer in accordance with Subparagraph 5, Paragraph 2, Article 33 of the Regulations on the Permission and Administration of the Employment of Foreign Workers (hereinafter The Employment Measures), when a worker changes accommodation if he/she fails to inform the employer or a commissioned private employment services agency, or does inform them but when the local competent authority seeks to visit the worker at said accommodation they are unable to do so, and he/she fails to attend a meeting to provide an explanation as per a notification to do so, making it impossible to determine his/her real opinion, the matter will be dealt with by the competent authority in accordance with the provisions detailed in points 2-4.

六、外國人於下列期間，有連續三日失去聯繫之情形，由雇主依本法第五十六條第一項及聘僱許可辦法第六十八條第一項規定，提供相關事證辦理通報：

- (一) 入國未滿三日尚未取得聘僱許可之期間。
- (二) 聘僱許可期間贖餘不足三日。
- (三) 轉換雇主或工作期間，或依法令限期出國而尚未出國之期間。
- (四) 與雇主間之聘僱關係終止，尚未廢止聘僱許可之期間。
- (五) 與雇主發生勞資爭議，經雙方合意暫不提供勞務之期間。

6. If a foreign worker is out of contact without cause for three consecutive days in the following periods, employers are required to file a report pursuant to the provisions of Paragraph 1, Article 56 of The Act and Paragraph 1, Article 68 of The Employment Measures and provide related evidence:
 - (1) When a foreign worker has been in the Republic of China for less than three days and not yet obtained an employment permit.
 - (2) When there are fewer than three days remaining on a foreign worker's employment permit.
 - (3) When a foreign worker is in a period of employer or work transfer, or has been ordered to leave the country within a fixed period of time but has not yet done so.
 - (4) When a foreign worker and employer are in the process of terminating their employment relationship but the employment permit has not yet been canceled.
 - (5) When a foreign worker is engaged in a labor dispute with an employer and the two parties temporarily agree that no labor services will be provided.