

Issued by: Council of Labor Affairs, Executive Yuan

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Topic: To interpret the principles for the determination of the sentence “have been unjustifiably absent from his/her work and not in contact for three consecutive days” referred to in Article 56 of the Employment Service Act, which means that if a foreign worker has been unjustifiably absent from work for three consecutive days on which he/she was supposed to work and not in contact for the three consecutive days, he/she should be held violating the requirements under the Act upon expiration of the third day, and his/her employer may report to the competent authority pursuant to the related requirements.

Subject: Please convey to your subordinated entities the principles for the determination of the sentence read as “have been unjustifiably absent from his/her work and not in contact for three consecutive days” referred to in Article 56 of the Employment Service Act (hereinafter referred to as the “Act”) as restated by us, and take notice of this matter accordingly.

Descriptions: 1. In order to clarify the doubt over the definition of unjustifiable absence from work and not in contact for three consecutive days of a foreign worker hired by an employer, we have provided relevant interpretations in our letters under Lao-Zhi-Xue-Zi No. 0970029525 dated November 24, 2008, Lao-Zhi-Xue-Zi No. 0980502739 dated December 1, 2009 and Lao-Zhi-Guan-Zi No. 1000017141 dated July 11, 2011. According to the principles for the determination of the sentence read as “have been unjustifiably absent from his/her work and not in contact for three consecutive days” referred to in Article 56 of the Act, it means that a foreign worker is unjustifiably absent from his/her work for three consecutive days on which he/she is supposed to work without applying for, or reporting, leave with his/her employer or life manager. If the time limit in which the foreign worker is absent from his/her work as claimed by the employer covers any weekend or national holiday, the employer shall submit

supporting information to substantiate that such weekend or holiday shall be included in the worker's absence days.

2. Considering that the related units are still unable to verify the elements constituting the "absence from work and not in contact for three consecutive days" referred to in Article 56 of the Act, when dealing with cases about foreign workers whose whereabouts are alleged to be untraceable, we hereby re-state the principles for determination of the sentence read as "have been unjustifiably absent from his/her work and not in contact for three consecutive days" referred to in Article 56 of the Act, which means that if a foreign worker has been unjustifiably absent from work for three consecutive days on which he/she was supposed to work and not in contact for the three consecutive days, he/she should be held violating the requirements about "absence from work and not in contact for three consecutive days" referred to in Article 56 of the Act upon expiration of the third day. For example, the foreign worker A is supposed to work from 9:00AM to 5:00PM on Mondays~Fridays, and also from 8:00AM to 12:00PM on Saturdays. If his whereabouts are found untraceable on April 12, 2012 (Thursday), he will be held violating the requirements about "absence from work and not in contact for three consecutive days" referred to in Article 56 of the Act after 12:00PM on April 14, 2012 (Saturday). Then, his employer may report the case pursuant to Article 56 of the Act.