

外國專業人才延攬及僱用法自115年1月1日施行後，外國專業人才之退休金制度？



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我要發問

問題

外國專業人才延攬及僱用法自115年1月1日施行後，外國專業人才之退休金制度？

答案

Q1：何謂「外國專業人才」？

A1：

1. 依外國專業人才延攬及僱用法第4條規定，外國專業人才指得在我國從事「專業工作」之外國人（俗稱白領工作者，不包含中階與藍領工作者）。
2. 所稱「專業工作」，定義如下：
 - 就業服務法第46條第1項第1款至第3款、第5款及第6款所定工作。
 - 就業服務法第48條第1項第1款及第3款所定工作。
 - 依補習及進修教育法立案之短期補習班之專任外國語文教師，或具專門知識或技術，且經中央目的事業主管機關會商教育部指定之短期補習班教師。
 - 教育部核定設立招收外國專業人才、外國特定專業人才及外國高級專業人才子女專班之外國語文以外之學科教師，及公、私立高級中等以下學校雙語教育所聘請依其專長任教語言及語言以外之藝能及活動等相關領域或科目，並協助相關教學及教師研習、培訓之教師。
 - 學校型態實驗教育實施條例、公立高級中等以下學校委託私人辦理實驗教育條例及高級中等以下教育階段非學校型態實驗教育實施條例所定學科、外國語文課程教學、師資養成、課程研發及活動推廣工作。

3. 倘對於「外國專業人才」之身分或「專業工作」之內容仍所有疑義，可逕洽外國專業人才延攬及僱用法之主管機關國家發展委員會確認。

Q2：外國專業人才適用的退休金制度為何？

A2：

1. 依115年1月1日施行之外國專業人才延攬及僱用法第24條規定，從事專業工作之外國專業人才及外國特定專業人才，免取得永久居留資格，即可適用勞工退休金條例之退休金制度（以下簡稱勞退新制）。
2. 因此，115年1月1日後新到職之外國專業人才，自到職日起即直接適用勞退新制，不需再取得永久居留之身分。

Q3：外國專業人才是否有選擇新、舊退休金制度的規定？

A3：

1. **具有選擇勞退新、舊制之對象**：115年1月1日以前，已受僱且仍服務於同一事業單位之外國專業人才，得於115年6月30日前，以書面向雇主表明繼續適用勞動基準法之退休金規定（以下簡稱勞退舊制）。
2. **選擇後不得變更**：外國專業人才一旦向雇主表明繼續選擇適用勞退舊制後，不得再變更為適用勞退新制。
3. **未於期限內表明者**：具有選擇權利之外國專業人才，若未於115年6月30日向雇主表明選擇適用之退休金制度，屆期將自動適用勞退新制。

Q4：雇主需要辦理提繳勞退新制的對象？

A4：

1. **雇主應辦理提繳勞退新制之對象**：雇主應為下列外國專業人才，向勞保局辦理提繳作業：
 - I. 115年1月1日後新到職者
 - II. 經選擇適用勞退新制者
 - III. 未於115年6月30日前向雇主表明選擇適用之退休金制度者
2. **未表明者之申報期限**：未於115年6月30日前向雇主表明選擇適用之退休金制度者，因已適用勞退新制，雇主應於115年7月15日前，向勞保局申報提繳。

Q5：已適用勞退新制或曾選擇勞退舊制之外國專業人才，能否再選擇一次勞退新、舊制？

A5：外國專業人才在115年1月1日以前，已經依法適用勞退新制，或是已經向雇主表明繼續適用勞退舊制者，將維持原本制度，不能向雇主要求重新選擇勞退新、舊制。

Q6：外國專業人才適用勞退新制是否有法令過度或銜接的規定？

A6：

1. 為因應本次修法，另外訂有銜接規定，當外國專業人才於115年1月1日以前，依法已經取得永久居留資格者，並可向雇主表明繼續適用勞退舊制，但尚未表明者，選擇期間可再延長至115年6月30日。屆期若仍未表明，雇主應追溯至外國專業人才取得永久居留之日起，提繳勞退新制退休金。
2. 舉例而言：108年2月1日到職之外國專業人才，於114年11月1日取得永久居留資格，依原規定需要在115年4月30日前選擇適用之退休金制度。但配合外國專業人才延攬及僱用法的規定，選擇期間得延長至115年6月30日。但如果屆期都沒有選擇，雇主須自114年11月1日起提繳退休金。

Q7：外國專業人才原適用勞退舊制，經選擇適用勞退新制後，特別休假會受到影響嗎？

A7：依照勞工退休金條例第11條規定，外國專業人才在同一事業單位所累積的工作年資，在選擇適用勞退新制後，原先工作年資仍應予保留。因此，選擇適用勞退新制，並不會影響外國專業人才所累積的特別休假天數。

Q8：經選擇繼續適用勞退舊制，雇主有哪些義務需要辦理？

A8：若外國專業人才經選擇適用勞退舊制，雇主仍應依勞動基準法相關規定辦理，如：設立勞工退休準備金專戶、監督委員會及按月提撥勞工退休準備金等，外國專業人才亦須符合勞動基準法第53條要件後，始得申請退休及向雇主請領退休金。

Q9：要如何查詢外國專業人才延攬及僱用法的其他規定？

A9：相關規定可至國家發展委員會所設置之「外國專業人才延攬及僱用法資訊專頁」（網址：<https://foreigntalentact.ndc.gov.tw/Default.aspx> (<https://foreigntalentact.ndc.gov.tw/Default.aspx>)) 進行查詢。

Q10：具保留舊制年資改選新制之外國專業人才，勞雇雙方可否辦理結清？

A10：

1. 依勞工退休金條例第11條規定，有關適用勞退新制前之工作年資，應予保留，於勞動契約依勞動基準法第53條、第54條規定終止時，雇主應

外國專業人才延攬及僱用法自115年1月1日施行後，外國專業人才之退休金制度？-勞動部全球資訊網中文網
依契約終止時之平均工資，計給該保留年資之退休金。

2. 又保留之工作年資，於勞動契約存續期間，勞雇雙方約定以不低於勞動基準法第55條及第84條之2規定之給與標準結清者，從其約定。
3. 次依勞工退休金條例第13條第2項規定，約定結清之退休金，雇主得自勞動基準法第56條第1項規定之勞工退休準備金專戶支應，勞工並得申請將結清之退休金移入勞保局之個人退休金專戶。
4. 當事業單位均已結清勞工舊制年資之退休金後，得向事業單位所在地勞工行政主管機關申請註銷勞工退休準備金專戶領回贖餘款。

Q11：有關外國專業人才向雇主書面表明欲選擇的勞退制度，是否有制式格式或參考範例？

A11：有關書面表明文件部分，法令並未規定制式之表單，得由勞工自行提出或由勞雇雙方議定之，另提供「勞工退休金制度選擇意願徵詢表」供參。

Q1: What is the definition of a "Foreign Professional"?

A1:

1. In accordance with Article 4 of the Act for the Recruitment and Employment of Foreign Professionals, "foreign professional" means a foreign national who may engage in "professional work" in the State. (Commonly referred to as white-collar workers, which excludes intermediate skilled work and blue-collar workers).
2. The term "professional work" is defined as follows:
 - Work as specified in Subparagraphs 1 to 3, 5 and 6, Paragraph 1 of Article 46 of the Employment Service Act.
 - Work as specified in Subparagraphs 1 and 3, Paragraph 1 of Article 48 of the Employment Service Act.
 - Full-time foreign language teachers in short-term tutorial schools registered in accordance with the Supplementary Education Act (hereinafter referred to as "short-term tutorial schools"), or possessing specialized knowledge or skills, and designated as short-term tutorial school teachers by the central competent authorities in consultation with the Ministry of Education.

- Teachers of a subject other than a foreign language in a special class established by the Ministry of Education for enrolling the children of foreign professionals, foreign specialist professionals, and foreign senior professionals; or teachers hired for bilingual education in public or private senior high schools or below to teach languages, arts, or activities according to their expertise and assist in teaching and teacher training (暫譯) .
 - Work in teaching academic subject or foreign language courses, teacher training, curriculum development, and activity promotion, as specified in the Enforcement Act for School-based Experimental Education, the Act Governing the Commissioning of the Operation of Public Schools at Senior High School Level or Below to the Private Sector for Experimental Education, and the Enforcement Act for Non-school-based Experimental Education at Senior High School Level or Below.
3. If there are any doubts regarding the status of a "foreign professional" or the scope of "professional work," you may directly contact the National Development Council, the Competent Authority of the Act, for confirmation.

Q2: What is the retirement pension system applicable to foreign professionals?

A2:

1. 1. In accordance with Article 24 of the Act for the Recruitment and Employment of Foreign Professionals (hereinafter referred to as "the Act"), which is scheduled for enforcement on January 1, 2026, foreign professionals and foreign specialist professionals engaged in professional work are eligible for the retirement pension system under the Labor Pension Act (hereinafter referred to as the "New Labor Pension System") without the requirement of obtaining permanent residency.
2. Therefore, foreign professionals newly employed on or after January 1, 2026, will be directly subject to the New Labor Pension System

starting from their date of employment, with no further need to obtain permanent residency status.

Q3: Are there regulations regarding the choice between the new and old pension systems for foreign professionals?

A3:

1. Eligibility to Choose Between the New and Old Systems: Foreign professionals who were employed prior to January 1, 2026, and remain with the same business entity, may submit a written declaration to their employer by June 30, 2026, to signify their choice to remain in the retirement pension system under the Labor Standards Act (hereinafter referred to as the "Old Labor Pension System").
2. Irrevocability of Selection: Once a foreign professional has submitted a written declaration to their employer opting to remain in the Old Labor Pension System, they may not thereafter change their option to the retirement pension system under the Labor Pension Act (New Labor Pension System).
3. Automatic Application for Non-Declarants: Those who are eligible to choose but do not submit a declaration by June 30, 2026, will automatically be subject to the New Labor Pension System upon the expiration of the deadline.

Q4: Who are the objects for whom employers must contribute to the New Labor Pension System?

A4:

1. Objects for whom employers must file and contribute to the New Labor Pension System: Employers are required to handle pension contribution procedures with the Bureau of Labor Insurance (BLI) for the following categories of foreign professionals:
 - Those newly employed on or after January 1, 2026.
 - Those who have opted to be included in the retirement pension system under the Labor Pension Act.
 - Those who do not submit a written declaration to their employer

regarding their preferred pension system by the deadline of June 30, 2026.

2. Filing deadline for those who did not express a choice: For foreign professionals who do not signify their choice by June 30, 2026, the New Labor Pension System applies automatically. Consequently, the employer must file the pension contribution with the BLI no later than July 15, 2026 (which is within 15 days after the expiration of the selection period)

Q5: Can foreign professionals who are already covered by the New Labor Pension System or have previously opted for the Old Labor Pension System make another selection?

A5:

Foreign professionals who, prior to January 1, 2026, were already subject to the New Labor Pension System according to the law, or had already declared to their employer to remain under the Old Labor Pension System, shall maintain their existing system. They are not permitted to request a re-selection between the New and Old pension systems

Q6: Are there transitional or bridging regulations regarding the application of the New Labor Pension System for foreign professionals?

A6:

1. To accommodate the current legal amendment, bridging regulations have been established. Foreign professionals who legally obtained permanent residency prior to January 1, 2026, and are eligible to signify their choice to remain under the retirement pension system of the Labor Standards Act (Old Labor Pension System) but have not yet done so, will have their selection period extended until June 30, 2026. If no declaration is made by the expiration of this deadline, the employer shall retrospectively contribute to the retirement pension system under the Labor Pension Act (New Labor Pension System) starting from the date the foreign professional obtained permanent residency.
2. Example: Consider a foreign professional who was hired on February 1, 2019, and obtained permanent residency on November 1, 2025. Under the original regulations, they would have been required to

choose their pension system by April 30, 2026. However, in accordance with the Act for the Recruitment and Employment of Foreign Professionals, this selection period is extended to June 30, 2026. If no selection is made by that date, the employer must contribute to the pension system retrospectively from November 1, 2025.

Q7: If a foreign professional originally under the Old Labor Pension System chooses to switch to the New Labor Pension System, will their annual leave be affected?

A7:

In accordance with Article 11 of the Labor Pension Act, the seniority accumulated by a foreign professional within the same business entity shall be preserved after they opt for the New Labor Pension System. Therefore, choosing to be covered by the New Labor Pension System will not affect the number of accumulated annual leave days for the foreign professional.

Q8: What are the employer's obligations if a foreign professional chooses to continue to be covered by the Old Labor Pension System?

A8:

If a foreign professional opts to remain under the retirement pension system of the Labor Standards Act (Old Labor Pension System), the employer must still handle matters in accordance with the relevant provisions of the Labor Standards Act. This includes obligations such as: establishing a labor pension reserve account, forming a labor pension reserve supervision committee, and making monthly contributions to the labor pension reserve account. Furthermore, foreign professionals must fulfill the requirements set forth in Article 53 of the Labor Standards Act before they are eligible to apply for retirement and claim pension payments from the employer.

Q9: How can I look up other regulations of the Act for the Recruitment and Employment of Foreign Professionals?

A9:

Information regarding relevant regulations can be found on the "Information Portal for the Act for the Recruitment and Employment of Foreign Professionals" (Website: <https://foreigntalentact.ndc.gov.tw/Default.aspx>) established by the National Development Council.

Q10: Can employers and foreign professionals who have retained seniority under the Old System but switched to the New System settle

their seniority payments?

A10:

1. In accordance with Article 11 of the Labor Pension Act, seniority accumulated prior to the application of the New Labor Pension System shall be preserved. When the labor contract is terminated pursuant to Articles 53 or 54 of the Labor Standards Act, the employer shall calculate and pay the pension for said preserved seniority based on the average wage at the time of contract termination.
2. During the continuing period of a labor contract, when an employer and an employee mutually agree to provide payment based on an employee's calculated seniority, as referred to in Paragraph 1, such a payment shall amount to no less than the payment prescribed by Article 55 or Article 84-2 of the Labor Standards Act, and such an agreement shall be upheld.
3. Pursuant to Article 13, Paragraph 2 of the Labor Pension Act, when an employer and an employee agree to pay off the retirement payment, it may be paid from the labor retirement reserve fund account established in accordance with Paragraph 1 of Article 56 of the Labor Standards Act. Employees may also apply transfer the agreed retirement payment for paying off in accordance with Paragraph 2 to Article 13 of the Act to individual accounts provided for by the Act at the Bureau of Labor Insurance (BLI).
4. A business entity which has paid labor pensions to its workers according to the criteria set forth in Articles 55 and 84-2 of the Act and need not pay any more labor pensions according to the Act may apply for the local competent authority's approval to collect the remaining funds in the labor pension reserve account.

Q11: Is there a standardized format or reference sample for the written declaration?

A11:

Regarding the written declaration document, the law does not prescribe a standardized form. It may be initiated by the worker or mutually agreed upon by both the employer and the worker. Additionally, a " Labor Pension System Selection Inquiry Form " is provided for reference.

相關
檔案

- 外國專業人才延攬及僱用法-勞退新制

515.857 KB · 下載 次

- Act For The Recruitment And Employment Of Foreign Professionals-
New Labor Pension System

518.971 KB · 下載 次

- Labor Pension System Selection Inquiry Form (Sample)

26.386 KB · 下載 次100.319 KB · 下載 次

- 勞工退休金制度選擇意願徵詢表(參考)-中文

24.192 KB · 下載 次96.912 KB · 下載 次

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