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NPO 法人労働問題研究所 INSTITUTE for WORKER'S HUMAN RIGHTS

電子版季刊誌 2 号がようやく発刊の運びとなりました。COVID‐19 も第 5 類に移行され、研究所の活動もこれまでの停滞を脱して活発化し始めました。3 月 25 日には第 20 回特別セミナー「外国人への社会保障制度の適用に関する現状と課題：外国人労働者を中心に」と題して、根岸忠（高知県立大学文化学部准教授）氏により「ウインクあいち」を会場として開催することができました。台湾における外国人労働力導入の歴史と現状を、台湾の地理的・文化的並びに政治的状況を踏まえて簡潔に整理されたうえで、日本における現状と課題についてお話をいただきました。第 21 回セミナーは 8 月 27 日（日曜日）津市内において開催の予定です。講師は陳一（金沢大学法科大学院客員教授）氏による「台湾労働事件処理法」（本号末尾に英文の条文を掲載しております。セミナーご参加の際の参考にしてください）についてお話をいただき、第 22 回セミナーとして、青森中央学院大学地域マネジメント研究所との共催で、青森市内での開催が決定しております。講師は吾郷眞一（九州大学法学部名誉教授）による「ビジネスと人権」についてお話をいただく予定です。このセミナーについては後日、名古屋市内或いは津市内で再度お話をいただくことも考えております。（理事長　尾崎正利）

2023 年介護保険法改正と残された課題

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1. はじめに

2000 年に施行された介護保険法は、高齢者の現状や社会的ニーズに合わせるため、当初は 5 年、その後は 3 年ごとに改正され、今日に至っている。特に 20005 年の法改正は、介護予防の重視、地域包括支援センターの創設、地域密着型サービスの創設など、介護保険制度を予防型・地域密着型の制度に大きく変更するものであり、2014 年の法改正も、地域医療介護総合確保基金の創設、在宅医療・介護連携、介護予防給付の地域支援事業への移行、特別養護老人ホームの入居者の中重度者への重点化するなど、区市町村ごとの特性を活かした地域包括ケアシステムの構築へと大きく舵を切るものであった。しかし、コロナ禍により介護人材の確保が難しくなるとともに、介護事業者の経営破綻も多発するなど、2023 年の法改正は、その背景事情に変化が生じている。さらには、今後 85 歳以上人口の割合が上昇し、介護サービスの需要や給付費は増加する一方、生産年齢人口は急減する中で、地域ニーズに対応したサービス等基盤の整備や人材確保、保険制度の持続可能性の確保に向けた早急な対応が必要とされている。

2023 年の法改正によって、2024 年度以降の介護保険制度がどのように変わるのか、また今回の改正では見送られたが、次の 2027 年の法改正で議論される課題についても、簡単に触れてみたいと思う。

2. 社会保障審議会介護保険部会の意見

社会保障審議会介護保険部会は、2022 年 12 月 20 日、「介護保険制度の見直しに関する意見」を公表した。この意見の内容は、「Ⅰ　地域包括ケアシステムの深化・推進」と「Ⅱ　介護現場の生産性向上の推進、制度の持続可能性の確保」の 2 つに大きく分けられており、前者については、①生活を支える介護サービス等

の基盤の整備、②様々な生活上の困難を支え合う地域共生社会の実現、③保険者機能の強化が挙げられ、後者については、①介護人材の確保・介護現場の生産性向上の推進、②給付と負担が挙げられている。

生活を支える介護サービス等の基盤の整備として挙げられている項目は、①地域の実情に応じた介護サービスの基盤整備（長期的な介護ニーズの見通しや必要な介護職員数を踏まえた計画策定）、②在宅サービスの基盤整備（複数の在宅サービスを組み合わせて提供する複合型サービス類型の新設、看護小規模多機能型居宅介護サービスの明確化）、③ケアマネジメントの質の向上（ケアプラン情報の利活用を通じた質の向上など）、④医療・介護連携等（医療計画と介護保険事業計画との整合性の確保、地域リハビリテーション支援体制構築の推進など）、⑤施設サービス等の基盤整備（特養における特例入所の趣旨の明確化）、⑥住まいと生活の一体的支援（住宅分野・福祉分野等の施策との連携・役割分担の在り方を含め検討）、⑦介護情報利活用の推進（介護情報等の収集・提供等に係る事業を地域支援事業に位置付ける方向で検討）、⑧科学的介護の推進（LIFE のフィードバックの改善・収集項目の精査の検討）である。そして、様々な生活上の困難を支え合う地域共生社会の実現として挙げられている項目は、①総合事業の多様なサービスの在り方（実施状況・効果等について検証実施、生活支援体制整備事業の一層の促進、多様なサービスをケアプラン作成時に適切に選択できる仕組みの検討）、②通いの場・一般介護予防（多様な機能を有する場として発展させるための情報提供・専門職の関与の推進）、③認知症施策の推進（認知症施策推進大綱の中間評価を踏まえた施策の推進）、④地域包括支援センターの体制整備等（家族介護者支援等の充実に向け、総合相談支援機能の活用・センター以外の各種取組との連携、センター業務の負担軽減のため、介護予防支援の指定対象を居宅介護支援事業所に拡大および職員配置の柔軟化等）である。また、保険者機能の強化としては、①保険者機能強化推進交付金等（評価指標の見直し・縮減とアウトカムに関する指標の充実）、②給付適正化・地域差分析（給付適正化主要 5 事業の取り組みの重点化・内容の充実・見える化）、③要介護認定（保険者の審査簡素化の取組推進のため、審査の簡素化事例の収集・周知および ICT や AI の活用の検討、ICT を活用した認定審査会の実施継続）が検討課題として挙げられている。

つぎに、介護人材の確保・介護現場の生産性向上の推進として挙げられているのは、①総合的な介護人材確保対策（処遇改善・人材育成支援・職場環境改善による離職防止・介護職の魅力向上・外国人材の受入環境整備など総合的に実施、介護福祉士のキャリアアップ・処遇に繋がる仕組みの検討、外国人介護人材の介護福祉士資格取得支援等の推進）、②生産性の向上により、負担が軽減され動きやすい介護現場の実現（地域における生産性向上の推進体制の整備、施設や在宅におけるテクノロジー（介護ロボット・ICT 等）の活用、経営の大規模化・協働化等文書負担の軽減、財務状況の見える化）である。また、給付と負担に関しては、①高齢者の負担能力に応じた負担の見直し（第 1 号被保険者の保険料負担の在り方、利用者負担が 2 割となる「一定以上所得」の判断基準の見直し、補足給付に関する給付の在り方）、②制度間の公平性や均衡等を踏まえた給付内容の見直し（多床室の室料負担、ケアマネジメントに関する給付の在り方、軽度者への生活援助サービス等に関する給付の在り方）、③被保険者範囲・受給者範囲の検討（第 2 号被保険者の対象年齢の引き下げ）が挙げられている。

このように、社会保障審議会介護保険部会では、介護保険制度の見直しに関する多くの課題が、多様な観点から取り上げられている。しかし、2023 年の法改正では、後述するように、医療保険に関する改正が優先され、介護保険部会で指摘された介護保険制度の課題の多くは、次の 2027 年改正に先送りされることとなった。

3. 全世代対応型の持続可能な社会保障制度を構築するための健康保険法等の一部を改正する法律案

全世代型の持続可能な社会保障制度を構築するため、出産育児一時金に係る後期高齢者医療制度からの支援金の導入、後期高齢者医療制度における後期高齢者負担率の見直し、前期財政調整制度における報酬調整の導入、医療費適正化計画の実効性の確保のための見直し、かかりつけ医機能が発揮される制度整備、介護保険者による介護情報の収集・提供等に係る事業の創設等の措置を講ずるとして、健康保険法等の一部を改正する法律案が、2023 年 2 月 10 日、第 211 回国会に提出された。

この改正法案「第 11 介護保険法の一部改正」では、

①介護サービスを提供する事業所等における生産性の向上に関する事項として、都道府県の努力義務：介護サービスを提供する事業所または施設における業務の効率化・介護サービスの質の向上等、生産性の向上に資する取り組みの促進および介護保険事業計画における当該事項を定めること（介保 5 条 2 項・3 項、118 条 3 項関係）、市町村の努力義務：介護保険事業計画における当該事項を定めること（介保 117 条 3 項関係）が提案されている。また、②複合型サービスの定義の見直しに関する事項として、訪問看護および小規模多機能型居宅介護の組合せにより提供されるサービスについて、その内容を明確化すること（介保 8 条 23 項関係）、③地域包括支援センターの業務の見直しに関する事項として、指定介護予防支援事業者の対象拡大等：介護予防支援の実施に係る指定申請（介保 58 条 1 項）の対象を地域包括支援センターの設置者に加えて指定介護予防支援事業者にも拡大することができ（介保 115 条の 22 第 1 項関係）、地域包括支援センターの設置者は、指定居宅介護支援事業者等に対し、地域支援事業の一部（介保 115 条の 45 第 2 項 1 号）を委託することができる（介保 115 条の 47 第 4 項関係）との提案がなされている。そのほか、④介護サービス事業者経営情報の調査および分析等に関する事項として、都道府県知事は、介護サービス事業者の事業所または施設ごとの収益・費用等について調査・分析を行い、その内容の公表に努めること（介保 115 条の 44 の 2 第 1 項関係）など、⑤介護情報の収集・提供等に係る事業の創設に関する事項として、市町村が行う地域支援事業に、被保険者の情報を共有し活用することを促進する事業を追加すること（介保 115 条の 45 第 2 項）などが提案されている。

これらの提案のうち、①生産性の向上との関係では、政府は、小規模法人が増えたことで質の向上が不十分で業務効率化が進まない、感染症発生時の業務継続がおぼつかない現状を指摘し、財務省は、大規模で拠点数の多い法人程スケールメリットが働き、平均収支率が良いと主張し、大規模化・協働化することで経営の効率化を促進すべしとしている。しかし、高齢者は単なる介護サービスの対象ではなく、個々の人生観や価値観を持つ人間であるから、単なる経営効率といった観点で論じること自体、高齢者の尊厳を軽視しているように思えてならない。また、介護サービス事業において、各地域の特性を考慮した施策が必要だからこそ、地域密着型サービスが導入されたのではなかっただろうか。介護保険制度は、いつの間にか介護の商業化を目指す制度へと変貌したのであろうか。

③地域包括支援センターの業務見直しと指定介護予防支援事業者の対象拡大は、今回の改正では見送られた要介護 1・2 の訪問介護・通所介護を総合事業に移管する構想とも関係しているのではないかと思われる。既に、自立および要支援 1・2 の訪問介護・通所介護などの介護予防計画、それに先立つ相談・支援事業など、地域包括支援センターの人員配置や業務内容からして、今後の後期高齢者の急増に対し、現在の地域包括支援センターの体制で対応できないことは明らかであろう。しかし、地域包括支援センターの担ってきた業務をそのまま介護予防支援事業者に任せるのではなく、むしろ地域包括支援センターの担ってきた業務内容を見直し、その一部を介護予防支援事業者に任せる方向は検討されないのであろうか。特に、介護予防支援計画を地域包括支援センターに任せることになった経緯からして、一般の事業者が介護予防支援計画を通じて要支援者等を囲い込みにかかる危険性は小さくないと思われる。

まずは、介護保険制度導入後、特に 2005 年の法改正後における諸施策の成果と失敗を検証し、要支援者・要介護者の尊厳を護るために何をすべきかを考えるべきではないだろうか。介護の商業化が進めば進むほど、要支援者・要介護者に利益率の高いサービスを利用させるとともに、短期間で重度化させ死亡させることで回転率を上げるという方向に進んでしまうことにもなりかねない。特に認知症高齢者の場合、早く寝た切りになってもらった方が、徘徊による行方不明や事故発生のリスクを軽減できるのであるから、経営効率からすれば結果は明らかであろう。

4. 残された課題

今回の改正で残された課題として、まず挙げられるのは利用者負担の増加である。すなわち、増え続ける介護費用を補うため、利用者負担を原則 1 割から原則 2 割にすることが提案されているのである。現在は、本人所得が 160 万円以上 220 万円未満の場合は 2 割負担、220 万円以上の場合は 3 割負担となっているが、この基準を引下げることで、給付を抑えたいということである。しかし、原則 2 割負担となると、本来なら介護サービスを利用する必要のある人が利用を控えて

しまい、要介護状態の重度化を招く可能性があり、自立支援の考え方に逆行するとの指摘もある。もっとも、2 割負担の線引きをする所得基準は、介護保険制度ではなく政令に任されているので、厚生労働省が意思決定できる裁量を持っており、2 割負担の適用拡大は2023 年夏頃に結論が出る見通しになっている。

つぎに、ケアプランの有料化がある。現在、在宅サービスにおけるケアマネジメント費用は全額保険給付で賄われており、利用者負担はない。コラに対し、施設サービスにおけるケアマネジメント費用は、利用者が負担するサービス料金に含まれているため、在宅と施設の間で公平性が保たれていないとの指摘がある。しかし、ケアプランが有料化されると、本人や家族が経済的理由から、ケアプラン作成以前の相談・支援さえも回避してしまう可能性があるだけでなく、ケアプランの有料化によって、本人や家族の意向をケアプランに反映するようにとの圧力が強まり、必要なサービスの種類や量を適正に組み込めなくなる可能性も考えられる。

さらに、慢性的な介護人材の不足に悩む介護業界では、以前から人員基準の見直しに関する要望が出ており、今回の提案の中にある大規模化・協働化による生産性の向上も、その延長上の議論である。そして、ICT やロボット活用による人員基準の緩和が継続的に検討されてきているが、介護現場や関係団体からは反発の声が続出し、見送られてきた経緯がある。介護の本質である「人と人との関係性」を重んじるのか、介護の効率性・生産性の向上を重んじるのか、国民一人一人が真剣に介護保険と向き合うべきときが来ているのではないだろうか。日本の介護保険制度は、「介護の社会化」を目指すのか、「介護の商業化」を目指すのか、介護保険制度施行から 20 年以上が経ち、正に分岐点に立っていると言えるのではないだろうか。

[フィールド・ノート]台湾訪問：台湾における労働問題の現地調査

尾崎正利

執筆者尾崎は 2017 年以降、2018 年、2019 年及び 2020 年と今年 2023 年 5 月に台湾（主として台北市）を訪問し、台湾における労働法の新たな展開、雇用における性別工作平等法（両性雇用平等法）、労働事件法（統合労働事件手続法）、LGBT 法の制定といった、矢継ぎ早に、新しい、雇用における人権擁護に関する立法が生まれたのを目の当たりにすることになった。もともとの訪問の目的は実は、このような立法の制定プロセスや適用状況を調べることではなく、外国人労働力の導入にかかわる就労経路や雇用の状況などを調査し、日本の外国人労働者受入にかかわる問題解決との比較研究の積りであった。結果として、4 回にわたる台湾訪問で論文として公表する段階にはないのが残念である。しかしながら、4 回にわたる台湾訪問は多くの素晴らしい友人を得ることができた。また逆に、台湾の有能な研究者を日本に招くことができ、研究所の特別セミナーの講師として労働問題研究所の会員の皆様に、台湾法の現状と課題を中心とした情報を提供してもらうことができている。侯岳宏（国立台北大学法律学院法律学系教授で、法律学院長）氏は、台湾労働法学会の理事長も務めているが、日本を訪問された折、多忙な中、台湾不当労働行為の審査プロセスについて、詳細な解説をいただいた。また陳一（金沢大学法科大学院客員教授）氏には、金沢での集中講義のあと機会を見つけてセミナーの講師を引受けいただき、台湾で弁護士としてご活躍の経験を生かしたお話を会員に提供していただいている。執筆者尾崎自身も御礼というわけではないが、侯教授の提案を受けて、教授の大学院での講義（日本における不当労働行為審査プロセス）及び学部での講義（最近の日本労働法の変化について）の時間にお話をさせていただくことができた（決して私の出来が良いとは云えなかったけれども）。さらにまた有澤法律事務所の黄馨慧（マネージング・パートナ）氏には日系企業が陥りやすい台湾労働法に関する多くのポイントを教示いただき、並びに若手の労働法を扱う associate の皆様とも情報交換をする機会があり、今後とも継続して情報交換が可能になる状況も生まれてい

る。

しかしながら今なお、台湾におけるヴェトナム人、インドネシア人、フィリピン人を中心とする東南アジア人などの台湾就労を可能にする経路を握っている人材ビジネスとの直接のヒアリングなどは実現しておらず、研究の重要な部分は根岸忠氏の研究に期待をしたい。私としては当面、日曜日に台北駅 1 階大ホールやニニ八和平公園に集まって情報交換をし、食事や楽しいひと時を過ごす彼ら・彼女らの姿、MRT を利用して、車いすを押して外出介護をする彼女たちの姿や仕草を遠くから眺めることで、彼女たちの労働に関する雰囲気を肌で感じ、彼女たちの労働力を利用した経験のある台湾の友人たちからの断片的な情報を得ることで満足している状況である。外国人労働者である彼ら・彼女らの賃金は一般的に最低賃金であると考えられている。台湾における最低賃金は 2023 年 1 月 1 日以降月給ベースで 26,400NT$（前年より 4.56%の引上げ:日本円対 NT$4.6 円換算で、121,440 円)、時間給ベースで 168NT$（前年より 8NT$の引上げ：日本円換算で 772 円 80 銭）と引上げられた。蔡政権発足後月給ベースで 31.9%、時間給ベースで 46.7%増加した。台湾人力銀行によれば、2022 年、台湾における平均年収は 677,000NT$で、職業別ではエンジニアが 1.013,000NT$で一番高く、続いて薬剤師 997,000NT$、コンサルタント 963,000NT$、会計監査 878,000NT$、医療営業 875,000NT$、ソフトウエアプロジェクトマネジャ 860,000NT$とされている（2022 年 11 月 22 日現在)。これに春節前に支払われるボーナスは給与の 1.33 ヶ月が平均的であるとされている。レストラン従業員の賃金は、執筆者が宿泊した First Hotel のレストラン（ステーキハウス）における従業員募集の広告では 38,000NT$から 46,000NT$と表示されていた。日本円で 20 万円前後であろうか？

台湾において主流の介護システムである、In-house care-giver として働いている外国人女性の賃金は少し古いが、「2017 年外籍老工管理及び運用調査」によれば 20,073NT$であるのに対して、男性が主流の外国人単純作業労働者（工場労働者や建設作業労働者など）の平均総支給額は 26,308NT$で（NNA2018 年 3 月 14 日)、居宅介護の賃金は 6 千 NT$以上低くい。このことについて侯教授は「(人材ビジネス業者の紹介する外国人求職者について）受入家庭と労働者の契約でもって雇用関係が成立するが、労働の形態はハウス・メイドを基準としているようであること、賃金については最低賃金の適用はないが、概ね最低賃金を基準に決定されているのではないか。また、土曜日の就労は時間外労働として処理されており、週 6 日労働が基本的な労働日である」とアドバイスをいただいた。そうであるとすれば 2023 年 1 月 1 日以降の居宅介護労働者の月給は 26,400NT$以上となっており、2017 年と比較して 6,000NT$以上の引上げとなる。

台湾の物価状況は変化しているのか？2023 年訪問における感想として、NT$事態の表示は大きく上がったとは思えなかった。タクシーの初乗り料金は少し上がり、50NT$を超えた額から運賃の累積が始まった。MRT3 駅程度の距離で 200NT$は覚悟しなければならなかった。コンビニのビールロング缶も 10%程度上がっていた。日本人を主要な客とする居酒屋でも 10%程度上げていたように思われた。1,500NT$を超えないように注文にも苦労したのが実情である。こうした努力も一つには、基本的には日本円の下落が大きな要因である。2017 年訪問当時と比較すれば、60 銭程度の下落があり、対 1NT$4 円 60 銭での勘定を頭に置かなければならなかった。このことは 2022 年に訪問した際のタイバーツでもブラジルヘアイルスでも同じである。吉野家の牛丼も日本で注文するよりも 300 円ほど高いようにも思われた。

最後に台湾 LGBT 法について気づいた点に触れておこう。日本との関係で興味あるケースが既に存在している。台湾 LGBT 法は 2021 年に成立施行されたが、適用対象者は台湾在住者と広く、外国人同士或いは台湾人と外国人同士の婚姻にも適用される。このために、とりわけ外国人にとって同性婚の挙行地としての利用が増加しつつあると云われている。その場合台湾抵触法における婚姻の実質的成立要件については、伝統的な国際私法ルールによれば、本国法主義が採用されており、このことは日本でもそうである。台湾 LGBT 法制定議論においてこの点も議論されたが、公序を適用して

婚姻当事者の一方又は双方の本国法で同性婚を有効な婚姻と認めない場合でも、台湾法により有効と見なすとの解釈が優勢となっている（陳一氏）そうである。次回台湾訪問時にはこの問題に関するケースなども調査したいと考えている。

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[参考資料]
台湾労働事件法の英語版による条文（2018 年 12 月 5 日公布、2020 年 1 月 1 日施行）を掲載します。この資料は 8 月 27 日（日曜日）津市において開催予定の特別セミナーにおいて使用されるものです。当日配布いたしますが、それまでにご検討いただければ幸いです。
台湾「労働事件法」（原文名：「勞動事件法」、英訳名：”Labor Incident Act”）
英訳掲載サイト：https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=B0010064
原文掲載サイト：https://law.moj.gov.tw/LawClass/LawAll.aspx?pcode=B0010064

（取扱注意）上記英訳掲載サイトには、“In case of any discrepancy between the English version and the Chinese version, the latter shall prevail.”との注意書きが明記されており、同法の正文については原文によるべきことに留意されたい。また、同法の下記英訳内容の利用等については、台湾行政院法務部の“Open Data Statement” （https://law.moj.gov.tw/ENG/Service/Copyright.aspx）を参照の上、是非遵守されたい。

Labor Incident Act

Chapter 1 General Provisions

Article 1
This Act is enacted for the purposes of ensuring expeditious, proper, professional, effective and equal treatment of labor cases, the protection of the rights and interests of employers and workers, and the promotion of harmonious labor relations, so as to pursue healthy development of common life in society.

Article 2
The term "labor cases," as mentioned in this Act, refers to the following events:
1. Civil disputes concerning labor laws, group agreements, work regulations, labor-management resolutions, labor contracts, labor norms, and other relations pertaining to labor relations.
2. Civil disputes between students and institutions of cooperative education concerning the Act of the Cooperative Education Implementation in Senior High Schools and the Protection of Student Participants' Rights, cooperative education training contracts and other relations pertaining to cooperative education.
3. Tort disputes due to violations of workplace gender equality, employment discrimination, occupational hazards, labor unions and protesting activities, non-competition and other tort disputes pertaining to labor relations.
Any civil case pertinent to the aforementioned case, as described in the preceding paragraph, may be filed with, or added to, or interpose as a counterclaim with the aforementioned case.

Article 3
The term "worker," as mentioned in this Act, refers to the following persons:
1. Employees or persons insubordinate positions who are paid to perform labor.
2. Technical apprentices, foster workers, interns, cooperative education students, trainees, and other

workers in positions of a nature similar to apprentices.
3. Job seekers.
The term "employer," as mentioned in this Act, refers to the following persons:
1. Persons who hire others to work, persons who exercise management duties on behalf of an employer, or persons who perform substantial supervision and management over dispatched workers in accordance with dispatch contracts.
2. Persons or institutions of cooperative education who recruit apprentices, foster workers, interns, cooperative education students, trainees, and other workers in positions of a nature similar to apprentices.
3. Persons who recruit job seekers.

Article 4
For the purpose of handling labor cases, courts of all levels shall establish Labor Professional Courts (hereinafter referred to as Labor Courts). However, a court with a limited number of judicial staff may set up a special focus division in place of a labor court.
The position of labor court judges, as mentioned in the preceding paragraph, shall be served by judges who have relevant knowledge and experience in labor law.
The Judicial Yuan shall make determinations on matters relating to the establishment of a labor courts or special focus divisions, their job assignment allocations with civil courts, and the qualifications, selecting methods and the terms of serving judges, as well as other relevant matters.

Article 5
For labor cases with plaintiff workers, if the location where the labor service is provided, or the location of the defendant's domicile, residence, office, or business, is within the territory of the Republic of China, the case falls under the jurisdiction of the Republic of China.
If any jurisdiction agreement of labor cases is in violation of the provisions of the preceding paragraph, the worker is not bound by such agreement.

Article 6
For labor cases with plaintiff workers, the court of the region where the defendant's domicile, residence, main business, or main office is located, or where the plaintiff provides labor service, shall have the jurisdiction over the case. For labor cases with plaintiff employers, the court of the region where the defendant's domicile or residence is located, or where current or the last labor service is/was provided, shall have the jurisdiction over the case.
For cases with plaintiff employers, as described in the preceding paragraph, the worker involved in the case may petition to transfer the case to the jurisdictional court of his choice before the beginning of oral arguments. However, the said provisions do not apply to the cases which continue after the parties fail to reach an agreement in labor mediation.
The ruling relating to the petition as described in the preceding paragraph may be appealed.

Article 7
Concerning the jurisdiction agreement for the first instance in labor cases, if one of the parties is a

worker, and the agreement is clearly unfair, the worker may initiate an action directly in other courts that has jurisdiction. If the worker is the defendant, the worker may petition to transfer the case to other jurisdictional court of his/her selection prior to the start of the oral arguments of the trial; however, the said provisions do not apply to the cases which continue after the parties fail to reach an agreement in labor mediation.
The ruling relating to the petition as described in the preceding paragraph may be appealed.

Article 8
When handling labor cases, a court should proceed in an expeditious manner, formulate plans for mediation or trial, and conduct mediations or oral arguments in due course.
All parties involved in an action shall cooperate in good faith with the progress of the procedures as described in the preceding paragraph, and submit facts and evidence in due course.

Article 9
The worker may be accompanied by an assistant selected within the purpose as provided in the charter of the labor union or the legal foundation, and the provisions of Paragraph 1, Article 76 of the Taiwan Code of Civil Procedure, concerning the requirement for the presiding judge's permission, shall not apply.
The labor union, legal foundation, and the assistant, as mentioned in the preceding paragraph, shall not ask the worker for compensation.
If the aforementioned assistant, as mentioned in the first paragraph, is not suitable to perform acts of litigation, or his/her behavior violates the interest of the worker, the presiding judge may issue a ruling during the proceeding, prohibiting such a person from being the assistant.
The provisions of the preceding paragraph shall apply mutatis mutandis to a Preliminary Proceeding conducted by a commissioned judge.

Article 10
When a foreign worker engaging in jobs as prescribed in Subparagraph8 to 10, Paragraph 1, Article 46 of the Employment Services Act, with the permission of the presiding judge, appoints the person in charge of the privately owned employment service agency, its staff, employee, or staff member as his/her agent for the lawsuit, and such person harms the rights or interests of the foreign worker, the presiding judge may rule to revoke the permission for such representation.

Article 11
If an action arises involving regular payments, its claim value shall be the total amount of income assumed for the entire duration of the right to such a payment. If such a duration is not determined, the duration of the right should be presumed. However, if the duration is more than five years, a duration of five years shall apply.

Article 12
If a worker or a labor union initiates an action or files an appeal for the confirmation of the existence of employment relationship, wages payment, pensions, or severance fees, two-thirds of the court cost

may be temporarily waived.
If a compulsory enforcement of aforementioned action is petitioned as described in the preceding paragraph, and the claim value of the enforcement is more than two hundred thousand New Taiwan Dollars, the enforcement fee shall temporarily be waived on the excess portion of the claim, and shall be deducted later from the proceeds derived from the compulsory enforcement.

Article 13
In cases where a labor union initiates an action pursuant to Article 44-1 of the Taiwan Code of Civil Procedure, and Article 42 of this Act, and the price or value of the claim is more than one million New Taiwan Dollars, the court costs of the excess portion of the claim shall temporarily be waived.
In cases where a labor union initiates an action pursuant to Article 40 of this Act, court costs are waived.

Article 14
When workers who meet the criteria of low-income family and middle-low income family as stipulated in the Social Relief Act, or who meet the requirements of family-in-hardship as stipulated in Paragraph 1, Article 4 of the Act of Assistance for Family in Hardship, petition for litigation aid, they shall be deemed indigent and unable to pay litigation costs.
When a worker or his/her surviving family members initiate(s) a labor lawsuit as a result of an occupational accident, on a motion, the court shall rule to grant legal aid. However, this rule does not apply to cases that have no chance to win.

Article 15
Matters relating to labor actions shall be governed by the provisions of this Act. For any matters other than prescribed herein, Taiwan Code of Civil Procedure and the Compulsory Enforcement Act shall apply.

Chapter 2 Labor Mediation Procedures

Article 16
Labor cases should be mediated by the court before litigation, except where one of the following circumstances applies:
1. A situation, as described in Subparagraphs 2, 4, or 5, Paragraph, 1, Article 406 of Taiwan Code of Civil Procedure exists.
2. The dispute arises from circumstances as described in Article 12 of the Act of Gender Equality in Employment.
Where the party involved in a case, as described in the preceding paragraph, initiates an action directly with the court, the action shall then be deemed a motion for mediation.
For labor cases not covered in the provisions of the first paragraph, the parties involved may also move for mediation before filing lawsuits.

Article 17
Unless otherwise stipulated by law, courts in charge of labor cases shall have jurisdiction over labor mediation cases.
The provisions of Paragraph 2 and Paragraph 3 of Article 6, and Article 7 apply mutatis mutandis to labor mediation procedures. However, if the worker makes a motion for transfer, such motion must be made before the first mediation date.

Article 18
The motion for mediation, and any declaration or statement on other dates, shall be made in pleadings. However, for cases involving less than five hundred thousand New Taiwan Dollars in the price or value of the mediated claim, the motion may be made orally.
The oral petition, declaration, or statement, as described in the preceding paragraph, shall be submitted in front of the court clerk. The court clerk shall record it into a transcript and sign.
The pleading for motion or transcript shall include following items:
1. The name, domicile or residence of the movant. The name, principal office, office or place of business, if the movant is a legal person, institution or a group.
2. The name, domicile or residence of the respondent. The name, principal office, office or place of business, if the respondent is a legal person, institution or a group.
3. If applicable, the name, domicile or residence of the legal representative, and the relationship between the legal representative and the party.
4. The purpose of the motion, and the occurrence giving rise to such motion.
5. Evidence for proof or for clarification.
6. Attached documents and the number of such documents.
7. The name of the Court.
8. Date (month/day/year)
Following items should be recorded in the pleading for motion or transcript:
1. Gender, date of birth, occupation, identity document number, for-profit business identity number, telephone number, and other information to adequately identify the movant, respondent, other interested parties, and the legal representative;
2. If applicable, the name, domicile or residence of the interested parties;
3. Matters required for the determination of jurisdictional court and its applicable procedures;
4. If applicable, details of other relevant cases pending in court;
5. Potential issues and important facts and evidence pertaining to such issues;
6. Summary of negotiation or other processes that took place between the parties prior to the motion for mediation.

Article 19
For multiple related labor cases, the court may conduct a combined mediation, either by motion or on its own initiative.
Both parties may petition with consent to combine related civil cases into mediation with the labor case, and such a petition may also be deemed a motion for mediation on the aforementioned civil cases. If the said civil cases, petitioned for combined mediation, are already pending in court, the on-going

civil proceedings shall be stayed. Once a resolution is reached, the mediation procedure concludes. If the resolution is not reached, the mediation procedure shall continue.
If the civil cases which are combined for mediation are not pending in court, and the mediation resolution is not reached, the said cases may be transferred to civil trial or other proceedings, according to the parties' wish. If the parties wish not to transfer, the mediation procedure concludes.

Article 20
The court should recruit professionals with knowledge and experience in labor relations or labor affairs as labor mediation committee members.
When the court recruits labor mediation committee members, as described in the preceding paragraph, either gender ratio of the committee members shall not be below than one third of the total number of selected committee members.
Matters concerning the qualifications, recruiting, assessment, training, dismissal and remuneration of the labor mediation committee members shall be determined by the Judicial Yuan.
The provisions concerning the Disqualification of Court Officers shall apply mutatis mutandis to labor mediation committee members.

Article 21
Labor mediation should be conducted through Labor Mediation Committee, which consists of one labor court judge and two committee members.
The labor mediation committee members, as described in the preceding paragraph, shall be assigned by the court, after the evaluation of their professional learning and experience, the appropriate composition of a labor mediation committee, and other matters.
A labor mediation committee member shall process labor mediation on the basis of neutrality and impartiality.
Matters relating to the assignment of mediation committee members shall be determined by the Judicial Yuan.

Article 22
The labor court judge may reject a motion for mediation if the motion fails to conform to the law. However, if the violation may be rectified, the court shall order rectification of the motion within a designated period of time.
A labor court judge shall also decide on the following matters:
1. The ruling on judicial power;
2. The ruling on jurisdiction.
A labor court judge shall not arbitrarily rule to reject a mediation motion on the grounds of the inability to mediate, or having no obvious need to mediate, or having no chance of reaching an agreement, or the case having been mediated by other statutory agencies but unsuccessful.

Article 23
When a labor mediation committee conducts a mediation, the judge of the committee shall direct the procedures.

The judge of the Labor Mediation Committee shall on its own initiative determine the time frame for mediation at the earliest possible date. The judge shall also designate the date for the first mediation, within thirty days after filing the motion of mediation, except for conditions as described in the first and second paragraphs of the preceding Article, or other special circumstances.

Article 24

The labor mediation procedure shall, except for special circumstances, conclude within three sessions and within three months.

All parties should submit facts and evidence as early as possible. Except for causes not attributable to themselves, all submissions should be completed before the end of the second session of mediation.

The labor mediation committee shall hear the statements of the parties as soon as possible, organize relevant issues and evidence, inform the parties in due course of the possible outcomes of the litigation, and may investigate the facts and necessary evidence by motion or on its own initiative.

With regard to the results of the evidence investigation as mentioned in the preceding paragraph, the mediation parties and interested parties who are aware of such evidence should be afforded the opportunity to be heard before the court.

Article 25

The labor mediation procedures shall not be public. However, if it is deemed appropriate by the labor mediation committee, individuals who do not interrupt the case may be allowed for attendance.

For labor cases that arise due to a violation of the provisions of Article 12 of the Act of Gender Equality in Employment, after weighing and considering the details of the incident, the physical and mental condition and the wish of the workers, the labor mediation committee may, if it is deemed appropriate, adopt seclusion measures by using shades or video equipment in mediation proceedings.

Article 26

The labor mediation is successfully established and concluded when all parties reach an agreement, and the mediation transcript is thusly recorded.

The established mediation, as described in the preceding paragraph, carries the same legal weight as a final and binding judgment.

Article 27

The labor mediation committee may devise and determine the terms of mediation to resolve the case with the consent of both parties.

The terms of mediation, as described in the preceding paragraph, unless otherwise agreed upon by both parties, shall be determined by the committee based on the majority opinion. If there are numerous opinions without a majority opinion, the opinion with the highest vote shall prevail.

The terms of mediation shall be made into a written record including a date notation, or recorded in the transcript of mediation procedures by the court clerk. Once the aforementioned mediation terms are signed by the judge and every member of the labor mediation committee, the mediation resolution is deemed established.

The written document with signatures of the judge and every member of the labor mediation

committee, as described in the preceding paragraph, shall be deemed the mediation transcript.
As for the signatures mentioned in the preceding two paragraphs, if for any reason, a committee member is unable to sign, the judge shall note the reasons; if the judge is unable to sign for a reason, the other committee member shall note such reason.

Article 28
If the parties cannot reach an agreement in the mediation, the labor mediation committee shall, on its own initiative, take all things into consideration, and present an appropriate proposal, based on the premise of balanced interests for both parties, without violation of the main intention expressed by the parties.
The proposal, as referred to in the preceding paragraph, should serve to confirm the rights and obligations of both parties, to order monetary payments, to deliver specific objects or other payments for property, or to establish appropriate actions for resolving individual labor disputes, and state the summary reason and purpose of the proposal. The proposal should be signed by the judge and the members of the entire committee.
If and when the labor mediation committee deems appropriate, the committee may, during the mediation period with all parties present, orally inform them of the content and reasoning of the appropriate proposal, and have the court clerk record the presentation in the mediation transcript.
The provisions of Paragraph 2 and Paragraph 5 of the preceding Article apply mutatis mutandis to the appropriate proposal as described in the first paragraph.

Article 29
In addition to the notice presented pursuant to the provisions of Paragraph 3 of the preceding Article, the appropriate proposal should be delivered to the parties involved and other interested parties participating in the mediation.
The parties involved and other interested parties participating in the mediation may raise objections within ten days of the peremptory period after the arrival of, or being informed of the content of the proposal, as described in the preceding paragraph.
If objections are raised in conformity with the law within the period as prescribed in the preceding paragraph, the mediation shall be deemed unsuccessful, and the court shall inform or otherwise notify the parties involved and other interested parties participating in the mediation. If no objections are raised in conformity with the law within the allowed period, as prescribed in the preceding paragraph, the mediation shall be deemed successful under the aforementioned proposal.
If the mediation is unsuccessful, as prescribed in the provisions of the preceding paragraph, unless the mediation movant submits an objection to the court concerning the continuation of litigation proceedings within ten days of the peremptory period after being informed of the mediation results, the case shall continue in litigation proceedings, and it shall be deemed that the action is initiated when the motion for mediation is filed. This provision also applies to cases where an action is initiated prior to the arrival of the appropriate proposal, as mentioned in the first paragraph. For those cases where initiating an action is deemed a motion for mediation, all effects resulting from the original initiation of the action shall remain in effect.
The judge who participates in the labor mediation committee shall also preside over the same case as

it continues in litigation proceedings, pursuant to the provisions of the preceding paragraph.

Article 30

In the mediation proceedings, the advice given by the labor mediation committee members or the judge, and the statements or concessions made by the parties that are unfavorable to themselves, shall not be adopted as the grounds for judgment, when the said case is moved to litigation after an unsuccessful mediation.

If the statements or concessions, as described in the preceding paragraph, are established in written agreement with regard to the claims, facts, evidence or other sanctioned items, the parties shall be legally bound by such terms. However, this rule does not apply, if there are obviously unfair terms, amendments with the consent of parties, events not imputable to the parties, or other circumstances.

Article 31

After careful consideration, if the labor mediation committee considers that a mediation is not conducive to a prompt and proper resolution to a dispute, or if the committee cannot propose an appropriate proposal on its own initiative, the mediation shall be deemed unsuccessful, and the committee shall inform or notify the parties involved.

The provisions of Paragraph 4 and Paragraph 5 of Article 29 apply mutatis mutandis to cases of unsuccessful mediation, or other circumstances, as described in the preceding paragraph.

Chapter 3 Litigation Procedures

Article 32

For labor cases, the court shall in general conclude the oral argument within one session, and the first instance trial should be concluded within six months. However, this rule does not apply when cases are complex or when more time is needed by the trial.

For the preparation of the oral argument session, the court should clarify relevant issues as soon as possible, and may take the following measures:

1. Order the parties to give supplementary statements on the contents of preparatory pleadings, to submit documentary evidence and relevant physical evidence, and if necessary, inform the parties of deadlines and the effects of abridgment of rights.
2. Request organizations or public legal persons to provide relevant documents or other official information.
3. Order the parities to appear in person.
4. Notify witnesses and expert witnesses, as claimed by either of the parties, to be present on the date of the oral argument session.
5. Invite the labor mediation committee members to participate in consultation.

The court should advise both parties when it takes any action described inthe preceding measures.

For labor cases that arise due to a violation of the provisions of Article 12 of the Act of Gender Equality in Employment, after weighing and considering the details of the incident, the physical and mental condition and the wish of the workers, the court may, if it deems appropriate, order the hearing not

be held in public, or adopt seclusion measures by using shades or video equipment.

Article 33
To uphold the substantial fairness in labor case trials, the court shall elucidate necessary facts provided by the parties, and may investigate essential evidence on its own initiative.
If the worker and the employer adopt the form contract as the contract of evidence, and the said contract is obviously unfair, the worker is not bound by such a contract.

Article 34
When the court hears a labor case, it may consider the facts, evidence and information, dispositions, or appropriate case-resolution proposals investigated by mediators assigned by the authority, by a composed committee, or a labor mediation committee of the court.
In the scenario, as mentioned in the preceding paragraph, parties involved should be afforded an opportunity to respond.

Article 35
For cases that are petitioned by workers, the employer is obligated to provide documentation as prescribed in the provisions of the relevant laws.

Article 36
If the holder of documents, objects to be inspected, or information required for examination, defies a court order to produce the said objects without justifiable reason, the court may rule to impose a fine of up to thirty thousand New Taiwan Dollars. If necessary, the court may also rule to order compulsory measures.
The provisions relating to the Enforcement Pertaining to Claims for the Delivery of Things as prescribed in the Compulsory Enforcement Act shall apply mutatis mutandis to the enforcement of the compulsory measures as described in the preceding paragraph.
The ruling, as described in the first paragraph, may be appealed; the execution of the ruling that imposes a fine should be stayed, pending such appeal.
In order for the court to determine whether the holder of documents, objects to be inspected, or information required for examination, as described in the first paragraph, has a justifiable reason for not providing, the court may still order the holder to provide the said information or objects in a private manner, if necessary.
When a party defies the order as described in the first paragraph without a justifiable reason, the court may deem that the fact to which such evidence should attest to be true.

Article 37
In wage disputes between workers and employers, if it can be proved that the worker received payments from the employer based on a working relationship, the remuneration is presumed to be paid for the work performed.

Article 38

It is presumed that the work hours recorded on the worker's time sheet indicates that the worker has performed duties with the employer's permission during the aforementioned hours.

Article 39

Fora labor case filed by a worker and in which the court decides to order the employer to perform a certain action or non-action, the court may also order the employer to pay additional compensation, as determined by the court, if the employer fails to comply with the order within a certain period of time after the judgment is finalized.

The provisions of Paragraph 2, Article 222 of the Taiwan Code of Civil Procedure shall apply mutatis mutandis to the preceding paragraph, concerning the determination of compensation by the court.

If the situation, as described in the first paragraph, has passed the designated time specified by the court, the worker may not file a motion for compulsory execution of the specific acts or of prohibiting specific acts.

Article 40

A labor union may, within the scope of its purpose as described in its charter, initiate a lawsuit prohibiting specific acts against the employer who infringes upon the interests of a majority of its members.

A lawyer should be retained for a lawsuit described in the preceding paragraph.

If a labor union files a lawsuit that violates the interests of its members, the court shall rule to reject the suit.

The withdrawal, abandonment or settlement of the lawsuit, as described in the first paragraph, shall be subject to the approval of the court.

The remuneration for a lawyer as mentioned in the second paragraph is part of the litigation costs, and its maximum amount should be defined. The payment standards should be determined by the Judicial Yuan, after considering the opinions of the Ministry of Justice and Taiwan Bar Association.

The provisions of the preceding four paragraphs shall apply mutatis mutandis to the mediation procedures of the event as described in the first paragraph.

Article 41

When the labor union is appointed to initiate an action for its members pursuant to Paragraph 1, Article 44-1 of the Taiwan Code of Civil Procedure, the appointed person(s) may file additional claims before the end of oral arguments in the first instance trial, and request a declaratory judgment confirming the existence of the common basis prerequisites concerning claim and legal relationship between the appointing persons and the defendant.

Concerning the additional claim, as described in the preceding paragraph, the court should give priority to conducting the argument and adjudication; before the adjudication concerning the additional claim is finalized, the original litigation proceedings may be stayed by the court.

There will be no additional court costs concerning the additional claims as described in the first paragraph.

The appointed person filing the additional claim, as described in the preceding paragraph, is limited to one time only.

Article 42

When the appointed person files the additional claim, pursuant to the provisions of the first paragraph the preceding Article, the court may seek the consent of the appointed person, or the appointed person may file a motion to which the court deems appropriate, and then make public announcements to notify other workers, who share the common interests based on the same cause, that they may submit pleading regarding their requests, including the following information, within a certain period of time, to join the case:

1. The person petitioning for joining the case, the defendant, and the legal representative;
2. The case number to which they wish to join;
3. The claim and the occurrence giving rise to such claim, and evidence;
4. The demand for judgment for the relief sought.

Other workers of common interests may also petition to the court for public announcements, pursuant to the provisions of the preceding paragraph.

The person petitioning for joining the aforementioned case pursuant to the provisions of the first paragraph shall be deemed to have appointed the appointed person(s).

The appointed person, within thirty days after the judgment for the additional claim is finalized as described in the first paragraph of the preceding Article, shall submit a pleading declaring all claims that are to be adjudicated on behalf of all the appointing persons, and pay the court costs pursuant to the law.

In the case of the preceding paragraph, the person petitioning for joining the case shall be deemed having initiated the action at the time of petitioning for joining.

The provisions of Article 44-2 of the Taiwan Code of Civil Procedure shall apply mutatis mutandis to the joinder petition procedures, unless this Act stipulates otherwise.

If the appointed party, as described in the first paragraph, refuses to give consent, the court may make public announcements on its own initiative, to notify other workers of common interests to file other lawsuits for the court to consolidate the actions.

Article 43

After deducting necessary litigation expenses from the compensation gained from the lawsuit, as described in Article 44-1 of the Taiwan Code of Civil Procedure and the preceding Article, the labor union should deliver the balance to the appointing workers, or the workers deemed appointing, and shall not request remuneration.

Article 44

On behalf of workers' requests for compensation, the court shall declare the provisional execution on its own initiative, when delivering the judgment against an employer.

In the case of the preceding paragraph, the court shall declare at the same time that the employer may provide security or lodge the subject of the claim to avoid provisional execution.

The provisions of the preceding two paragraphs shall apply mutatis mutandis to actions initiated by the labor union pursuant to Article 44-1 of the Taiwan Code of Civil Procedure, and Article 42 of this Act.

Article 45

If a worker objects to the judgment made on a case that was initiated in accordance with Article 44-1 of the Taiwan Code of Civil Procedure, and Article 42 of this Act, and withdraws the appointment prior to the expiration of the labor union's appeal period, the worker may file an appeal himself/herself in accordance with the applicable laws.

Upon receiving the judgment, the labor union should notify the workers of the verdict immediately, and should notify the workers in writing within seven days, concerning its decision regarding whether to file an appeal.

Multiple workers with common interests, who were not able to join a labor union during their employment, pursuant to the Labor Union Act, may jointly select a confederated labor union as the appointed party to initiate a lawsuit. However, the aforementioned action must be within the scope of the appointed confederated labor union's purpose described in its charter, and located in the area where its labor services are provided, or the employer's domicile, residence, main business, or main office is within the demarcation of its organizational area.

Multiple workers with common interests, who were members of the same labor union when leaving their jobs or retiring, may appoint the said labor union, if it is within the scope of the said union's purpose as described in its charter, as the appointed party to initiate the lawsuit.

The provisions of Article 44-1 Paragraphs 2 and 3 of the Taiwan Code of Civil Procedure, and the provisions of this Act concerning a labor union initiating lawsuits as an appointed party for its members pursuant to the provisions of Article 44-1 Paragraph 1 of the Taiwan Code of Civil Procedure shall apply mutatis mutandis to the legal actions mentioned in the third and the fourth paragraphs.

Chapter 4 Provisional Remedy Proceedings

Article 46

When a worker applies for a decision of a civil dispute pursuant to the Act for Settlement of Labor-Management Disputes, he/she may file a motion with the court for a provisional attachment, a provisional injunction, or a temporary status quo injunction, prior to the decision being made.

If a worker files a motion for a provisional attachment, a provisional injunction, or a temporary status quo injunction in order to secure a compulsory execution or to avoid exacerbating the damages based on the request of the decision after the arrival of a written decision, subject to the following conditions, the decision may be used as the declaration of the grounds for the provisional attachment, the provisional injunction, or the temporary status quo injunction, and the court shall not order the worker to provide security prior to the action as a precondition for a provisional remedy:

1. The decision has not been approved by the court;
2. The employer initiated a civil suit with the court based on the same event as that of the decision.

Before the decision is finalized, the provisions of Paragraph 1, Article 529 of the Taiwan Code of Civil Procedure shall not apply to the preceding two paragraphs. For decisions not being approved by the court, if the worker initiates an action based on the decision within thirty days of receipt of the notification, the provisions of Paragraph 4, Article 50 of the Act for Settlement of Labor-Management

Disputes shall not apply.

Article 47
If a worker files a motion for a provisional attachment, a provisional injunction, or a temporary status quo injunction in order to seek wage payment, workers' compensation, pension or severance pay, or compensation and confirmation of the existence of an employment relationship, as defined in Paragraph 1 and Paragraph 3, Article 72 of the Labor Insurance Act, the dollar amount of the security as ordered by the court pursuant to Paragraph 2 and Paragraph 3, Article 526 of the Taiwan Code of Civil Procedure shall not be more than one tenth of the claimed price or value.
In the case of the preceding paragraph, if the worker has clarified to the court that furnishing security will impose great hardships to his/her livelihood, the court should not order such security.
The provisions of the two preceding paragraphs apply mutatis mutandis to when a labor union appointed pursuant to the provisions of Article 44-1 of the Taiwan Code of Civil Procedure, or Article 42 of this Act, files a motion for a provisional attachment, a provisional injunction, or a temporary status quo injunction.

Article 48
When the court discovers that a litigation case in which the worker motions for payment of wages, workers' compensation, pension or severance pay, causes great hardships to his/her livelihood, the court should inform the worker that he/she may motion for a temporary status quo injunction to receive a certain payment ex ante.

Article 49
If the court recognizes that the case for confirming the existence of an employment relationship, as initiated by the worker, has a chance to prevail, and that the employer has no major difficulties in continuously employing the worker, the court may order a temporary status quo injunction, based on the worker's motion, for continuous employment and payment of wages.
If the court of first instance delivers a judgment recognizing the existence of an employment relationship, court shall make a disposition in favor of the worker's motion as presented in the preceding paragraph.
The court shall exempt the motions, as described in the preceding two paragraphs, from the requirement of a security.
If the court revokes a ruling, as mentioned in paragraph 1 and paragraph 2, due to the worker receiving a binding and losing judgment, the court may, on the employer's motion, order the worker to return the paid wages within the scope of revocation, and the added interest since the date of receiving the wages. However, this provision does not apply, if the worker has provided labor services pursuant to the ruling, as described in paragraph 1 and paragraph 2.
The ruling ordering the return of paid wages, may be appealed, and the execution of the ruling stays, pending such appeal.

Article 50
If the worker initiates an action to confirm the ineffectiveness of a job transfer or in resuming the

original position, and the court considers that the employer's action concerning the worker's job transfer is likely to have violated labor laws, group agreements, work rules, labor-management conference resolutions, labor contracts or labor norms, and that the employer has no significant difficulty in continuously employing the worker in the original position, the court may grant a temporary status quo injunction, based on the worker's motion, for continuing the employment in the original position, or for working with a new position that both parties agree on.

Chapter 5 Supplementary Provisions

Article 51

Unless stipulated otherwise by law, the provisions of this Act also apply to labor cases that occurred prior to the enactment of this Act.

Labor cases, that are already pending in court and that have not concluded prior to the enactment of this Act, shall be concluded in accordance with the procedures stipulated in this Act by the court, and the provisions of Paragraph 2, Article 16 shall not apply. The proceedings and actions that have already taken place pursuant to the law, remain in effect.

For labor cases that are already pending in the court and have not concluded prior to the enactment of this Act, the law in effect at the time of pending, or the provisions of Paragraph 1, Article 6 of this Act shall apply to the determination of jurisdiction.

For labor cases that are pending in provisional remedy proceedings and that are not concluded prior to the enactment of this Act, shall be concluded in accordance with the procedures prescribed in this Act by the court in which the action is pending.

Article 52

The enforcement rules and trial regulations of labor cases relating to this Act shall be determined by the Judicial Yuan.

Article 53

The enactment date of this Act shall be determined by the Judicial Yuan.