

## Q&A for Labor Standards Act

Question	Answer
What are pension contributions?	Employers contribute 2% to 15% of employee's monthly wages to a special account as a reserve fund of retirement payment for employees. The rate of contribution for Academia Sinica is 6% of the employee's monthly wages.
How do I apply for retirement payment?	Retirement Payment can commence upon the following retirement conditions being met: (1) When a worker attains the age of 55 and has worked for 15 years. <b>Or</b> (2) When a worker attains 60 years of age and has worked for 10 years. <b>Or</b> (3) When a worker and has worked for more than 25 years. <b>And</b> (4) A worker has been employed by <b><u>one and the same</u></b> business entity.
What is retirement payment?	The lump sum retirement payment is equal to two base units of basic salary paid for each year of service up to 15 years of service. One unit of basic salary shall be paid for each year of service exceeding 15 years. <b><u>The maximum payment shall be forty-five units.</u></b> Any fraction of a year which is equal to or more than six months shall be counted as one year of service, and any fraction of a year which is less than six months shall be counted as half a year of service.
Retirement payment is calculated using base units, what is a base unit?	The base unit for payment of retirement benefits is a standard measure which denotes the average monthly wage received by a particular employee at the time the application for retirement is approved. Average wage means the figure arrived at by taking the total wages for the six months preceding the day on which an event requiring that a computation be made occurs, divided by the total number of days in that period.
How about "pay-as-you-go" contribution benefit?	The "pay-as-you-go" contribution benefit was terminated for foreign employees on adoption of the Labor Standards Act by Academia Sinica on January 1, 2008. It is no longer available to foreign employees of Academia Sinica.
What is the Labor Standards	The Labor Standards Act began applying to the Academia

<p>Act? What are the pros and cons of applying this Act to foreigners' at Academia Sinica?</p>	<p>Sinica's contract-based employees who are under non-personnel fees on January 1, 2008. Many additional rights and benefits have been gained by applying the Act such as: severance payment (Article 18 of the Act); more overtime wages (Article 24 of the Act); leave of absence for finding a new job (Article 16 of the Act); setting up of work rules and submission to the competent authorities for approval and registration (Article 70 of the Act); labor-management conferences held regularly for mutual communication (Article 83 of the Act); more holidays (Article 23 of Enforcement Rules of the Labor Standards Act); wages for the days on which special holidays should have been, but were not taken (Article 24 of the Enforcement Rules); Labor Day holiday (Article 23 of the Enforcement Rules). Rights and benefits are also maintained from the previous system: days of miscellaneous authorized absences and vacations, special holidays, calculation of special holidays on seniority. Where previous regulations adopted by Academia Sinica have more favorable terms than those provided in the Act, then the original terms are preserved. In addition, employees are eligible for labor pension, labor insurance and healthcare insurance.</p>
<p>What has happened to the benefits employees received before the implementation of the Labor Standards Act?</p>	<p>Benefits that were provided before the Labor Standards Act was applied are protected well after its implementation. In general, the employees' rights and benefits increased after the adoption of the Act, and a number of regulations adopted by the Academy containing more favorable terms than those provided in the Act have been preserved. The only major change incurred by the adoption of the Labor Standards Act by Academia Sinica is that the new pension system (personal account system) of the Labor Pension Act that applies to domestic employees cannot apply to foreign employees. However, the right of foreign employees to receive a retirement pension remains through other provisions.</p>
<p>What leave are Academia Sinica employees entitled to?</p>	<p>The Academy's policy on special leave for contract employees is as follows: Those who have served a complete fiscal year, are entitled to 7 days of special leave from the 2<sup>nd</sup> year; Those who have served for 3 fiscal years are entitled to 14 days of</p>

	<p>special leave from the 4th year; Those who have served for 6 fiscal years are entitled to 21 days of special leave from the 7th year; Those who have served for 9 fiscal years are entitled to 28 days of special leave from the 10<sup>th</sup> year; Those who have served 14 fiscal years are entitled to 30 days of special leave from the 15<sup>th</sup> year. For those who take up a position at Academia Sinica after February in any year, the length of special leave will be given in proportion with actual appointment time and be effective from the next January.</p> <p>In addition contract employees are eligible to 14 days of personal leave and 30 days of sick leave. These benefits are available to contract employees as soon as they arrive at the Academy. [N.B. Since the regulations on special leave adopted by the Academia Sinica contain more favorable terms than those provided in the Labor Standards Act, they are preserved. In addition to the above-mentioned special leave, the Academia Sinica's regulations governing personal leave, pre-maternity leave, maternity leave and funeral leave are also more favorable than those provided in the Act.]</p>
<p>How does the retirement payment for foreigners and domestic workers differ?</p>	<p>Domestic employees are subject to the Labor Pension Act, and retirement pension can be claimed when they reach the age of 60. Foreign employees are subject to the Labor Standards Act, and retirement payment can be claimed when: (1) the employee attains the age of 60 and has worked for 10 years; (2) the employee attains the age of 55 and has worked for 15 years; (3) the employee has worked for more than 25 years.</p> <p>The regulations governing the standards of paying retirement payments in the Labor Standards Act (2 months of average wage shall be paid for each year of service, provided that each year of service exceeding 15 years shall be entitled to 1 month of average wage) are more favorable than those provided in the Labor Pension Act for domestic employees (who only receive 72% of their monthly wage per year).</p>
<p>How can a foreign employee become eligible for the same terms that apply to domestic employees?</p>	<p>According to the Nationality Act, foreign nationals who become naturalized Taiwanese citizens are subject to the Acts which apply to domestic employees.</p>

<p>Why was there no prior notice to the foreigners about the changes in the pension provisions for foreigners?</p>	<p>To improve staff and personnel clerks understanding of the Act, Personnel Office has held four seminars respectively on May 6, 20, 21 and 22, 2009 (three of them were held for staff who are subject to the Act, and foreign contract-based staff could be found at each of the seminars. One was held for personnel, accounting clerks and cashiers. Personnel clerks could explain to the staff in the unit). During the seminars, all the relevant rights and benefits concerning the Act and the retirement benefits were explained very clearly.</p>
<p>Are Post Doctorial Fellows who do not complete 10 years of service at Academia Sinica eligible for retirement payments?</p>	<p>1. The conditions for claiming retirement pension are the same as for other foreign employees:  (1) Voluntary retirement: has worked for 25 years; Or attains the age of 55 and has worked for 15 years; Or attains the age of 60 and has worked for 10 years.  (2) Mandatory retirement: Attains the age of 65.</p>
<p>Are Post Doctorial Fellows who complete 10 years of service in Taiwan but not continually at Academia Sinica eligible for retirement payments?</p>	<p>According to the Labor Standards Act, the calculation for retirement payments is limited to the same employer. Employees who meet the requirements and apply for retirement at the Academy will receive retirement pension. Employees who have worked less than 10 years or do not work continually at Academia Sinica cannot apply for retirement pension.</p>
<p>Regarding the pay-as-you-go contribution benefit scheme, that was terminated on 1 January, 2008: Many people who left between January and April of 2008 received the full amount of money (including the 6% mandatory contribution), but people who are still employed at Academia Sinica will not get the full amount. Why is there no choice for foreign staff? Is this fair for those who will not get the 6% mandatory contribution?</p>	<p>1. The Academy conducted several negotiations between the Academy and the Council of Labor Affairs from January 2008 to April 2009, asking for exclusion of the Academy from the application of the Labor Standards Act. During the period when the Academy was seeking exclusion from the Act, the “pay-as-you-go” contribution benefit was still operated pursuant to the previous regulations in order to protect the employees’ rights and benefits in accordance with Article 5 of Regulations of Pay-as-you-go Contribution Benefit for Personnel Served in all Organizations and Schools under Civil Contractual Relationship, whereby the employee and the Academy contributed 6% respectively to a special account and the whole amount is transferred to the employee’s account when he/she resigns.</p>

The matter concerning the adoption of the Act for contract employees was proposed at the Conference of Executives in April 2009 for the President's approval of adopting the Act dating back to January 1, 2008. Therefore, the mandatory contribution of "pay-as-you-go" contribution scheme which were contributed from January 1, 2008 to April 30, 2009 for contract employees were contributed to the labor retirement pension (for domestic employees), and the labor retirement reserve fund (for foreign employees).

2. To protect the rights of foreign employees, the Academy submitted an official document to the Council of Labor Affairs asking for permission to allow foreign employees to take back the mandatory pension contributions which were contributed from January 2008 to April 2009. The Council refused the permission. Therefore, the mandatory pension contributions paid from January 2008 to April 2009 were transferred to the labor retirement pension (for domestic employees) or the labor reserve fund account (for foreign employees) according to the Act. The voluntary (personal) contributions and the mandatory contributions paid before January 2008 were returned to employees. Number of years of service for retirement is computed starting from January 2008.

3. The total amount of mandatory pension contributions of "pay-as-you-go" pension scheme which were contributed from January 1, 2008 to April 30, 2009 for foreign employees are now contributed to the labor retirement reserve fund. When an employee meets the retirement requirements, retirement payment can be claimed in accordance with Article 55 of the Act [2 months of average wage shall be paid for each year of service, for each year of service exceeding 15 years 1 month of average wage shall be paid up to a maximum of 45 months of average wage.)

<p>When we signed employment contracts in the past, why were domestic employees asked to choose between the “Labor Standards Act” and the Academy’s “pay-as-you-go contribution benefit system,” but foreigners could only choose the Academy’s pension system?</p>	<p>Before the adoption of the Act on January 1, 2008, domestic employees could choose between the labor retirement pension and the pay-as-you-go contribution scheme according to the Executive Yuan’s No. 0940085232 official letter in 2005 stating that “temporary employees in civil institutions who are employed by non-civil servant regulations... shall start contributing voluntary retirement pension from January 1, 2006, according to Article 7 of the Labor Pension Act.” The percentage of the governmental contribution was the same, 6%, either for the labor retirement pension system or in the pay-as-you-go contribution system. To protect domestic employees’ rights, the Academy decided to allow the contract employees to choose between the pay-as-you-go contribution system and the labor retirement pension. Because foreign employees are not subject to the Labor Pension Act, they were only able to follow the pay-as-you-go pension system.</p>
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<p>Why do universities not need to suspend the “pay-as-you-go contribution benefit”? Is it possible for Post Doctorial Fellows who work in Academia Sinica under NSC funding to be excluded from the application of the Labor Standards Act?</p>	<p>1. The NSC sent an official letter to Academia Sinica on September 15, 2008, when Academia Sinica agreed to adopt the Labor Standards Act, to request that the Academy define their contractual relation with personnel subsidized by the NSC. According to the current regulations adopted by the Academy, review, reward and punishment, and attendance management of employees are managed by the Academy, so the relationship between Academia Sinica and personnel receiving NSC subsidies can be defined as a labor relation. Therefore, personnel receiving subsidies from the NSC cannot be excluded from the application of the Act.</p> <p>When the relation between the Academy and the contract employees is defined as a labor relation, then the Academy is responsible for the overtime pay, vacations, insurance, severance pay and retirement payment. If the relation was defined as a non-labor relation, then the Academy would not be responsible for any of those benefits. To protect the employees’ benefits and rights, the Academy agreed to follow the Act from January 1, 2008.</p> <p>Personnel at universities that did not define their relation as a labor relation shall not be subject to the Act, and their employees’ rights will not be protected well.</p>
<p>How about short-term foreign employees?</p>	<p>We understand that eligibility for retirement payments could cause problems for short-term foreign employees. The Academy will ask the Council of Labor Affairs if there can be any improvements made to foreign employees’ retirement arrangements.</p>