

New ESA Article 51 Work Permits for Foreign Spouses

51.01.01

Q&A compiled as of January 30, 2002

Q: Thank you Richard for the information and forms. An initial question is this: Is the work permit under new ESA Article 51 going to be the same as under old ESA Article 48 that a foreign spouse can apply and work under two or more (multiple) work permits, as long as the requirement of a minimum salary of NT\$ \$16000 is met? Or are they going to be considered two separate entities?

A: No, as a foreign spouse applying under the new Article 51 regulations, you obtain an open work permit. It is not specific to any one employer, organization, or type of work. There is no need to apply for a second open work permit. The open work permit which you will obtain entitles you to legally work in the ROC, period. There is no stated "minimum salary requirement", because you are not tied to any one employer. However, there is the pre-condition that your marriage to an ROC citizen, and residency rights based thereon, **MUST BE MAINTAINED**, in order for your work permit to remain valid.

Q: The application does not state a starting time for the work permit, I assume this date is stamped as the date when the application has been processed, and has the term of one or two years as under the old ESA Article 48.

A: When a foreign spouse holds an ESA Article 51 work permit, there is a pre-condition that your marriage to an ROC citizen is still valid, and that your residency visa status, and ARC status, remain valid, in order for your work permit to remain valid. Based on these considerations, the work permit has no expiry date.

Q: Is it possible to use these beta forms as they are now, or how long shall we wait until the new forms will be ready?

A: Yes, you may use these forms immediately.

Q: I am thinking that if I submit these forms this week, it will be too early in applying for my application, so I am considering waiting and then submitting these forms one week before my present work permit expires, as it is processed under old ESA Article 43, as an "average foreigner", even though I am married to an ROC national. My current work permit will expire on March 7 2002. My brain is still accustomed to thinking that the relevant forms need to be submitted one month beforehand. I guess old habits are hard to change.

A: The Article 51 work permit will be different from what you have encountered before. It is just an open work permit so that you can work in the ROC area. Did

you read all the commentary in the Art51COMM.doc file? In your situation, I would strongly suggest sending in your Article 51 application materials during the first week of February. (Remember that there is a Holiday in the middle of February, and nobody works for about nine days.) If you get your application materials sent in then by registered mail, it should give them enough time to process your open work permit. Do you have a Chinese chop, in your own name? There are two places that need to be chopped on those forms. Be sure to have your wife help you out with the details. The Article 51 work permit will be effective on the date it is issued. There is not supposed to be a "time limit", based on the consideration that you (the foreign spouse) must maintain residency status in the ROC.

Q: I assume that for new ESA Article 51 the allowance of multiple work permits will be allowed, as it was the same as under old ESA Article 48, please advice a.s.a.p. If there is a difference, as I am also now getting ready to fill out a work permit for my second job.

A: As stated above, as a foreign spouse applying under the new ESA Article 51 regulations, you obtain an open work permit. It is not specific to any one employer, organization, or type of work, but serves to give you permission to work legally in the ROC across the board. There is no need to apply for a second open work permit.

Q: My future employer wishes to ask you if she will need to go the Taichung County Department of Education, as to prove my status as a qualified teacher i.e. with a bachelor degree and my health report? Also she was wondering why she didn't need to submit any Employer documents like proof of her registration, licenses, etc. as under old ESA Article 48?

A: This is an application for an open work permit for the ROC area. You, as the foreign spouse, apply for it yourself. It is not "employer-specific". If you get this work permit, and an employer wants to hire you, then that is OK. It is the same as for an ROC national. If the employer wants to hire an ROC national it is OK. Please examine the application procedures and note the required attachments. A health report is **not** needed. Proof of educational background is **not** needed

Q: If these questions are covered by the open work permit, then I will relay this information to her. For her and for me it is a totally new procedure and it feels too easy to apply for and too simple but if that is the case, then it is great for us both. But I do wish to thank you so much for your hard work for foreigners-married to local ROC citizens, -- your hard work is succeeding little by little to gain the freedom where it is needed for both Taiwan Government and foreigners to be happy together.

A: Indeed this is a very new procedure. The new law was only promulgated January 21, 2002. The girls at the CLA counters are still very much confused.

Don't expect them to give you coherent explanations if you go there in person. We have worked hard to obtain copies of the relevant forms, and to write out a detailed commentary, so that the rights of foreign spouses in Taiwan can be protected. We also want foreign spouses to be able to enjoy the fruits of all government liberalization policies immediately when they are put into effect.

Obviously, you do need to have residency rights based on marriage to a local ROC citizen if you want to apply via the new ESA Article 51.01.01 route. If you have permanent residency, you can apply under 51.01.05, and the application forms are slightly different.

If you do qualify, we urge you to complete the application procedures and mail in your forms by registered mail to the address indicated as soon as possible.

After you receive your work permit, please send Richard a photocopy for reference, so that he can continue to communicate with CLA officials, and see what further liberalizations may be possible, or if the officials have misconstrued anything so far.