

Draft Act for the Recruitment and Employment of Foreign Professional Talent

Explanation of the legislative policy and structure

National Development Council
2016



Outline

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1. Legislative Purpose and Foundation

Purpose

In face of the challenges of an exodus of talent and intense competition among countries to attract talent, this law is specially drafted to strengthen the recruitment and employment of foreign talent, consolidating the content and progress of related amendments of law by the competent government agencies, so as to effectuate the government's overall talent policy and raise national competitiveness.

Foundation

1. At its policy meeting on October 4, 2016, the Executive Yuan resolved that, **in respect of amending the law to attract foreign professionals to Taiwan, it was appropriate to do so in the form of making a special act for relaxing visa, residence, tax and other provisions applying to foreign professionals who met specified conditions.**
2. Also, when the Executive Yuan approved the program of “Perfect Taiwan's Environment for Retaining Talent” proposed by the NDC, **it instructed the NDC to examine the feasibility of introducing a *Special Act for Attracting Talent*, and to present a report on this or a draft of such act to the Executive Yuan.** The NDC acted on this instruction by drawing up the Draft Act for the Recruitment and Employment of Foreign Professional Talent.

Planning Focuses

The **program of “Perfect Taiwan's Environment for Retaining Talent”**, approved by the Executive Yuan on October 19 this year, presented 27 reform strategies in seven major areas to address problems pertaining to foreign talent coming to and remaining in Taiwan, plus 12 response strategies for matters therein involving amendments of law. Also, in line with industrial development policy needs, while taking consideration of approaches in competitive countries such as Singapore, Japan, Korea, the U.S. and the UK, and **under the principle of not changing the job qualifications and screening criteria for foreign talent to come to Taiwan**, it mapped out **liberalizations** relating to **visas, residence, insurance, naturalization, retirement** and other aspects of their treatment, to make Taiwan's work environment friendlier and thereby encourage talent to come to Taiwan and remain here.

2. Legislative Content and Explanation

(1) Name of the law

Act for the Recruitment and Employment of Foreign Professional Talent
(21 Articles in total)

(2) Legislative objectives

In this era of the globalized knowledge economy, sufficiency and quality of talent is a core factor in national competitiveness. Taiwan is currently facing the challenges of an exodus of talent and intense competition among countries to attract talent. Hence, **this law is drawn up as a means of better enabling Taiwan to recruit and employ foreign talent, and thereby raise its national competitiveness.** Article 1 of the draft Act

(3) Competent authorities

- Authority proposing this Act: National Development Council
- The competent authorities for each Article of the Act are as below:

Competent Authority	Content and Article of Draft Act	Competent Authority	Content and Article of Draft Act
Ministry of Labor	Professional work permits (Article 4)	Ministry of Education	Work and residence of teachers of non-academic classes in short-term tutorial schools (Article 5)
	Work and residence of teachers of non-academic classes in short-term tutorial schools (Article 5)		Retirement of foreign teachers (Article 11)
	Extension of work and residence period for special professionals (Article 6)		Intern long stay (Article 19)
	Employment Gold Cards (Article 7)	Ministry of Foreign Affairs	Employment Gold Cards (Article 7)
	Freelance artists (Article 9)		Family visit stay of lineal ascendants (Article 12)
	New labor pension system (Article 10)		Job-seeking long stay (Article 18)
	Work for adult children of permanent resident foreign professionals (Article 16)	Intern long stay (Article 19)	Ministry of Finance
Ministry of the Interior	Work and residence of teachers of non-academic classes in short-term tutorial schools (Article 5)	Ministry of Culture	Freelance artists (Article 9)
	Extension of work and residence period for special professionals (Article 6)	Ministry of Health & Welfare	Inclusion in National Health Insurance (Article 13)
	Employment Gold Cards (Article 7)	Ministry of Economic Affairs	Intern long stay (Article 19)
	Family visit stay of lineal ascendants (Article 12)	Ministry of Science & Technology	Intern long stay (Article 19)
	Permanent residence for family members of senior professionals (Article 14)	Ministry of Justice	Intern long stay (Article 19)
	Permanent residence for family members of permanent resident foreign professionals (Article 15)	Ministry of Transportation & Communications	Intern long stay (Article 19)
	Work for adult children of permanent resident foreign professionals (Article 16)	Financial Supervisory Commission	Intern long stay (Article 19)
	Cancellation of permanent residence (Article 17)	Mainland Affairs Council	Mutatis mutandis application to residents of Hong Kong and Macau (Article 20)

(4) Those to whom the Act applies, and order of application of law

Objects of address

1. **Professionals** in Taiwan under Article 46 Para 1 Subparas 1-6 of the Employment Services Act.

Article 3

2. **Teachers of non-academic classes in short-term tutorial schools** registered under the Supplementary Education Act.

Articles 3 and 5

3. **Employment Gold Card holders**, may freely change work in Taiwan

Article 7

4. Foreign **freelance artists**.

Article 9

5. **Foreign professionals and public school teachers** who have obtained permanent residence.

Articles 10 and 11

6. **Interns** and **job-seekers** coming to Taiwan for long stay.

Articles 18 and 19

7. **Residents of Hong Kong and Macau** working in Taiwan.

Articles 5, 6, 7, 8, 9, 13, 18, 19 and 20

8. **Senior professionals** needed by Taiwan, as defined in the Immigration Act.

Article 14

9. **Foreign special professionals** needed by Taiwan, who meet specified conditions.

Articles 3, 6, 7, 8 and 12

Order of application

The provisions of this Act have **precedence of application** to the matters they address, prevailing over other laws with which they conflict. But matters not covered by this Act, or to which the application of other laws is not expressly excluded in the provisions of this Act, shall be governed by the provisions of other relevant laws, including: the **Employment Services Act**, the **Supplementary Education Act**, the **Immigration Act**, the **Income Tax Act**, the **Income Basic Tax Act**, the **Labor Pension Act**, the **Act Governing the Retirement of School Teachers and Staff**, and the **National Health Insurance Act**.

Article 2

(1) Relaxation of law relating to **work permits** for foreign professional talent



Before

Visa free
(maximum
3 months)

1. Employment Services Act

Article 43: Foreign nationals not allowed to work in Taiwan unless their employer applies for a work permit for them.
Article 46: Restrictions on foreign nationals working in Taiwan.
Article 48: Application for permit to employ a foreign national, and exceptions.

2. Employment Services Act Article 51:

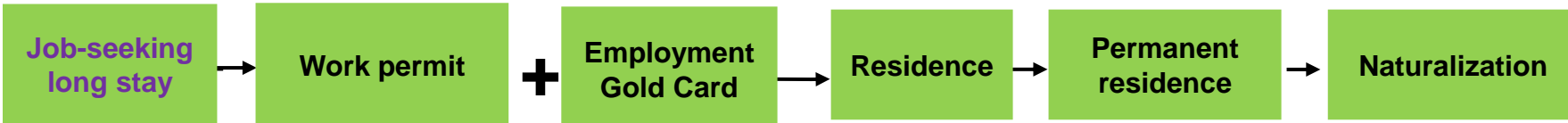
Those approved for permanent residency may apply for personal work permit.

Immigration Act

Article 25: Professional & technical immigrants directly obtain permanent residence.
Article 33: If do not reside in Taiwan for 183 days of any year, permanent residence may be revoked.

Nationality Act

Article 9: Foreign nationals applying for naturalization must submit proof of renouncing original citizenship.



After



Article 18: Foreign nationals may come to Taiwan to seek employment for 6 + 6 months, and need not leave the country. May not apply for the same again within 3 years.

Article 4: Professional work permits issued by the Ministry of Labor.
Article 5: Teachers of non-academic classes in short-term tutorial schools.
Article 6: Up to 5 years for special professionals.
Article 9: Freelance artists.

Article 7: Personal work permits issued to special professionals, with duration up to 3 years, and may reapply at expiration.

Article 6: Residence extended to up to 5 years for special professionals.

Draft amendment of Immigration Act Article 33, or this Act Article 17: Relaxing the 183-day rule for revocation of permanent residence.

Nationality Act Article 9: Those who have served Taiwan with distinction or who are senior professionals in various fields do not need to submit proof of renouncing original citizenship when applying for naturalization, and are conditionally allowed to hold dual nationality. (Passed 3rd reading in LY on December 9, 2016 and promulgated by the President on December 21, 2016.)

(2) Relaxation of visitor stays, permanent residence and work for spouses and children

- 1. Act Governing the Issuance of Visas in Foreign Passports Article 10:** Visitor visas only usable for short stays in Taiwan
- 2. Immigration Act Article 3:** Visits may not exceed 6 months.

Regulations Governing Visiting, Residence and Permanent Residence of Aliens Articles 8 and 9: Adult foreign children of a father or mother holding ARC or APRC may apply for 3-year extension of stay, and may apply for one more 3-year extension when it expires.

- 1. Employment Services Act Article 46:** Restriction of foreign nationals engaging in work in this country.
- 2. The Qualifications and Criteria Standards for Foreigners Undertaking the Jobs Specified under Article 46.1.1 to Article 46.1.6 of the Employment Services Act Article 5-1:** Points system for foreign students to stay.

- 1. Immigration Act Article 25:** Lawfully and continuously reside for 5 years, 183 days each year.
- 2. Regulations Governing Visiting, Residence and Permanent Residence of Aliens Article 11:** To apply for permanent residence, must provide proof of property or special skills sufficient for self-support.

Nationality Act Article 9: Foreign nationals applying for naturalization must submit proof of renouncing original citizenship.

Before

After

Family visit stay of lineal ascendants

Extension of residence for adult children

Work permits for adult children

Permanent residence for spouses and children

Naturalization

Article 12
Family visit visas for lineal ascendants of special professionals, allowing stay of up to one year each time.

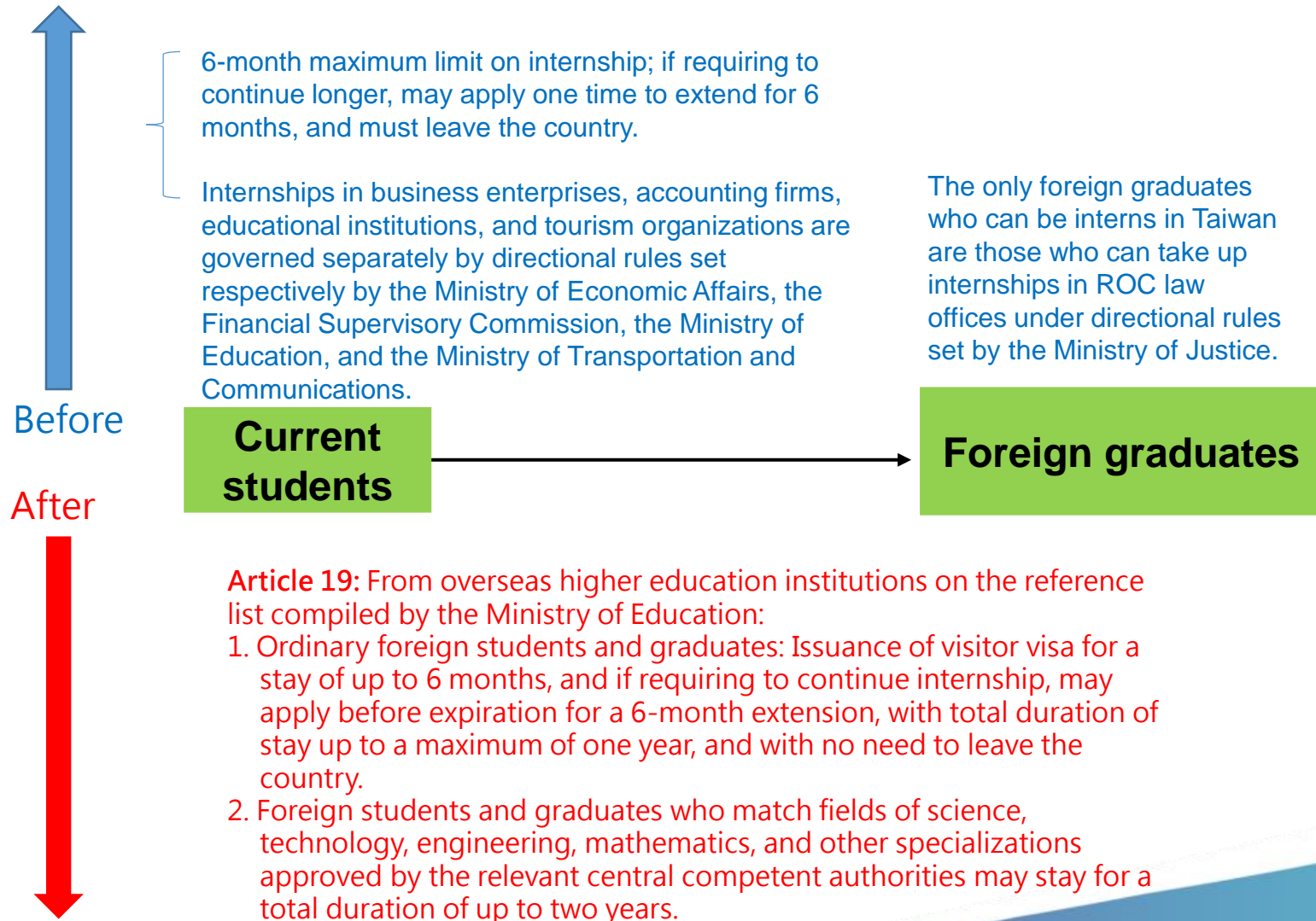
Article 16
If the adult children of a permanent resident foreign professional meet specified conditions as to length of residence, they may apply for a personal work permit the same as under Article 51 of the Employment Services Act.

Draft amendment of the Immigration Act Article 25 or this Act Article 14: The spouse and minor children of a senior professional may apply for permanent residence together with the senior professional.

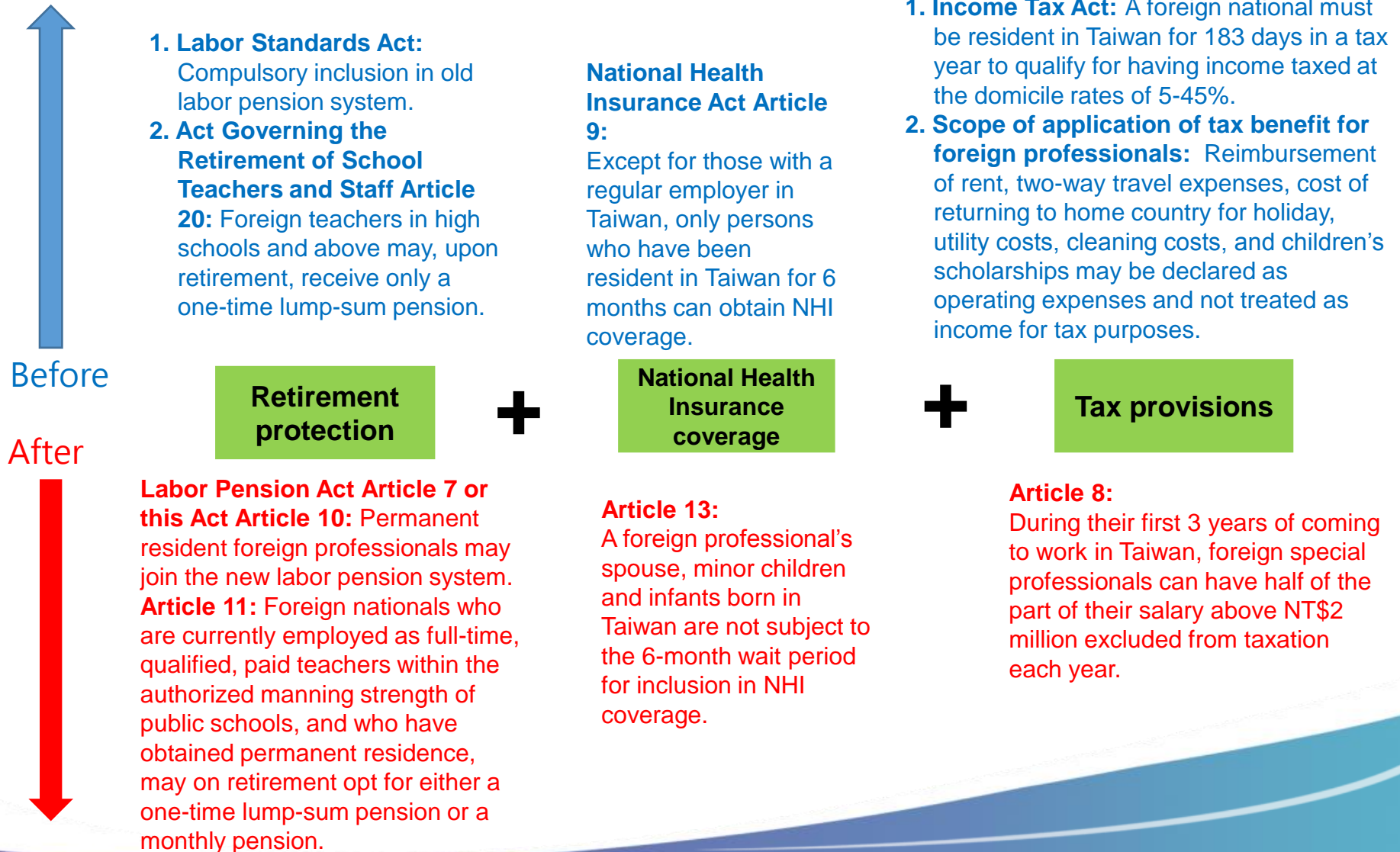
Article 15: After a foreign professional has obtained permanent residence, their spouse and minor children who have lawfully resided in Taiwan for 5 years may apply for permanent residence, and need no proof of financial ability.

Nationality Act Article 9: Those who have served Taiwan with distinction or who are senior professionals in various fields do not need to submit proof of renouncing original citizenship when applying for naturalization, and are conditionally allowed to hold dual nationality. (Passed 3rd reading in LY on December 9, 2016 and promulgated by the President on December 21, 2016.)

(7) Easing of provisions for foreign students and graduates to come to Taiwan as **interns**



(8) Relaxations concerning retirement, National Health Insurance, and tax

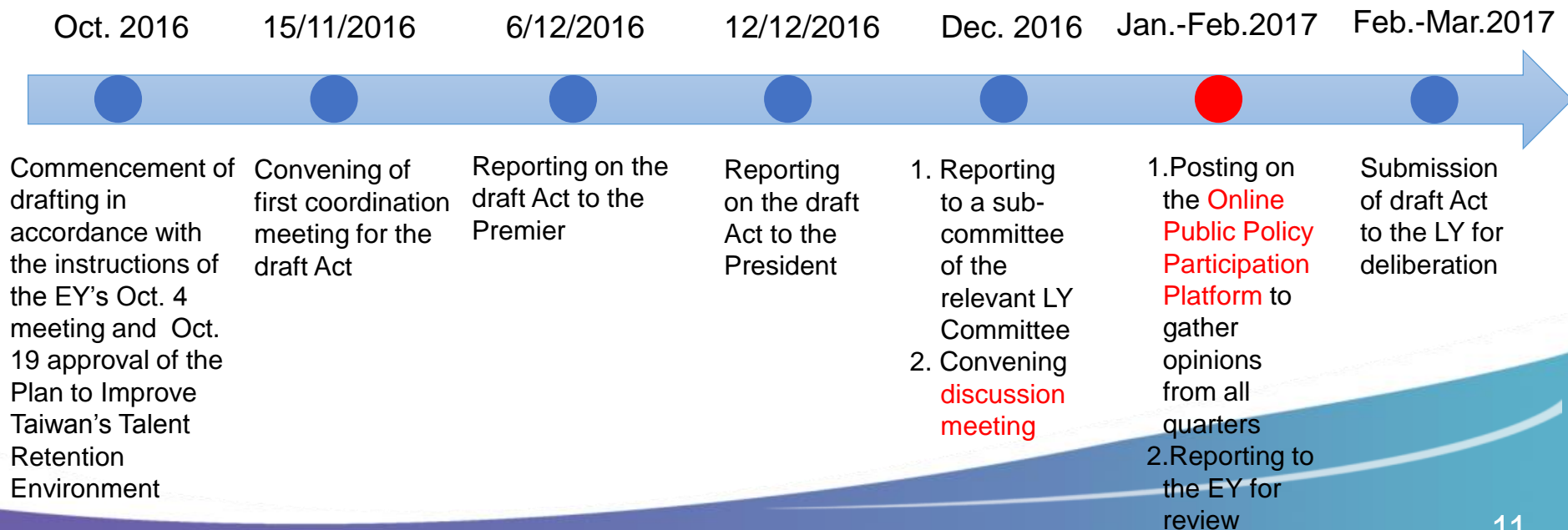


3. Follow-up

(1) Follow-up action:

Besides convening this discussion meeting and using the Online Public Policy Participation Platform to gather opinions from all quarters, the NDC will report to the Executive Yuan for review of completed follow-up action and submit the draft Act to the Legislative Yuan for deliberation.

(2) Projected implementation schedule:



End of Briefing

**Please let us have your thoughts
and suggestions**

Definition of Special Professional

Having combined the suggestions of each central government authority as to the definition of “special professional”, the NDC suggests the qualifying conditions listed below, but will subsequently still give consideration to opinions from all quarters, and set the applicable criteria in consultation with each relevant central competent authority.

1. One who has previously held, or currently holds, in another country or in Taiwan, a position with the most recent monthly salary in the top 25% of salaries of foreign professionals currently in Taiwan (an average of NT\$160,000).
2. A person recommended by Taiwan’s Academia Sinica, the Industrial Technology Research Institute, or a foreign science & technology, economic & trade, or academic association that has signed a talent exchange MOU.
3. A senior executive or manager of an R&D center, operations HQ or transnational corporation set up in Taiwan.
4. A National Academy of Sciences academician or a scholar of national academician level.
5. A person of outstanding talent who has worked in government to promote a focal industry (such as high-tech, e-commerce, new materials, digital economy, green energy, and technology management), and is able to substantively promote industrial upgrading and transformation in Taiwan.
6. Others who are recognized by the relevant central competent authority as belonging to a category of professionals of which there is a shortage and for which there is extreme need in Taiwan, or who have special ability, skill or knowledge in science & technology, economics, education, culture, the arts, sports or other fields, and who have won international awards, and are beneficial to the interests of the Republic of China.