

# 論平台經濟美食外送員之勞動權益保障

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## 摘要

近年來，資訊通信科技快速發展，平台經濟隨之興起，其中美食外送平台業者於台灣蓬勃發展，也產生了勞務提供的新的方式。於平台經濟之下，美食外送員與平台業者之間，是否為勞動關係，饒生爭議。本文擬先介紹學說及實務見解向來對勞動關係之認定，再就釋字第 740 號解釋進行分析，最後評論透過勞動部公布之「勞動契約認定指導原則」來認定平台業者與美食外送員間是否為勞動關係是否妥適。此外，檢視現行法下對於不具勞動關係之平台經濟美食外送員之勞動權益保障，亦為本文之目的之一。

**關鍵字：**平台經濟、美食外送員、釋字第 740 號解釋

## **Abstract**

With the development of information-technology, the new working style and platform economy, is becoming increasingly popular in Taiwan. Under the platform economy, whether there is an employment agreement between food delivery staff and platform operators is a matter of dispute. This article first introduces how the court decisions and scholars specify the concept of labor, and then analyzes the interpretation of J.Y. Interpretation No. 740. and "Directions for Classifying an Employment Agreement" announced by the Ministry of Labor. In addition, it is also one of the purposes of this article to review the labor protection of food delivery workers who are not employed under the current laws.

**Keywords:** platform economy, food delivery, J.Y. Interpretation No. 740