



# Regulations Governing the Employment of Foreigners in China

## Contents

Chapter I	General Provisions
Chapter II	Employment License
Chapter III	Application and Approval
Chapter IV	Labor Management
Chapter V	Penalties
Chapter VI	Supplementary Provisions

## Chapter I

### General Provisions

#### Article 1

These regulations have been formulated in accordance with stipulations of relevant laws and regulations, for the purpose of strengthening the management of the employment of foreigners in China.

#### Article 2

The foreigners, as mentioned in these regulations, refer to aliens who do not possess the Chinese nationality status as stipulated in the Nationality Law of the People's Republic of China.

The employment of foreigners in China, as mentioned in these regulations, refer to such circumstances, under which the aliens, who do not have the right of abode in China, conduct legal labor service within the Chinese territory and obtain pay for such labor service.

#### Article 3

These regulations are applicable to both those foreigners who seek employment in China and those work units which employ foreigners.

These regulations are not applicable to those personnel working in China-based foreign embassies, consulates, the United Nations representative offices and other international organizations, which enjoy diplomatic privilege and immunity.

#### Article 4

The labor administrative departments of the people's governments of provinces, autonomous regions and

municipalities, and their authorized prefectural-level labor administrative departments, are responsible for the management of employment of foreigners in China.

## Chapter II

### Employment License

#### Article 5

A work unit which wishes to employ a foreigner, shall apply for employment license for the foreigner in question, and can only employ him or her, after the application has been approved and the "Foreigners' Employment License Certificate of the People's Republic of China" (hereinafter referred to as license certificate) has been issued therefore.

#### Article 6

The job posts to be assigned to foreigners in a work unit shall be of such specific requirement, which can not for the time be fulfilled by appropriate domestic employees and which does not violate relevant State regulations.

A work unit shall not employ foreigners to engage in commercial art performances, except in such cases as stipulated in Item 3, Article 9 of these regulations.

#### Article 7

Foreigners, who seek employment in China, shall possess the following qualifications:

- (1) Who are more than 18 years old and have a good health;
- (2) Who possess professional techniques and related working experiences as needed in such work posts they pursue;
- (3) Who have no criminal records;
- (4) Who are known to specific work units which wish to employ them; and
- (5) Who possess valid visa or other international travel documents which are equivalent to visas (hereinafter referred to as documents equivalent to visa).

#### Article 8

Foreigners seeking employment in China shall have the occupational visa at the time of their entry into

China (but in case the foreigners' own resident countries and China have signed official agreements on mutual exemption of visas, such official agreements shall prevail), and they can only be employed in China after having been issued the "Foreigner's Employment Certificate" (hereinafter referred to as employment certificate) and foreigner's resident permit.

Foreigners who enter China without resident permit (that is to say they hold F, L, C, G visas), foreigners who study or train in China, and the foreigners who accompany their spouses entering China with occupational visas, should not seek employment in China. Under special circumstances, the employing unit shall apply for the issuance of the license certificate according to the procedures stipulated in these regulations; and, then, the foreigner in question shall bring such license certificate to the public security department to change their visa status, and he or she can only be employed after having obtained both the employment certificate and residence permit.

Regarding the employment of the spouses of diplomatic personnel working for foreign embassies, consulates, the United Nations organs and other international organizations' representative offices in China, the "Regulations of the Ministry of Foreign Affairs of the People's Republic of China on Employment of the Spouses of the Personnel Working for China-based Embassies, Consulates and Representative Offices of the United Nations System" shall apply, and they shall also go through formalities according to the examination and approval procedure stipulated in Article 2 of these regulations.

License certificate and employment certificate are to be made by the Ministry of Labor.

#### **Article 9**

Foreigners who fall into one of the following categories do not have to obtain the license certificate and employment certificate:

(1) Foreign professionals and management executives directly invited and paid for by the Chinese Government; or foreign professionals and executives who are invited and paid for by Chinese Government departments and institutions and who hold senior professional titles or certificates of special skills, which have been verified by the foreign country's or international authoritative technology management organs or trade associations, and also hold "Foreign Expert's Certificate" issued by the State Administration of Foreign Experts;

(2) Alien laborers with special skills who hold "Work Permit of Foreigners Engaged in Offshore Oil

Operations in the People's Republic of China", who are involved in offshore oil operations and need not go onshore;

(3) Foreigners who hold "Temporary Commercial Performance License" approved by the Ministry of Culture to conduct such commercial artistic performance in China.

#### **Article 10**

Foreigners, who fall into one of the following categories, do not have to obtain license certificate but can directly apply for employment certificate, upon presenting their professional visas and other relevant documents after making entry into China:

(1) Foreigners who are engaged in Sino-foreign exchange and cooperation programs in accordance with related agreements and contracts signed between the Chinese and foreign governments or international organizations; and

(2) Chief representatives and representatives of foreign companies' China-based permanent representative offices.

### **Chapter III**

#### **Application and Approval**

#### **Article 11**

A work unit wishing to employ a foreigner, shall fill in "Application Form of Employing Foreigners" (hereinafter referred to as application form), and hand in application to the unit's relevant trade administrative department (hereinafter referred to as trade administrative department), which is of the same ranking as the unit's related labor administrative department, and submit the following valid documents:

(1) The verified curriculum vitae of the foreigner to be employed;

(2) The letter of intent for employment;

(3) A report stating why the foreigner should be employed;

(4) A certificate showing the foreigner is qualified for the work post in question;

(5) The health report of the foreigner to be employed; and

(6) Other documents as stipulated by laws and regulations.

The trade administrative departments shall examine and approve such applications in accordance with stipulations of Article 6 and 7 of these regulations and other relevant law and regulations.

#### **Article 12**

The work unit, whose application has been approved by the relevant trade administrative department, shall bring the application form to the relevant labor administrative department of the provinces, municipalities and autonomous regions in which the unit is located, or to the authorized prefectural-level labor administrative department to seek their examination and approval.

The labor administrative department of provinces, municipalities and autonomous regions, or their authorized prefecture-level labor administrative department, shall appoint a special organ (hereinafter referred to as certificate-issuing department) to be responsible for the specific role of signing and issuing the employment license.

The license-issuing organ shall conduct the final check and approval of such application form, in line with the suggestion of the trade administrative departments and also the supply and demand of the labor market, and sign and issue such license certificate to the applying work unit.

#### **Article 13**

Work units directly under the Central Government and units not governed by any trade administrative department, which wish to employ foreigners, can directly submit their applications to the certificate-issuing departments and go through formalities for obtaining an employment license.

Foreign-invested enterprises, which wish to employ foreigners, do not have to obtain approval from the trade administrative department but can directly apply to the certificate-issuing departments for the issuance of license certificate, by submitting the relevant contract, articles of association, approval certificate, business license and other documents as stipulated in Article 11 of these regulations.

#### **Article 14**

Work units, having obtained approval on the employment of foreigner, shall not give the foreigner in question, directly, the license certificate, which shall, however be issued by the authorized department.

#### **Article 15**

Foreigners, who have obtained permission to come and work in China, shall apply to the Chinese embassy, consulate or consular office for employment visa, on presentation of the employment license issued by the Ministry of Labor, the written or cable notice from the authorized department and valid passports or other certificates of the same effect.

Foreigners, which fall into category of the first item in Article 9 of these regulations, shall apply for employment visa on presentation of the written or cable notice from the authorized department; those falling into category of the second item in Article 9 of these regulations should apply for employment visa on presentation of the written or cable notice from the China Offshore Petroleum Corporation; those falling into category of the third item in Article 9 of these regulations should apply for employment visa on presentation of written or cable notice from the foreign affairs offices of the people's government of provinces, autonomous regions and municipalities or the Ministry of Culture.

Foreigners falling into category of the first item in Article 10 of these regulations shall apply for employment visa on presentation of written or cable notice from the authorized department and the unit in charge of the co-operation or exchange project in question; those falling into category of the second item in Article 10 of these regulations shall apply for employment visa on presentation of written or cable notice from the authorized department and registration certificate issued by the relevant industry and commerce administrative departments.

#### **Article 16**

The employing unit should, within 15 days after the foreigner in question has entered into China, submit the employment license, labor contracts with the foreign employee, his/her valid passport or other effective certificates to the relevant license-issuing department for examination and issuance of the employment certificate and fill out the Registration Form of Foreign People's Employment.

The employment certificate is valid within areas as stipulated by the certificate-issuing department.

#### **Article 17**

Foreigners who have obtained the employment certificate should present it to the relevant public security department to apply for a residence permit, within 30 days after having arrived in China. The valid term of the residence permit can be determined according to that of the employment certificate.

## Chapter IV

### Labor Management

#### Article 18

Employing unit and the employed foreigner should sign a labor contract according to law. The term of the contract should not exceed five years. The contract terminates when the contract expires, but the two parties can renew such contract after going through the necessary examination and approval procedures, according to the provisions in Article 19.

#### Article 19

The validity of employment certificate terminates at the same time as the labor contract between the foreigner and his/her employing unit expires. If the two parties wish to renew the contract, the employing unit should apply to labor administrative departments for extending the employment term and go through the employment certificate extension procedures, within 30 days after having obtained such approval and before the expiry of the labor contract.

#### Article 20

The employed foreigner shall apply to the local public security department for completing the necessary procedures on extension or change of his/her employment term, within 10 days after having obtained approval on the extension of employment term in China or the change of employing area or unit.

#### Article 21

After the contract between the employed foreigner and the employing unit has expired, the employing units should report to the relevant labor and public security departments and return the foreigner's employment certificate and residence permit and apply to the public security department for undergoing procedures for the foreigner's exit from this country.

#### Article 22

The employing unit should pay its foreign employee a salary not lower than the minimum salary standard of the local area.

#### Article 23

The working schedule, leaves and holidays, labor safety and hygiene, and social insurance for foreigners working in China should be implemented in accordance with relative State regulations.

#### Article 24

The employing unit for which the foreigner works should be the same as stipulated on the employment certificate.

The employed foreigner, who changes his/her work unit within the area as stipulated by certificate-issuing departments but still sticks to his/her original occupation, should get approval from the certificate-issuing department and go through procedures for changes of the employment certificate.

The foreigner, who leaves the area of employment as stipulated by certificate-issuing departments or who changes his/her work unit and occupation within the stipulated area, should undergo the necessary procedures for obtaining a new employment certificate.

#### Article 25

The employing unit should terminate the labor contract with the foreigner, who have been deprived of their residence permits by the Chinese public security departments for having violated Chinese laws; and the relevant labor administrative departments should cancel the employment certificate of this foreigner in question.

#### Article 26

Disputes between an employing unit and its foreign employee should be dealt with, according to the Labor Law of the People's Republic of China and the Regulations on Handling Labor Disputes in Enterprises in the People's Republic of China.

#### Article 27

The labor administrative departments should carry out annual check of foreigners' employment certificates. The employing units should apply to the certificate-issuing departments and undergo procedures for annual check of the foreigners' employment certificates, 30 days before their employment of such foreigner employee has reached one full year. Such employment certificate will cease to be valid, if the employing unit fails to go through the required procedures within the said time limit.

Foreigners, who have lost or destroyed their employment certificates during their employment in China, should report such loss or destruction of certificate to the original certificate-issuing departments and apply for the re-issuance or change of the certificate.

## **Chapter V**

### **Penalties**

#### **Article 28**

Public security departments should handle the cases of violation against these regulation -- such as foreigners taking up occupations without employment certificates or the employing units assigning jobs to foreigners without employment licenses -- according to Article 4 of the Rules Governing Implementation of the Management Law of Foreigner's Entry and Exit of the People's Republic of China.

#### **Article 29**

Those foreigners -- who refuse to let labor administrative departments check their employment certificates or who change their work units, occupations or extend their term of employment without authorization -- should have their employment certificate recalled by the relevant labor administrative departments and their residence certificates canceled by the public security departments; and these foreigners should be deported by public security departments, with the expenses to be borne by the employing units or by the foreigners themselves.

#### **Article 30**

Those foreigners or employing units, which forge, alter, transfer or trade employment certificates or employment licenses, should have their certificate and licenses seized by the relevant labor administrative departments; and the relevant departments should also confiscate their illegal gains and impose on them a fine of between 10,000 yuan and 100,000 yuan. In cases of serious criminal activities, the violators should be transferred to judicial departments for investigation and prosecution.

#### **Article 31**

Those officials of the certificate-issuing departments or related departments, who abuse their authority, charge illegal fees, commit acts of embezzlement which constitute crimes, should be subject to criminal investigation according to laws; and those officials, whose malpractices are not serious enough to be viewed as criminal activities, should be given administrative punishment.

## **Chapter VI**

### **Supplementary Provisions**

#### **Article 32**

Regulations Governing the Employment of Foreigners in China  
**Notes:**

The employment of residents from Taiwan, Hong Kong and Macao who work in the Chinese mainland should be governed by the Regulations Governing the Employment of Residents of Taiwan, Hong Kong, and Macao in the Chinese Mainland.

#### **Article 33**

These regulations do not apply to employment of foreign nationals in areas of China's Taiwan, Hong Kong and Macao.

#### **Article 34**

No privately-owned economic entity or individual citizen is allowed to employ foreign people.

#### **Article 35**

The labor administrative departments of provinces, autonomous regions and municipalities can formulate detailed rules of implementation in accordance with these regulations, in coordination with the relevant public security departments or other related departments, and report them to the ministries of labor, public security, foreign affairs and foreign trade and economic co-operation for their reference.

#### **Article 36**

The Ministry of Labor is responsible for interpreting these regulations.

#### **Article 37**

These regulations will go into force on May 1, 1996. Regulations Governing Employment of Foreigners without Residence Permit and Foreigners Studying in China, which were issued by the original Ministry of Labor and Personnel and Ministry of Public Security on October 5, 1987, will cease to be valid on the same date.

#### **ATTACHMENT:**

Official Circular on the Issuance of Regulations Governing the Employment of Foreigners in China

To labor(personnel) departments(bureau), public security departments(bureau), foreign affairs offices, foreign trade departments(bureau) at the provincial, autonomous regional or municipal level; departments, committees, and bureau under the State Council and embassies, consulates and consular offices stationed abroad:

The ministries of labor, public security, foreign affairs, and foreign trade and economic co-operation have jointly formulated the Regulations Governing the Employment of Foreigners in China, with a view to strengthening management of the employment of foreign nationals in China, standardizing relative employment behavior, protecting legal rights of foreigners who work in China and units which employ foreign workers.

In implementing these regulations, departments of labor, public security, foreign affairs, and foreign trade should closely co-operate with one another, and report problems to the ministries of labor, public security, foreign affairs, and foreign trade and economic co-operation in time.

The labor departments of provinces, autonomous regions and municipalities, and the China Offshore Petroleum Corporation should report on the implementation of these regulations to the Ministry of Labor.

Foreigners working in China, who do not fall into categories listed under Article 9 of these regulations and who do not possess employment certificates, should have their employing units to undergo procedures of applying for their employment certificates, within two months after these regulations go into effect. The relevant labor departments should, then, issue employment certificates to those who meet the requirements, and stop the employment of those who do not meet the requirements. And such employment will be considered as illegal, when and if the employing unit fails to fulfill the necessary procedures within the stipulated time limit.

The Ministry of Labor will be responsible for making the License for Employing Foreigners in the People's Republic of China and the Employment Certificates of Foreign Nationals. Details therefore will be promulgated separately.

(Effective on May 1, 1996)