Provisions on the Administration of Employment of Foreigners in China

Dan Young Business Consultancy — www.danyoungcpa.com

Unofficial English translation prepared for reference only. The official Chinese text prevails.

Contents

Table of Contents . . . 2

Chapter I — General Provisions . . . 2

Article 1 . . . 2

Article 2 . . . 2

Article 3 . . . 2

Article 4 . . . 2

Chapter II — Employment Permit Application and Approval . . . 2

Article 5 . . . 2

Article 6 . . . 3

Article 7 . . . 3

Article 8 . . . 3

Article 9 . . . 3

Article 10 . . . 3

Article 11 . . . 4

Article 12 . . . 4

Chapter III — Labour Administration . . . 4

Article 13 . . . 4

Article 14 . . . 4

Article 15 . . . 4

Article 16 . . . 4

Article 17 . . . 4

Article 18 . . . 4

Article 19 . . . 4

Article 20 . . . 5

Article 21 . . . 5

Chapter IV — Penalty Provisions . . . 5

Article 22 . . . 5

Article 23 . . . 5

Source: https://www.danyoungcpa.com/provisions-employment-foreigners-china-english-translation/

Article 24 . . . 5
Article 25 . . . 5
Chapter V — Supplementary Provisions . . . 5
Article 26 . . . 5
Article 27 . . . 6

Table of Contents

- Chapter I — General Provisions
- Chapter II — Employment Permit Application and Approval
- Chapter III — Labour Administration
- Chapter IV — Penalty Provisions
- Chapter V — Supplementary Provisions

Chapter I — General Provisions

Article 1

These Provisions are formulated in accordance with the relevant laws and regulations of the People's Republic of China for the purpose of strengthening the administration of the employment of foreigners in China, regulating the employment-related acts, and protecting the lawful rights and interests of both foreigners employed in China and their employers.

Article 2

For the purposes of these Provisions, the term "foreigners" refers to persons who do not hold Chinese nationality and who, in accordance with the provisions of the Law of the People's Republic of China on Control of the Entry and Exit of Aliens, work and receive remuneration within the territory of China. Foreigners who do not hold residence permits, foreigners who study or intern in China, and foreigners who hold F, L, G, or C-type visas are not covered by these Provisions.

Article 3

These Provisions shall apply to the employment of foreigners by enterprises within Chinese territory, as well as to the employment of foreigners by representative offices of foreign enterprises permanently based in China. These Provisions shall not apply to the employment in China of the personnel of foreign embassies or consulates in China, or of the representative offices of the United Nations and other international organizations in China, or to the employment of the personnel of foreign diplomatic missions or consular posts in China.

Article 4

The labour administrative authorities of the people's governments of the provinces, autonomous regions, and municipalities directly under the Central Government, and their authorized labour administrative authorities at the prefectural level shall be responsible for the administration of the employment of foreigners in China.

Chapter II — Employment Permit Application and Approval

Article 5

Source: https://www.danyoungcpa.com/provisions-employment-foreigners-china-english-translation/

An employer shall apply for an employment permit for a foreigner it intends to employ. The employer shall complete the Employment Application Form for Foreigners and submit the following valid documents to the competent trade authority at the same level as the labour administrative authority for examination and consent:

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

(2) the letter of intent for employment;

(3) the report on the reasons for the employment;

(4) the professional qualification certificate of the foreigner to be employed;

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

(6) other documents as required by laws and regulations.

Article 6

After the competent trade authority has examined and approved the application as provided in Article 5, the employer shall submit the application form together with the following documents to the competent labour administrative authority for approval:

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

(2) the letter of intent for employment;

(3) the report on the reasons for the employment;

(4) the professional qualification certificate of the foreigner to be employed;

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

(6) the approval document issued by the competent trade authority.

The labour administrative authority shall examine the application and issue the Employment Permit for Foreigners to the employer if the application meets the requirements.

Article 7

No employer may employ a foreigner without an employment permit, and no foreigner may be employed without an employment permit. Foreigners may only work for the employer specified in their employment permit and may only engage in the position specified in their employment permit.

Article 8

A foreigner who has been issued an employment permit shall apply for a work visa (Z visa) at a Chinese embassy, consulate, or other overseas institution authorized by the Ministry of Foreign Affairs, by presenting the employment permit, the employment contract, and other required documents. Foreigners who enter China on other types of visas may not be employed in China.

Article 9

A foreigner who enters China on a work visa (Z visa) shall, within 15 days of entry, apply for a Foreigner Employment Certificate from the labour administrative authority by presenting the employment permit, the employment contract, and a valid passport. The labour administrative authority shall issue the Foreigner Employment Certificate within 5 working days.

Article 10

A foreigner who has obtained a Foreigner Employment Certificate shall, within 30 days of entry, apply for a residence permit from the public security authority by presenting the Foreigner Employment Certificate and other required documents. The validity period of the residence permit may be determined based on the

validity period of the Foreigner Employment Certificate.

Article 11

Where an employer dispatches a foreigner employed by it to a branch or other affiliated organization outside the place specified in the employment permit to perform duties for a period exceeding 30 days, the employer or the foreigner shall handle the registration procedures at the local labour administrative authority of the new location.

Article 12

The employment permit and the Foreigner Employment Certificate shall be valid for a period not exceeding one year and may be renewed upon expiry. Applications for renewal shall be submitted 30 days before expiry. The maximum cumulative term of employment of a foreigner in China shall generally not exceed 5 years.

Chapter III — Labour Administration

Article 13

The labour administrative authority shall implement a labour permit system for the employment of foreigners. Employers shall obtain a Foreigner Employment Permit before employing foreigners. Foreigners shall obtain a Foreigner Employment Certificate before taking up employment in China.

Article 14

The employer and the foreigner employee shall, in accordance with the law, enter into a written labour contract. The term of the labour contract shall not exceed the validity period of the employment permit. The labour contract shall specify matters including the scope of work, remuneration, working hours, rest and leave, labour protection, and social insurance.

Article 15

The labour administrative authority shall implement a minimum wage guarantee system for foreigners employed in China. The minimum wage standard for foreigners shall be no less than the local minimum wage standard. The specific standard shall be determined by the labour administrative authorities of the provinces, autonomous regions, and municipalities directly under the Central Government.

Article 16

Employers shall pay wages to foreigner employees in full and on time. The wages paid shall not be lower than the minimum wage standard of the locality where the employer is located. The payment of wages shall be made in Renminbi; where payment in a foreign currency is necessary, it shall be handled in accordance with the foreign exchange control regulations of the state.

Article 17

Foreigners employed in China shall participate in social insurance in accordance with the relevant provisions of the state. Employers shall handle social insurance registration for foreigner employees and pay social insurance premiums in accordance with the law. The specific measures shall be implemented in accordance with the Interim Measures on Participation in Social Insurance by Foreigners Employed in China.

Article 18

Labour disputes between employers and foreigner employees shall be handled in accordance with the Law of the People’s Republic of China on Mediation and Arbitration of Labour Disputes and the Labour Law of the People’s Republic of China.

Article 19

Source: https://www.danyoungcpa.com/provisions-employment-foreigners-china-english-translation/

Where a foreigner transfers employment to another employer within China, the original employer shall terminate the labour contract and cancel the Foreigner Employment Certificate. The new employer shall reapply for an employment permit in accordance with the prescribed procedures. No foreigner may work for multiple employers simultaneously unless specifically authorized.

Article 20

Where a foreigner's labour contract is terminated or expires, the employer shall report to the labour administrative authority within 10 working days and return the foreigner's Foreigner Employment Certificate for cancellation. The foreigner shall return the residence permit to the public security authority.

Article 21

The labour administrative authority shall implement an annual inspection system for the Foreigner Employment Certificate. The specific inspection measures shall be formulated by the labour administrative authorities of the provinces, autonomous regions, and municipalities directly under the Central Government.

Chapter IV — Penalty Provisions

Article 22

Where an employer employs a foreigner without obtaining an employment permit, or employs a foreigner beyond the scope specified in the employment permit, the labour administrative authority shall order the employer to terminate the employment and may impose a fine of not less than RMB 10,000 and not more than RMB 50,000 on the employer.

Article 23

Where a foreigner works without obtaining a Foreigner Employment Certificate, or works for an employer other than the one specified in the employment permit, the labour administrative authority shall order the foreigner to cease working and may impose a fine of not less than RMB 1,000 and not more than RMB 10,000 on the foreigner. Where the circumstances are serious, the public security authority shall order the foreigner to leave China within a specified period.

Article 24

Where an employer or a foreigner forges, alters, fraudulently uses, assigns, or buys or sells an employment permit or Foreigner Employment Certificate, the labour administrative authority shall confiscate the forged, altered, or fraudulently used document, and impose a fine of not less than RMB 10,000 and not more than RMB 30,000. Where the case constitutes a crime, criminal liability shall be pursued according to law.

Article 25

Where an employer commits any of the following acts, the labour administrative authority shall order it to make corrections and may impose a fine of not less than RMB 5,000 and not more than RMB 20,000:

(1) employing a foreigner without entering into a written labour contract;

(2) failing to report the termination of a labour contract with a foreigner within the prescribed time limit;

(3) dispatching a foreigner employee to work in another location without completing the required registration procedures;

(4) failing to pay social insurance premiums for a foreigner employee as required.

Chapter V — Supplementary Provisions

Article 26

Source: https://www.danyoungcpa.com/provisions-employment-foreigners-china-english-translation/

The employment in China of residents of the Taiwan region, the Hong Kong Special Administrative Region, and the Macao Special Administrative Region shall be handled in accordance with the relevant provisions of the state. The employment in the mainland of residents of Taiwan, Hong Kong, and Macao shall be governed by the Provisions on the Administration of the Employment of Residents of Taiwan, Hong Kong, and Macao in the Mainland.

Article 27

These Provisions shall come into force on May 1, 1996. The Provisions on the Administration of the Employment of Foreigners in China issued by the former Ministry of Labour on January 22, 1996 shall be repealed simultaneously. In the event of any inconsistency between any previously issued provisions on the employment of foreigners and these Provisions, these Provisions shall prevail.

Disclaimer: This is an unofficial English translation provided for reference and informational purposes only. While every effort has been made to ensure accuracy, only the official Chinese version published by the National People's Congress (NPC) or the State Council of the People's Republic of China carries legal force. For legal matters, please consult a qualified professional. For official legal advice specific to your situation, contact Dan Young Business Consultancy.