Provisions on the Administration of Foreign Experts Working in China of the PRC

Dan Young Business Consultancy — www.danyoungcpa.com

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

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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 on the administration of entry and exit of foreigners and employment of foreigners in China, for the purposes of regulating the administration of foreign experts working in China, promoting international exchanges and cooperation in science, technology, education and culture, and safeguarding the lawful rights and interests of foreign experts and their employing entities.

Article 2 — "Foreign experts" as used in these Provisions means foreign professionals who possess specialized knowledge, skills or experience and come to China for short-term or long-term work. Foreign

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experts are classified into the following categories:

(1) Economic and technical experts: foreign professionals engaged in technical guidance, technical consultation, engineering design, project management and other technical work;

(2) Cultural and educational experts: foreign professionals engaged in education, scientific research, journalism, publishing, culture, art, sports, health and other work;

(3) Management experts: foreign professionals engaged in enterprise management, financial management, marketing management, human resources management and other work;

(4) Other foreign professionals meeting the criteria determined by the State Administration of Foreign Experts Affairs.

Article 3 — The State Administration of Foreign Experts Affairs of the State Council (hereinafter referred to as the "State Administration of Foreign Experts Affairs") shall be responsible for the unified administration of foreign experts working in China nationwide.

The departments of foreign experts affairs of the local people's governments at or above the county level shall, in accordance with the division of duties, be responsible for the administration of foreign experts working in China within their respective administrative regions.

Article 4 — The State encourages the introduction of high-level foreign experts urgently needed in economic and social development. The State shall implement a classified administration system over foreign experts working in China, with management by category.

Article 5 — Foreign experts working in China shall abide by the laws and regulations of China and shall not engage in activities inconsistent with their status as foreign experts.

Chapter II — Classification and Qualification Requirements

Article 6 — Based on the professional level and work needs, foreign experts are classified into three categories: high-end foreign experts (Category A), professional foreign experts (Category B), and general foreign experts (Category C).

Article 7 — High-end foreign experts (Category A) means foreign professionals who meet the criteria of high-level talents urgently needed for China's economic and social development, and shall satisfy one of the following conditions:

(1) Being selected for a domestic talent introduction program;

(2) Meeting the criteria for internationally recognized professional achievement awards;

(3) Meeting the criteria for talents encouraged by market demand;

(4) Being an innovative and entrepreneurial talent;

(5) Being an outstanding young talent;

(6) Scoring 85 points or more under the points-based system.

For high-end foreign experts, the administration shall be conducted in accordance with the convenience service measures. Applications may be accepted online, and no paper application materials are required.

Article 8 — Professional foreign experts (Category B) means foreign professionals who meet the needs of economic and social development, and shall satisfy one of the following conditions:

(1) Possessing a bachelor's degree or above and two years or more of relevant work experience;

(2) Holding an international general professional skills qualification certificate or being urgently needed skilled talents;

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(3) Teaching foreign languages, where the teacher is a native speaker of the language taught and possesses a bachelor's degree or above and two years or more of teaching experience in foreign language education;

(4) Having an average salary income not less than four times the average social salary of the region in which the foreign expert is located in the previous year;

(5) Meeting the criteria for professional personnel needed by relevant state departments, or scoring 60 points or more under the points-based system.

Article 9 — General foreign experts (Category C) means foreign professionals who meet the needs of the domestic labor market and comply with the provisions of the relevant state policies, including:

(1) Foreign professionals who comply with the provisions on the management of foreign experts currently working in China;

(2) Foreign professionals engaged in temporary or short-term work (not exceeding 90 days);

(3) Other foreign professionals subject to quota management, including foreign students, graduates of overseas universities, foreign professionals coming to China for internships, and others.

Chapter III — Application and Approval Procedures

Article 10 — An employing entity that intends to employ a foreign expert shall submit an application to the department of foreign experts affairs or the administrative department of human resources and social security at the place where the entity is located, and go through the formalities for the Foreign Expert Coming to China for Work Permit (hereinafter referred to as the "Work Permit").

Article 11 — The employing entity shall submit the following application materials:

(1) An application form for the Foreign Expert Coming to China for Work Permit;

(2) The applicant's valid passport or other international travel document;

(3) The applicant's resume, educational background certificate and proof of relevant work experience;

(4) The employment contract or appointment letter (dispatch letter);

(5) A medical examination report;

(6) A certificate of no criminal record;

(7) A recent bareheaded, full-face photograph of the applicant;

(8) Other materials required by the examination and approval authority.

Article 12 — For a foreign expert applying for Category A (high-end talents), the review and approval authority shall complete the review within five working days. For a foreign expert applying for Category B (professional talents), the review and approval authority shall complete the review within 10 working days. For a foreign expert applying for Category C (general personnel), the review and approval authority shall complete the review within 15 working days.

Article 13 — Foreign experts who have obtained the Work Permit shall apply for a work-type residence permit from the exit-entry administration department of the public security organ of the people's government at or above the county level at the place where the employing entity is located within 30 days of entering China.

Article 14 — The validity period of the Work Permit shall be determined according to the term of the employment contract, the validity period of the passport or other international travel document, and the applicant's personal conditions, and the maximum term shall not exceed five years.

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Article 15 — Where a foreign expert needs to renew the Work Permit upon expiration, the employing entity shall apply for an extension to the original examination and approval authority within 30 days before the expiration of the Work Permit. The extension period shall not exceed the term of the employment contract.

Article 16 — Where a foreign expert changes his employing entity within the validity period of the Permit but the position remains unchanged, he shall go through the formalities for the change of the Work Permit. Where a foreign expert changes his position, the employing entity shall re-apply for the Work Permit.

Chapter IV — Rights and Obligations

Article 17 — Foreign experts working in China shall enjoy the following rights in accordance with the law:

(1) Receiving labor remuneration according to the employment contract or agreement;

(2) Enjoying rest and vacation in accordance with the law;

(3) Enjoying labor safety and health protection;

(4) Participating in social insurance and enjoying social insurance benefits in accordance with the law;

(5) Having the lawful rights and interests provided for by other laws and regulations.

Article 18 — The employing entity shall sign a written employment contract with the foreign expert, specifying the work content, work location, working hours, rest and vacation, labor remuneration, social insurance, labor protection, labor conditions, and other contents. The employment contract shall comply with the relevant provisions of the laws and regulations.

Article 19 — Foreign experts shall enjoy treatment no less favorable than that of Chinese employees in the same entity who hold the same position, unless otherwise provided by law.

Article 20 — Foreign experts working in China shall fulfill the following obligations:

(1) Abiding by the laws and regulations of China and respecting Chinese customs and habits;

(2) Performing work within the scope of the Work Permit and not engaging in activities unrelated to the work permit;

(3) Observing the rules and regulations of the employing entity and completing the work tasks stipulated in the employment contract;

(4) Paying individual income tax in accordance with the law;

(5) Not engaging in activities that endanger national security or harm social and public interests.

Article 21 — The employing entity shall provide foreign experts with working and living conditions in accordance with the employment contract. The employing entity shall assist foreign experts in handling matters relating to residence, medical care, children's schooling and other matters.

Article 22 — The employing entity shall pay labor remuneration to foreign experts in full and on time. The minimum wage standard for foreign experts shall be implemented by reference to the relevant provisions on the minimum wage for foreigners employed in China.

Chapter V — Administration and Services

Article 23 — The State Administration of Foreign Experts Affairs shall establish a national unified information management system for foreign experts working in China, for the purposes of information sharing, dynamic management and convenient services.

Article 24 — The departments of foreign experts affairs of the local people's governments at or above the county level shall establish a credit file for employing entities, and shall strengthen the supervision and

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administration of foreign experts working in China.

Article 25 — The employing entity shall, within 10 working days after the foreign expert arrives at his post, report the employment information to the department of foreign experts affairs at the place where the entity is located.

Article 26 — Where any of the following circumstances occurs to a foreign expert, the employing entity shall report the matter to the department of foreign experts affairs within 10 working days:

(1) Where the employment contract is terminated or rescinded;

(2) Where the foreign expert dies or goes missing;

(3) Where the foreign expert violates Chinese laws and regulations;

(4) Other circumstances that should be reported as required by the State.

Article 27 — The departments of foreign experts affairs of the people's governments at various levels shall actively provide public services for foreign experts working in China, including:

(1) Issuing guidance on policies and regulations;

(2) Organizing training and exchange activities;

(3) Accepting complaints and reports and protecting lawful rights and interests;

(4) Coordinating and resolving difficulties and problems encountered in the work and daily life of foreign experts.

Article 28 — The State encourages and supports the establishment of a socialized service system for foreign experts working in China. Foreign expert service institutions may be entrusted to provide one-stop services such as consultation, agency, and reception for foreign experts and their employing entities.

Chapter VI — Legal Liability

Article 29 — Where an employing entity commits any of the following acts, the department of foreign experts affairs shall order it to make corrections, impose a fine, and may revoke the Work Permit of the foreign expert involved; where the circumstances are serious, the qualification of the employing entity to employ foreign experts shall be revoked:

(1) Obtaining the Work Permit by fraudulent means such as providing false materials;

(2) Employing a foreign expert without authorization or employing a foreign expert beyond the approved scope;

(3) Failing to sign an employment contract with the foreign expert in accordance with the provisions, or failing to perform the employment contract;

(4) Failing to pay labor remuneration to the foreign expert in accordance with the provisions;

(5) Failing to report to the department of foreign experts affairs in accordance with the provisions;

(6) Failing to cooperate with the supervision and inspection conducted by the department of foreign experts affairs.

Article 30 — Where a foreign expert commits any of the following acts, the department of foreign experts affairs shall revoke his Work Permit and may ban him from working in China within five years; where a crime is constituted, criminal liability shall be pursued in accordance with the law:

(1) Providing false materials to obtain the Work Permit;

(2) Working in China without authorization beyond the scope of the Work Permit;

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(3) Violating Chinese laws and regulations and being subject to criminal punishment or administrative detention;

(4) Serious breach of contract, resulting in major losses to the employing entity.

Article 31 — Where a staff member of the department of foreign experts affairs commits any of the following acts in the administration of foreign experts working in China, sanctions shall be imposed in accordance with the law; where a crime is constituted, criminal liability shall be pursued in accordance with the law:

(1) Failing to perform supervisory duties in accordance with the law;

(2) Issuing the Work Permit in violation of the prescribed conditions and procedures;

(3) Committing fraud or malpractice for personal gain in the course of supervision and administration;

(4) Divulging trade secrets or personal privacy known during the supervision and administration.

Chapter VII — Supplementary Provisions

Article 32 — The employment of foreign experts by foreign embassies and consulates in China, representative offices of international organizations in China, and foreign media organizations in China shall be governed by the relevant state provisions.

Article 33 — The employment of residents of the Hong Kong Special Administrative Region, the Macao Special Administrative Region and the Taiwan region in the Mainland shall be governed by the relevant state provisions separately.

Article 34 — The State Administration of Foreign Experts Affairs shall be responsible for interpreting these Provisions.

Article 35 — These Provisions shall enter into force on the date of promulgation. The relevant provisions previously promulgated that are inconsistent with these Provisions shall cease to be effective simultaneously.

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