

# CHINA LEGAL REPORT\*

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# Administrative Regulations of People's Republic of China on the Entry and Exit of Foreigners

China Releases New Visa and Residence Permit Regulations for Foreigners According to the newly amended Exit and Entry Administration Law of the PRC.

## I Brief Introduction

The Administrative Regulations of the People's Republic of China ("PRC") on the Entry and Exit of Foreigners (Order No. 637 of State Council, hereinafter referred to as 'Regulations') were issued on July 12, 2013, and have taken effect on September 1, 2013. The Regulations have been issued in accordance with the recently introduced Entry and Exit Administration Law of PRC (the "Law") as part of a broader effort of the Chinese government to adapt the immigration system to the current economic environment. The new immigration framework intends to ease access for specialized, highly qualified professionals and to promote tourism in certain key areas. At the same time, entry restrictions have been increased in various respects while enforcement measures will be strengthened in a move to better protect the national job market against competition from abroad. The main content of the Regulations is outlined below.

## II Changes to the Visa Framework

### 2.1 Visa Categories

The Regulations have increased the number of visa categories from 8 to 12 and introduced some adaptations to existing visa categories:

#### 2.1.1 R Visa----for foreign talents

One of the distinct features of the Regulations is the introduction of the R visa, which aims at attracting senior-level foreign talents and professionals whose skills are urgently needed in China.

#### 2.1.2 M Visa----for commercial activities

The M visa is a new visa category, which applies to foreigners entering China for business and trade purposes.

#### 2.1.3 F Visa----for exchanges, visits and inspections

The F visa, which used to include commercial purposes, has been limited to non-commercial purposes under the new framework, such as cultural exchanges and inspections.

#### 2.1.4 Q Visa and S Visa----for reunions of Chinese and foreign families

These two visas are issued overseas Chinese and relatives of foreign residents in China, respectively, intending to visit their families.

#### 2.1.5 X Visa----for studying in China

The X Visa has been split into two sub-categories: the X-1 Visa targets foreigners coming to China for a long-term study period of more than 180 days, whereas the X-2 Visa is reserved for students staying in China for up to 180 days.

- 2.1.6 Z Visa----for working in China
- 2.1.7 J Visa----for journalists
- 2.1.8 G Visa---- for transiting through China

No substantive changes have been made to these three visa categories.

- 2.1.9 L Visa----for travelling

Under the new Regulations, the L visa shall only be issued for tourism purposes, while visits to relatives are now treated separately under the S Visa.

- 2.1.10 C Visa----for train attendants, air crew members and seamen (including their family members)

- 2.1.11 D Visa----for foreign nationals who come to reside permanently in China

The Q Visa, S Visa, X Visa and J Visa have each been split into two sub-categories on the basis of the intended duration of stay. Sub-category 1 relates to stays of more than 180 days, whereas sub-category 2 relates to temporary stays of up to 180 days.

## 2.2 Visa Application

### 2.2.1 Supporting Documents

Some changes have been introduced regarding the supporting documents to be submitted when applying for a visa. In particular, the function of the letter of invitation has been stressed, which must be submitted when applying for C, F, L (if entering with a travel group), M, Q, and S visas. For the family reunion visa Q and S, the submission of both a letter of invitation and evidence of family relationship is required. Entities issuing invitation letters no longer need an authorization from the public security organs, but they remain responsible for the authenticity and truthfulness of the letter of invitation. Approval by special authorities is required in the case of an application for a J Visa. With relation to the G Visa for foreign nationals transiting through China, it is no longer necessary to submit a valid visa for the intended country of destination after leaving Chinese territory.

### 2.2.2 Face-to-face Interview

A new verification step that has been introduced is the face-to-face interview. Such an interview may be conducted by the visa-issuing authority stationed abroad under special circumstances, e.g. in case the foreign national applies for residence in China or if the purpose of entry needs to be verified.

### 2.2.3 Approval and Exemption

The new framework lists a range of circumstances under which a foreign national must be denied a visa and/or entry into China, such as if he/she is suffering from serious mental disorders or infectious diseases, may endanger China's national security or interests, or may engage in activities not conform to the relevant visa type after entering China. The Law further stipulates some conditions under which foreigners are exempt from applying for a visa, e.g. where a visa exemption agreement is applicable, or where a foreigner holds a valid residence permit or a transit ticket to a third country enabling him/her to stay at the port of entry in China for not more than 24 hours.

## 2.3 Extension, Renewal or Replacement of Visa

Foreigners may apply to change the type of their visa with relevant Public Security Bureaus if they intend to change the purpose of their stay. When foreigners' visas have been lost, damaged or stolen, they can apply for a replacement, which shall be issued by the authorities within 7 days.

A foreign national may apply for an extension of the permitted duration of stay at the exit-entry division of the Public Security Bureau. Where the duration of stay specified in the visa does not exceed 180 days, the application needs to be submitted seven days before the expiry of the visa. In contrast to the former system under which the original visa was cancelled and replaced by a new one, the new Regulations stipulate that the extension affects neither the number of entries nor the valid period of entries as specified in the original visa.

Where a foreigner's passport or any other international travel document is submitted and kept for administrative purposes by the relevant authorities, an acceptance notice shall be issued to the foreigner, based on which he/she may legally stay or reside in China until the original travel document is returned.

## III Changes to the Application for Residence Permits

Under the new framework, long-term residence requiring a residence permit is defined as a stay within China exceeding 180 days. Short-term stays not exceeding 180 days require an ordinary visa of the relevant category.

### 3.1 Categories

The Regulations have categorized residence permits into the following five types based on the intended purpose and duration of the residence, similar to the corresponding visa categories:

- Working residence permits----for those working in China
- Study residence permits----for those studying in China
- Journalist residence permits----for journalists residing in China
- Family reunion residence permits----for Chinese family members
- Personal affair residence permits----for foreign family members and those entering for personal matters

Study residence permits in particular: Visas for foreign students taking a part-time job or an internship while studying at college are regulated in more detail under the new framework. A foreign student who needs to take a part-time job or internship outside the campus is required, upon approval by his/her school or university, to apply to the relevant Public Security Bureaus for a residence permit with an annotation of the place, term and other information on the intended job or internship.

## **3.2 Application, Extension, Renewal or Replacement of Residence Permits**

Foreigners entering China on a visa specifying that they need to apply for a residence permit shall do so within 30 days of their entry. To apply for a resident permit valid for one year or more, a foreign national must submit a health certificate, which is valid for six months as of the date of issuance. The public security authorities shall issue a decision on the residence permit within 15 days of receipt of the application. Long-term residents applying for an extension of their residence permit shall do so at least 30 days prior to the expiration date of their permit.

## **IV Administration and Supervision**

### **4.1 Coordination and Information Sharing**

The Regulation establishes a coordination mechanism and implements information sharing among relevant departments of the government. For example, it is provided that where a visa-issuing authority stationed abroad needs to verify relevant information with departments or entities inside China in the course of issuing visas, said departments or entities shall be cooperative.

### **4.2 Registration of Temporary Stay**

Where foreigners stay in hotels in China, the hotels shall register their accommodation in accordance with the regulations on the public security administration of the hotel industry, and submit foreigners' accommodation registration information to the public security organs in the places where the hotels are located. For foreigners who reside or stay in domiciles other than hotels, they or the persons who accommodate them shall, within 24 hours after the foreigners' arrival, go through the registration formalities with the public security organs in the places of residence.

### **4.3 Obligation to Report**

The Regulations further clarify the reporting obligation of an entity hiring foreigners, stipulating that where a foreigner leaves the job, changes work location or where a foreign student recruited by an entity leaves, etc., the entity shall report it to the local Public Security Bureau.

### **4.4 Illegal Residence and Unlawful Employment**

Illegal residence is defined as staying or residing in China beyond the legally permitted duration, moving beyond the designated area of stay or residence, or "any other circumstance that constitutes illegal residence".

Unlawful employment includes: working in China without obtaining a work permit or work-type residence permit; working in China beyond the scope prescribed in the work permit; foreign students working beyond the prescribed scope of jobs or prescribed time limit.

## **V Stricter Enforcement and Liabilities**

The new Regulations and the related Law contain an extensive list of investigation and enforcement measures, including on-the-spot interrogation, temporary detention and an encouragement of Chinese citizens to report clues to the authorities regarding foreigners who may stay in China illegally.

Foreign nationals working in China without the necessary approvals may be fined between RMB 5,000 and 20,000 or may face temporary detention in serious cases. Foreign nationals found guilty of illegal entry, illegal residence or working illegally in the country may be repatriated if they fail to leave the country voluntarily and will not be allowed to re-enter China for a period of one to five years. Entities illegally employing foreign nationals may be fined between RMB 10,000 and 100,000.

## **VI 72-hour visa-free Stay Policy**

A further significant policy change on the municipal level, which is not part of the new Regulations, deserves mentioning here: starting from January 1, 2013, the cities of Beijing and Shanghai have allowed nationals of 45 countries, including Switzerland, to enter their territory without a visa for a maximum duration of 72 hours for tourism purposes. Guangzhou and Chengdu enacted the same policy on August and September 1, respectively, and further major cities may follow suit. The move seeks to promote the tourism industry in selected areas.

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