

Amendments to the Regulations on the Permission and Administration of the Employment of Foreign Workers

Article 20 Where an employer is permitted by the Central Competent Authority to re-conduct a recruitment of type B foreign worker(s), the employer shall not bring in or employ type B foreign worker(s) before the departure of the originally employed type B foreign worker(s) from the territory of the Republic of China. However, this restriction shall not apply in any of the following circumstances:

1. Foreign worker(s) engaging in domestic caretaking work who has received consent from the original employer to shift to a new employer or a new job within the validity of the original employment permission to be continuously employed by the new employer.
2. Foreign worker(s) engaging in occupations described in Subparagraphs 8 to 10, Paragraph 1, Article 46 of the Act who has continued to be employed by the original employer with permission upon expiration of the original employment permission (hereinafter referred to as “Renewal of Employment upon Expiration of the Term”).
3. Foreign worker(s) engaging in occupations described in Subparagraphs 8 to 10, Paragraph 1, Article 46 of the Act who gets continuously employed by a new employer with permission upon expiration of the original employment permission (hereinafter referred to as “Transfer of Employment upon Expiration of the

Term”) in accordance with the Directions of the Employment Transfer Regulations and Employment Qualifications for Foreigners Engaging in the Jobs Specified in Subparagraphs 8 to 11, Paragraph 1, Article 46 of the Employment Service Act (hereinafter referred to as “Directions for Employer Transfer”).

Article 26 An employer may not employ a type B foreign worker who has already entered the Republic of China with the exception of the following:

1. Renewal or transfer of employment upon expiration of the term as permitted by the Central Competent Authority.
2. Others with the ad hoc approval of the Central Competent Authority.

Article 27-1

An employer applying to hire a foreign worker referred to in Subparagraphs 8 to 10, Paragraph 1, Article 46 of the Act shall notify, within three days after the foreign worker’s entry into the Republic of China, the local competent authority to conduct an inspection with the following documents provided:

1. The form for notification of a foreign worker’s entry into the ROC.
2. The Foreign Worker’s Living Care Service Plan.

However, an employer of foreign worker(s) engaging in occupations described in Subparagraphs 1 and 2, Article 8 of the Reviewing Standards and Employment

Qualifications for Foreigners Engaging in the Jobs Specified in Subparagraphs 8 to 11, Paragraph 1, Article 46 of the Employment Service Act shall be exempted from submitting such a plan.

3. Name list of the said foreign worker(s).
4. The Foreign Worker's Affidavit for Wage/Salary and Expenses Incurred before Entering the Republic of China for Employment verified by the competent authority in the home country of the said foreign worker. However, a foreign worker who meets the requirement provided in Paragraph 2 of Article 27 shall be exempted from submitting such an affidavit.

The local competent authority shall issue a certificate for receiving an employer's notification of a foreign worker's entry into the ROC if the documents provided by the employer meet the requirements stated in the preceding paragraph and shall conduct an inspection in conformity with Article 19 of the Act. However, a foreign worker who has previously passed the inspection less than six months before the issuance of the certificate shall be exempted from such an inspection as prescribed in the preceding paragraph.

An employer permitted to renewal of employment upon expiration of the term shall be exempted from the provisions of Paragraph 1.

An employer permitted to transfer employment upon expiration of the term shall submit the required documents to notify the local competent authority for an inspection as specified in the Directions for Employer Transfer.

Article 27-2

When the local competent authority conducts expenses or wage/salary audit on a foreign worker under Subparagraphs 8 to 10, Paragraph 1, Article 46 of the Act, the audit shall be carried out based on the contents of the submitted Foreign Worker's Affidavit for Wage/Salary and Expenses Incurred before Entering the Republic of China for Employment as prescribed in Subparagraph 4, Paragraph 1 of the preceding article.

When the local competent authority conducts the aforementioned audit for an employer permitted for the renewal of employment upon expiration of the term, it shall be carried out based on the contents of the Foreign Worker's Affidavit for Wage/Salary and Expenses Incurred before Entering the Republic of China for Employment most recently verified by the competent authority in the home country of the foreign worker.

When the local competent authority conducts the audit prescribed in Paragraph 1 for an employer permitted to transfer employment upon expiration of the term, it shall be carried out based on the contents of the Foreign Worker's Affidavit for Wage/Salary and Expenses Incurred before Entering the Republic of China for Employment submitted in compliance with the Directions for Employer Transfer.

The contents of the Foreign Worker's Affidavit for Wage/Salary and Expenses Incurred before Entering the Republic of China for Employment, as prescribed in the preceding three paragraphs, shall not be altered in any way that is against the interests of the foreign worker.

Article 28-1

An employer shall assume the responsibilities as the employer of a type B foreign worker, as specified under the Act, starting from the date of entry into the Republic of China or the date of employment renewal.

In the event that an employer fails to apply in compliance with the preceding article or Article 28-3 of the Act, is late in submitting the application or fails to meet the requirements in the submitted application, the Central Competent Authority may grant employment permission for the time periods described below:

1. The period between the date of the foreign worker's entry into the Republic of China and the date of rejection of employment permission.
2. The period between the date of renewal of employment upon expiration of the term and the date of rejection of employment permission.

Article 28-3

During the period from four months to two months before the expiration date of employment permission for a foreign worker engaging in an occupation specified in Subparagraphs 8 to 10, Paragraph 1, Article 46 of the Act, the employer of such a foreign worker who intends to continue employing the said foreign worker shall submit an application to the Central Competent Authority with the following documents for permission for the renewal of employment upon expiration of the term within this time period:

1. Application form

2. Proof of an agreement reached between the foreign worker and the employer for the renewal of employment upon expiration of the term.
3. Other documents as may be required by the Central Competent Authority.

Article 28-4

During the period from four months to two months before the expiration date of employment permission for a foreign worker engaging in an occupation specified in Subparagraphs 8 to 10, Paragraph 1, Article 46 of the Act, the employer of such a foreign worker who does not intend to continue employing the said foreign worker shall submit the application form and other documents required by the Central Competent Authority to apply for the transfer of employment upon expiration of the term within this time period for the said foreign worker:

Where an agreement has already been reached between the foreign worker and the new employer for subsequent employment while the original employer applies for the transfer of employment upon expiration of the term, the new employer may apply directly to the Central Competent Authority to successively employ the foreign worker in accordance with the Directions for Employer Transfer.

Article 45 Where an employed foreign worker acts in the manner as specified in Article 56 of the Act, in addition to notifying the local competent authority, the immigration authority, and the police as required, the employer shall also notify the Central Competent Authority.

Where an employed type B foreign worker departs from the Republic of China within the validity of the employment permission as a result of the termination of employment, the employer shall notify the local competent authority prior to his/her departure, and the local competent authority shall investigate and verify the real intention of the foreign worker. Procedures for the said verification shall be as announced by the Central Competent Authority.

The contents of the notification, as specified in Paragraph 1, shall include the name, the gender, the age, the nationality, the date of entry into the Republic of China, the duration of employment, the document number for the recruitment or employment permission, and the photocopy of the Alien Resident Certificate for the foreign worker.

Where the said foreign worker stays in the Republic of China, the police shall make a report to the National Police Agency, Ministry of the Interior and shall strengthen its vigilance.

A r t i c l e 4 8

The Regulations shall become effective on January 15, 2004.

Amended articles of the Regulations shall become effective on the date of promulgation.

Articles of the Regulations amended and promulgated on October 3, 2006 shall become effective on November 1, 2006.

Articles 12 and 14 of the Regulations amended and promulgated on December 10, 2013 shall become effective on January 1, 2014.

Articles of the Regulations amended and promulgated on

March 28, 2014 shall become effective on the date of promulgation with the exception of Articles 15-2 and 28, which shall take effect on March 31, 2014.

Articles of the Regulations amended and promulgated on November 11, 2015 shall become effective on October 9, 2015.

Articles of the Regulations amended and promulgated on November 15, 2016 shall become effective on November 5, 2016.