

# **MACAU SPECIAL ADMINISTRATIVE REGION**

## **Administrative Regulation No. 8/2010**

### **Regulation of the Law for the employment of non-resident workers**

The Chief Executive, having heard the Executive Council, decrees, under the terms of paragraph 5 of article 50 of the Basic Law of the Macao Special Administrative Region, and no. 1 of article 42 of Law no. 21/2009, that the following shall have force of administrative regulation:

#### **CHAPTER I**

#### **General provisions**

##### **Article 1**

##### **Object**

The current administrative regulation regulates:

- 1) The concession of employment permits for non-resident workers;
- 2) The concession of stay permits for non-resident workers;
- 3) The payment of the employment fee for non-resident workers;
- 4) The destination of the employment fees charged.

#### **CHAPTER II**

#### **Employment permit**

##### **Article 2**

##### **Employment permit applications**

1. Non-resident worker employment permit applications shall be submitted to the Human Resources Office, hereinafter designated simply as GRH, upon filling in the printed form approved by dispatch of the Secretariat for Economy and Finance.
2. The application must include the salary and other essential labour conditions that an employer wishes to offer the worker.
3. The following documents must be submitted, wherever applicable, alongside the application:
  - 1) Photocopy of the identification document of the applicant, whenever such is a natural person;
  - 2) Commercial registration certificate;

- 3) Photocopy of the identification document of the applicant's representative;
  - 4) Photocopy of the permit granted for the activity being carried out;
  - 5) Photocopy of the declaration of commencement of activities submitted to the Financial Services Bureau, or a photocopy of the document certifying that the applicant has been charged industrial tax in the previous year ;
  - 6) Proof of payment of the complementary income tax;
  - 7) Proof of payment of the employment fees and contributions to the Social Security Fund, hereinafter designated simply as the FSS;
  - 8) Photocopy of the identification document of the specialised worker to be employed;
  - 9) Documental evidence of the academic qualifications, technical skills or professional experience of the specialised worker to be hired;
  - 10) Proof that the employment offer was registered in the Labour Affairs Bureau, hereinafter designated simply as the DSAL.
4. The provisions of the previous number shall not preclude the inclusion, by the applicant, of other documents or information deemed to be useful for the assessment of the application.
5. The forms referred to in no. 1 are provided by the GRH, in both printed and electronic formats.

### Article 3 **Assessment procedures**

The GRH may solicit, for application assessment purposes:

- 1) Appropriate complementary documents or information from the applicant;
- 2) Information and formal opinions from other public entities;
- 3) Access to the employer's establishment.

### Article 4 **Surety**

1. Should the employment permit for a domestic worker be subject to the creation of a surety, pursuant to article 9, paragraph 1) of Law no. 21/2009 (Law for the employment of non-resident workers), the respective surety must be a resident of the Macao Special Administrative Region,

hereinafter designated as the MSAR, or a legal person with its registered office therein, who shall be the principal contributor and expressly waive his/her/its benefit of discussion.

2. The surety may only be replaced pending authorisation from the entity with competency to grant employment permits.

#### Article 5

#### **Transfer of specialised workers**

The provisions of articles 2 and 3 are applicable, with the necessary adaptations, to the permits for the transfer of specialised workers referred to in article 14 of Law no. 21/2009 (Law for the employment of non-resident workers).

#### Article 6

#### **Notifications for the Public Security Police Force and the FSS**

The GRH shall immediately notify the Public Security Police Force, hereinafter designated simply as the CPSP, and the FSS of:

- 1) The employment permits for non-resident workers;
- 2) The permits for the transfer of specialised workers;
- 3) Employment permit renewals;
- 4) Employment permit revocations.

### CHAPTER III

#### **Stay permit**

#### Article 7

#### **Compulsory nature of the stay permit**

A non-resident may only commence providing his or her labour in the MSAR upon concession of the worker's stay permit, and only whilst the permit remains valid.

#### Article 8

#### **Stay permit application**

1. Applications for worker's stay permits shall be solicited from the CPSP, by the employer or by a licensed employment agency indicated by the employer, within six months from the date on which the employer receives notification of the concession of the employment permit.

2. The application must contain the following components, without prejudice to any other documents the CPSP may deem necessary:

- 1) Photocopy of the dispatch granting the employment permit;
- 2) Passport or any other travel document belonging to the non-resident;
- 3) Four recent, passport type colour photographs, with a white background.

#### Article 9

#### **Alteration of the application**

No substantial alteration of the employment permit application under assessment is allowed after the period indicated in no. 1 of the previous article has passed, save for situations of *force majeure* which have been duly proven.

#### Article 10

#### **Validity**

Stay permits shall be conceded for a period equal to the employment permit, unless the shorter period is provided in the legal regime for the entry, stay and residency permits in the MSAR.

#### Article 11

#### **Identification document**

1. Non-residents who are authorised to stay in the MSAR as a worker shall - after registering their fingerprints - be issued with an identification document identifying such persons as non-resident workers, the format of which is to be approved by a dispatch of the Chief Executive, and shall contain, amongst other necessary data, the identification information of the worker and the employer.

2. Non-resident workers must always carry the identification document referred to in the previous number, which shall be used to identify the worker for all legal purposes during its period of validity.

3. For the purposes of article 18, no. 1 of Law no. 21/2009 (Law for the employment of non-resident workers), the CPSP shall notify the FSS of the issue of the identification document referred to in the present article.

#### Article 12

#### **Fees**

1. A fee of 100 patacas shall be charged for the issue and renewal of the identification document referred to in the previous article.

2. A fee of 200 patacas shall be charged for the re-issue of the identification document referred to in the previous number.

#### Article 13

##### **Provisional stay permit**

1. The CPSP may, during the assessment of the stay permit, or of the renewal thereof, and whenever circumstances so justify, issue provisional worker's stay permits, which may be valid for a maximum period of 45 days.

2. The provisions of articles 11 and 12 shall not be applicable to holders of the provisional permits referred to in the previous number.

#### Article 14

##### **Renewal of the stay permit**

1. The provisions of article 8, no.2 shall be applicable, with the necessary adaptations, to the renewal of the stay permit.

2. The renewal of stay permits for domestic workers employed under an employment permit which contains an automatic renewal clause may be solicited once the period indicated in article 11, no. 3 of Law no. 21/2009 (Law for the employment of non-resident workers) has elapsed, as long as such clause has not been revoked.

#### Article 15

##### **Refusal and revocation**

1. Worker's stay permits shall be refused or revoked upon fulfilment of the conditions provided by law, respectively, for the refusal or prohibition of the entry of non-residents, or for the revocation of the respective stay permit.

2. The CPSP must notify:

1) The FSS, of all situations in which the stay permit for a non-resident worker is revoked;

2) The GRH, of the cases referred to in the previous paragraph, when such concern specialised non-resident workers.

Article 16  
**Subsidiary legislation**

The legal regime for the entry, stay and residency permits in the MSAR shall be subsidiarily applicable to the provisions of the present chapter.

CHAPTER IV  
**Employment fee**  
Article 17  
**Periodicity of the payment**

1. The employment fee shall be charged monthly starting from:

- 1) The first day of the month in which the identification document specified in article 11 is issued, if such fact occurs between the 1st and 15th days of that month.
- 2) The first day of the month immediately following the month in which the identification document specified in article 11 is issued, if such fact occurs between the 16th and 31st day of that month.

2. The employment fee shall cease to be paid starting from:

- 1) The first day of the month in which the identification document specified in article 11 expires or is revoked, if such fact occurs between the 1st and 15th day of that month;
- 2) The first day of the month immediately following the month in which the identification document specified in article 11 expires or is revoked, if such fact occurs between the 16th and 31st day of that month.

3. The employment fee shall be paid in the months of January, April, July and October, relative to the previous quarters, through a form approved by the FSS.

Article 18  
**Reduction and exemption**

1. Employers involved in the manufacturing industry who are subject to the legal regime provided in Decree-Law no. 11/99/M, of March 22nd, shall, pursuant to article 1 thereof, benefit from a reduction of 50% of the employment fee.
2. Employers of non-resident workers who provide services of a domestic nature shall be exempt from payment of the employment fee.

Article 19

## **Registration**

The FSS shall, of its own volition, upon receiving the notification specified in article 6 and based on the information provided therein, carry out the registration procedures for the employer entities referred to in article 4, no.2 of Decree-Law no. 58/93/M, of October 18th.

### **Article 20**

#### **Destination of the fees**

The employment fees charged shall constitute revenue of the FSS.

## **CHAPTER V**

### **Administrative infractions**

#### **Article 21**

##### **Sanctions**

1. Any employer who does not pay the employment fee within the period specified in article 17, no. 3 herein shall be liable to a fine of 300 to 1000 patacas, for each worker against whom such an infraction was committed.
2. The application of the sanction indicated in the previous number does not exempt the transgressor from paying the employment fees owed.
3. A specialised non-resident worker who, having been authorised to hire a non-resident worker to provide domestic services, substitutes the surety thereof without first obtaining the permit indicated in article 4, no.2 shall be liable to a fine of 1,000 to 5,000 patacas.
4. A non-resident who, despite possessing the identification document referred to in article 11 herein, does not display such document when requested to do so by the competent authority for verification purposes shall be liable to a fine of 250 to 400 patacas.

#### **Article 22**

##### **Competence**

1. The following entities have the competence to apply the fines described in the previous article:
  - 1) The Administrative Committee of the FSS, for the situation described in no.1;
  - 2) The Director of the DSAL, for the situation described in no.3;
  - 3) The Commissioner of the CPSP, for the situation described in no. 4.

2. Any decision to apply the sanctions specified in the previous article may be immediately contested through the Administrative Court.

3. The FSS and the DSAL shall notify the GRH of the sanctions they apply.

Article 23  
**Destination of the fines**

The proceeds of the fines applied shall constitute revenue of the FSS.

Article 24  
**Subsidiary legislation**

The general legal regime for administrative infractions and respective procedures, approved by Decree-Law no. 52/99/M, of October 4th, shall be subsidiarily applicable to the provisions of the current chapter.

CHAPTER VI  
**Final and transitory provisions**

Article 25  
**Supervision and coordination between the public services**

The DSAL, GRH, FSS and CPSP shall adopt the necessary procedures to assure the prompt exchange, amongst themselves, of the information needed to properly execute the present administrative regulation and shall moreover inform, whenever necessary and within their purview, any occurrence of permit expiry.

Article 26  
**Treatment of personal data**

Without prejudice to the principles established in Law no. 8/2005 (Law for the protection of personal data), the DSAL, GRH, FSS and CPSP shall carry out the procedures - regarding the treatment and interconnection of personal data - which are necessary to perform the duties entrusted to them by the present administrative regulation and by Law no. 21/2009 (Law for the employment of non-resident workers).

Article 27  
**Application in time**

The present administrative regulation shall be applicable to pending applications.



Article 28  
**Alterations to the Administrative Regulation no. 5/2003**

Article 5 of the Administrative Regulation no. 5/2003 (Regulation regarding the entry, stay and residency permits) shall henceforth read as follows:

«Article 5.º  
**Documents**

1. ....
2. ....
- 1). ....
- 2). ....
- 3). ....
- 4). ....
- 5). ....
- 6). ....
- 7). ....
- 8). ....
- 9). ....
- 10) Holders of the identification document identifying such person as a non-resident worker.
3. ....
4. ....
5. ....
6. .... »

Article 29  
**Entry into force**

The present administrative regulation shall enter into effect upon the entry into force of Law no. 21/2009 (Law for the employment of non-resident workers).

Approved on April 12th, 2010.

May it be published.

The Chief Executive, *Chui Sai On*.

*[The English version of the present administrative regulation is provided for reference only. Please note that only the Chinese and Portuguese versions published in the Macao SAR Gazette are official.]*