

MACAO SPECIAL ADMINISTRATIVE REGION

Administrative Regulation No. 8/2010

Regulation of the Law for the Employment of Non-resident Workers

The Chief Executive decrees, having heard the Executive Council, under the terms of subparagraph 5) of Article 50 of the Basic Law of the Macao Special Administrative Region and paragraph 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 order 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 preceding paragraph 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 paragraph 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 subparagraph 1) of Article 9 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 Macao SAR, 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 Macao SAR upon concession of the worker's stay permit, and only whilst the permit remains valid.

Article 8

Application for stay permit and issuance of entry permit (*)

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 be accompanied with the following elements, without prejudice to any other documents the CPSP may deem necessary: (*)

- 1) Photocopy of the order granting the employment permit;
 - 2) Photocopy of passport or any other travel document belonging to the non-resident; (*)
 - 3) One recent, passport type colour photograph, with a white background. (*)
3. For the purposes of paragraph 2 of Article 4 of Law No. 21/2009, after the submission of the elements referred to in the preceding paragraph, the CPSP may issue an entry permit for work purposes. (*)

(*) *As amended by Administrative Regulation No. 26/2020.*

Article 9

Alteration of the application

No substantial alteration of the employment permit application under assessment is allowed after the period indicated in paragraph 1 of the preceding 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 Macao SAR.

Article 11

Identification document

1. Non-residents who are authorised to stay in the Macao SAR 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 an order 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 preceding paragraph, which shall be used to identify the worker for all legal purposes during its period of validity.
3. For the purposes of paragraph 1 of Article 18 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 \$100.00 (one hundred patacas) shall be charged for the issue and renewal of the identification document referred to in the preceding article.
2. A fee of \$200.00 (two hundred patacas) shall be charged for the re-issue of the identification document referred to in the preceding article.

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 preceding paragraph.

Article 14

Renewal of the stay permit

1. The provisions of paragraph 2 of Article 8 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 paragraph 3 of Article 11 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 preceding subparagraph, when such concern specialized non-resident workers.

Article 16

Subsidiary legislation

The legal regime for the entry, stay and residency permits in the Macao SAR 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 first and fifteenth 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 sixteenth and thirty-first 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 first and fifteenth 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 sixteenth and thirty-first 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 22, 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 paragraph 2 of Article 4 of Decree-law No. 58/93/M of October 18.

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 paragraph 3 of Article 17 herein shall be liable to a fine of \$300.00 (three hundred patacas) to \$1,000.00 (one thousand patacas), for each worker against whom such an infraction was committed.
2. The application of the sanction indicated in the preceding paragraph 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 paragraph 2 of Article 4 shall be liable to a fine of \$1,000 (one thousand patacas) to \$5,000 (five thousand 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 (two hundred and fifty patacas) to \$400.00 (four hundred patacas).

Article 22

Competence

1. The following entities have the competence to apply the fines described in the preceding article:
 - 1) The Administrative Committee of the FSS, for the situation described in paragraph 1;

- 2) The Director of the DSAL, for the situation described in paragraph 3;
 - 3) The Commissioner of the CPSP, for the situation described in paragraph 4.
2. Any decision to apply the sanctions specified in the preceding 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 4, 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 Administrative Regulation No. 5/2003

Article 5 of Administrative Regulation No. 5/2003 (Regulation Regarding the Entry, Stay and Residency Permits) shall henceforth read as follows:

«Article 5

Documents

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2.

1).....

2).....

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10) Holders of the identification document identifying such person as a non-resident worker.

3.

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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 12, 2010.

To be published.

Chief Executive, Chui Sai On.

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