

MACAO SPECIAL ADMINISTRATIVE REGION

Administrative Regulation No. 13/2010

Regulation of the conditions or responsibilities to be established in the employment permit for 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 complementary administrative regulation:

Article 1

Object

The current administrative regulation regulates the conditions or responsibilities to be established in the employment permit for non-resident workers referred to in article 9 of Law no. 21/2009 (Law for the employment of non-resident workers).

Article 2

Types of conditions or responsibilities

The following conditions or responsibilities may be established in the employment permit for non-resident workers:

- 1) Creation of a surety to ensure that the employer performs all obligations pertaining to the labour relation, in situations where specialised non-resident workers hire domestic workers;
- 2) Requiring the worker to undergo periodical medical examinations;
- 3) Provision of the work at a specific location;
- 4) Guarantee the employment of the minimum number of resident workers;
- 5) Implement the re-evaluation system for the number of non-resident workers to be employed;
- 6) Other conditions or responsibilities that the entity with competence to authorise the employment of non-resident workers deems reasonable and adequate.

Article 3

Guarantee that the minimum number of resident workers has been employed

1. The minimum number of resident workers to be employed shall be determined in accordance with the needs of the market, the economic situation as a whole, as well as the growth trends of individual economic sectors during the period in which the entity with competence to authorise the employment of non-resident workers is assessing the concession of the respective permit, as well as with the number of resident workers employed by the employer and with the number of workers such person has promised to employ.
2. Should the employer be unable to guarantee the employment of the minimum number of resident workers as determined in the previous number, due to the termination of a labour relation, then the employer must, within 15 days from the occurrence of such fact, take all necessary measures to ensure that the minimum number of resident workers is employed.
3. If, after taking all necessary measures, the employer still cannot employ the minimum number of resident workers required within the period indicated in the previous number, then the employer must, within five days after the end of the aforementioned period and through a written and justified request, solicit the extension thereof from the Human Resources Office, hereinafter designated as the GRH.
4. Upon reception of the application indicated in the previous number, the GRH shall, within 15 days, pronounce a decision and notify the employer.
5. Should the employer not observe the provisions of the present article, the employment permit for non-resident workers thereof may be partially or entirely revoked.

Article 4

Re-evaluation system for the number of non-resident workers to be employed

1. Any employer who, having employed resident and non-resident workers to carry out the same professional activity, reduces the number of such workers due to a change in the volume of work, must notify the GRH within 15 days.
2. Upon reception of the notification referred to in the previous number, the GRH shall, within a period of 15 days, assess the need to alter the number of non-resident workers which the employer is authorised to employ and notify such person of the respective results.
3. Should an employer fail to notify the GRH in accordance with the provision of no. 1, the employment permit for non-resident workers thereof may be partially or entirely revoked.

Article 5

Supervision

1. It falls within the purview of the Labour Affairs Bureau, hereinafter designated as the DSAL, to supervise the performance of the present administrative regulation, and must notify the GRH regarding any infringements of which it is aware.

2. If the DSAL, when handling procedures resulting from employment conflicts related to the termination of employment contracts with resident workers, becomes aware that an employer was granted an employment permit for non-resident workers, it must inform the GRH; *videlicet* it must submit its conclusions regarding the existence of infringements in the procedures, the type of infringement(s) and the applicable sanctions.

3. Should any irregularities regarding the payment of contributions be discovered during the supervision to assure that employers are performing all provisions relative to the social security legal regime, the DSAL and the Social Security Fund must notify the GRH of such facts.

Article 6
Entry into force

The current administrative regulation shall enter into force 60 days after its publication.

Approved on May 14th, 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.]