

Frequently Asked Questions about Application and Labour Rights and Interests of Non-resident Workers of the “Scheme for Further Relaxation on Entry Restrictions for Non-resident Workers and Their Family Members”

Application

1. What are the requirements to apply for the relevant exemption from entry restrictions?

According to the “application guide for relaxed entry restrictions for non-resident workers and their family members” updated on 5 August 2022 (<https://www.ssm.gov.mo/docs2/file/pv/VjW9mdxTeYy8KDIwZ97aKg/ch>), the employer may apply for exemption from entry restrictions for the non-resident worker or the prospective non-resident worker who intends to enter Macao from the Hong Kong Special Administrative Region, the region of Taiwan or a foreign country. Please refer to the application guide mentioned above for details.

Below is the link for application for exemption from entry restrictions for non-resident workers:

<https://www.ssm.gov.mo/faen/worker>

2. What can be done if the employment permit for hiring non-resident worker previously granted expires but there is a need for temporary complementarity of human resources at present?

Pursuant to Article 12 of Law No.21/2009 (*Law for the Employment of Non-resident Workers*), the employment permit shall expire in the following cases:

- 1) Within six months from the concession of the employment permit for the hiring of non-resident workers, or the respective renewal, if no stay permit for the worker has been solicited from the competent entity;
- 2) If, once initiated, the procedures for the concession of a stay permit to a worker, or its respective renewal, are suspended for more than three months due to reasons attributable to the interested party;
- 3) When a worker hired under such permit is absent from the Macao Special Administrative Region for a period greater than three consecutive months, except if such worker was hired through a non-nominal permit and his or her replacement has been solicited.

If the employment permit granted to the applicant has expired, he/she must make the relevant application again; please visit <https://www.gov.mo/zh-hant/browse/non-resident-workers-affairs/> for the administrative procedures for application for employment permit for hiring non-resident worker.

Labour Rights and Interests

1. What is the labour relation status if the non-resident does not board the flight to Macao because of the epidemic prevention measures?

Pursuant to paragraph 2 of Article 4 and Article 22 of the *Law for the Employment of Non-resident Workers* and Article 7 of the *Regulation of the Law for the Employment of Non-resident Workers*, after the non-resident who intends to come to Macao to work has been granted the special stay permit (i.e. the entry permit for work purposes) issued by the Public Security Police Force, he/she needs to enter Macao before he/she can obtain the worker's stay permit, and the labour relations start at the same time. In the case that the non-resident is unable to board the flight to Macao from his/her place of origin, since the non-resident has not entered Macao and has not been granted the worker's stay permit, the labour relations between two parties have not been established.

2. Is the employer required to pay wages for the non-resident worker who is under medical observation or during the treatment period (if any) owing to the compliance of the epidemic prevention measures?

Concerning the non-resident worker's wages during the isolation period, in accordance with Article 25 and subparagraph 2) of Article 27 of the *Law on the Prevention, Control and Treatment of Infectious Diseases*, being mandatorily isolated for contracting the Novel Coronavirus Pneumonia or the epidemic prevention measures shall be deemed justified absence. The worker is unable to provide work and the employer has no obligation to pay wages; however, if a better agreement has been reached between both parties, the relevant agreement shall continue to be performed.

3. In addition to complying with the *Labour Relations Law* and the *Law for the Employment of Non-resident Workers*, what else should be paid attention to when the employer and the non-resident worker (including the non-resident domestic worker) establish the labour relations?

Pursuant to paragraph 1 of Article 62 of the *Legal Regime on Compensation for Damage Arising from Work Accidents and Occupational Diseases*, in the course of the labour relations, the employer is obliged to purchase the work-related accident insurance for all his/her workers (including the non-resident domestic worker).

4. About the points to note of the non-resident worker's probationary period

Under Articles 10 and 14 of the *Law on the Prevention, Control and Treatment of Infectious Diseases*, the Government of the Macao Special Administrative Region

implements the epidemic prevention measures for the entry of non-residents and non-resident workers are requested to undergo medical observation and receive treatments (if any); during this period, as the employer and the employee whose labour relations are newly established cannot objectively start the probationary period, both parties may agree that the probationary period shall be counted starting from the completion of the relevant isolation and treatments (if any); in the absence of agreement, the probationary period shall be counted starting from the establishment of the labour relations. Under the *Labour Relations Law* and the *Law for the Employment of Nonresident Workers*, the labour contract of the non-resident worker shall be a term labour contract and the maximum limit for the probationary period shall be 30 days. Moreover, the employer and the worker should be reminded that they should agree on the working conditions in advance to avoid unnecessary disputes.

5. About the cost of repatriation for the termination of labour relations between the employer and the employee

Pursuant to paragraph 4 of Article 26 of the *Law for the Employment of Non-resident Workers*, the employer must pay the non-resident worker the cost of transportation to his/her place of habitual residence regardless of the reason for the cessation of the labour relations.

6. Regarding the work arrangements of the non-resident worker's self-health management

Both the employer and the worker must comply with the requirements of the guidelines on self-health management measures issued by the health department to carry out the work of epidemic prevention and cleaning; moreover, it is recommended that both parties should agree on the work and wage arrangements during the said period in advance to avoid unnecessary disputes.