

Ministry of Labor General Office Notice Regarding Implementing the "Regulations on the Management of Employment of Foreigners"

Labor Order [1996] No. 65
Apr. 19, 1996

To the Department (Bureau) of Labor (Personnel) of each Province, Autonomous District and Municipality directly under the central government:

In order to implement the "Regulations on the Management of Employment of Foreigners" (Department of Labor [1996] No. 29, hereinafter referred to as "Regulations"), the Ministry of Public Security, Ministry of Foreign Affairs and Ministry of Foreign Economy and Trade, jointly provide notice:

1. For foreigners working in China, if the labor contract is concluded with a domestic work unit (in its legal place), regardless of how long the work in China will be, it will be considered employment in China. If the labor contract is concluded with a legal entity abroad, the source of compensation is abroad, and the work in China is for three months or more (not including foreign engineers and technicians and experts implementing a technology transfer agreement), it is considered employment in China, in which case an employment license should be applied for at the Labor Department's license-issuing authority according to the Regulations, so a work visa should be applied for, as well as a work permit and residence permit.

2. For purposes of convenience to work units in hiring foreigners, there are two ways to apply for an employment license and work permit: for cities at prefecture-level and above with substantial employment by foreigners, the provincial department of labor may authorize the local department of labor to directly issue the employment license and work permit to a work unit; for other cities at prefecture-level and above, the local department of labor will accept the foreigner's application, and forward it to provincial department of labor for approval and issuance of the employment license and work permit, then the local department of labor will deliver them to the work unit. Provincial departments of labor should enhance the training and guidance to the staff at the local department of labor to investigate cases strictly and provide convenient service to work units.

3. Department of Labor should make an approval or denial decision within no more than 15 working days since acceptance of the application from work unit who will hire foreigner; issuance of work permit for foreigners should be within no more than 5 working days. Department of Labor of Province, Autonomous District and Municipality directly under central government should perform as the above requirements, make it's own specific period combining with the actual situation.

劳动部办公厅关于贯彻实施《外国人在中国就业管理规定》有关问题的通知
劳办发[1996]65号
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各省、自治区、直辖市劳动（劳动人事）厅（局）：

为贯彻实施《外国人在中国就业管理规定》（劳部发〔1996〕29号，以下简称《规定》），公安部、外交部、外经贸部同意，现就有关问题通知如下：

一、在中国工作的外国人，若其劳动合同是和中国境内的用人单位（驻地法人）直接签订的，无论其在中国就业的时间长短，一律视为在中国就业；若其劳动合同是和境外法人签订，劳动报酬来源于境外，在中国境内工作三个月以上的（不包括执行技术转让协议的外籍工程技术人员和专业人员），视为在中国就业，应按《规定》到劳动行政部门的发证机关办理就业许可手续，并办理职业签证、就业证和居留证。

二、为方便聘用外国人的用人单位，就业许可证书和就业证的办理采取两种方式：对外国人就业较多的地级及以上城市，省级劳动部门可授权当地劳动部门直接办理手续，并向用人单位签发就业许可证书和就业证；对其他地级及以上城市，可由当地劳动部门受理聘用外国人的申请，报省级劳动部门批准，由省级劳动部门签发就业许可证书和就业证，再由该地劳动部门向用人单位颁发就业许可证书和就业证。省级劳动部门要加强对各地劳动部门经办人员的培训和业务指导，真正做到既严格把关，又方便用人单位。

三、劳动部门从受理用人单位聘用外国人的申请，到做出批准与否的决定，所需时间最长不得超过15个工作日；为外国人办理就业证的时间，最长不得超过5个工作日。各省、自治区、直辖市劳动部门应按上述要求，结合实际情况规定具体期限。

4. According to the Regulations, a foreigner who is currently working in China without a work permit should apply for one between May and June in 1996. The labor administrative department should investigate the facts, notify the work unit regarding how to proceed with the employment procedures, and the proper personnel certificate category. Work permit should be issued to eligible foreigners. The employment of ineligible foreigners should be terminated.

5. In order to strengthen the management of foreigner's employment in China, each province, autonomous district and municipality directly under the central government should carefully fill in and report statistics regarding foreigners' employment in China to the Department of Labor semiannually. The report date for the first half of the year is on July 15, and for the latter half of the year is on January 1 for the Department of Labor will develop uniform computer management software to improve management. The date of implementing computer management will be announced subsequently.

Management of foreigners' employment in China involves various aspects. The local department of labor should actively report to the Ministries of Public Security, Foreign Affairs, and Foreign Economic and Trade to reach consensus, take concerted steps to ensure smooth work. The Department of Labor should make a decision to approve or deny an employment license after contacting the local public security bureau to investigate if the foreigner is eligible to reside in China.

四、按照《规定》要求，对目前已在我国就业的外国人，未领取就业证的，要在1996年5、6两个月内办理就业证申领手续。劳动行政部门要摸清情况，通知聘用外国人的用人单位如何办理就业手续，以及各类人员持何种证件办理手续。对符合条件的外国人办理就业证，对不符合条件的外国人终止其就业。

五、为加强外国人在中国就业的管理工作，各省、自治区、直辖市应认真填报外国人在中国就业统计表，每半年向劳动部报送一次。上半年报送时间为7月15日前，下半年报送时间为次年1月15日前。为提高管理水平，劳动部将统一制作计算机管理软件，实施计算机管理的有关问题另行通知。

外国人在中国就业管理工作涉及许多方面，各地劳动部门应主动向公安、外事、外经贸等部门通报情况，取得共识，协调行动，确保工作顺利开展。特别是在审批就业许可证，应和当地公安部门联系，了解拟聘用的外国人是否符合在中国居住的条件，然后做出批准与否的决定。