

(As on 29<sup>th</sup> May, 2014)

## EMPLOYMENT VISA

### I. Conditions for grant of Employment Visa

- (1) The applicant should be a highly skilled and/or qualified professional, who is being engaged or appointed by a company/ organization/ industry/ undertaking in India on contract or employment basis.
- (2) Employment Visa shall not be granted for jobs for which qualified Indians are available. Employment Visa shall also not be granted for routine, ordinary or secretarial/clerical jobs.
- (3) The foreign national should be seeking to visit India for employment in a company/ firm/organization registered in India or for employment in a foreign company/ firm/organization engaged for execution of some project in India.
- (4) The foreign national being sponsored for an employment visa in any sector **should draw a salary in excess of US\$ 25,000 per annum.** However, this condition of annual floor limit on income will not apply to :  
(a) Ethnic cooks, (b) Language teachers ( other than English language teachers) / translators, (c) Staff working for the concerned Embassy/ High Commission in India and (d) Foreigners, eligible for 'E' visa for honorary work with the NGOs registered in the country without salary. The application for Employment Visa may be rejected by the Indian Mission / Post concerned in case the minimum annual income benchmark of US\$ 25,000 is not met, except in the case of the four categories mentioned above.

**Note:** *The salary threshold limit of US\$ 25,000 per annum may be worked out taking into account the salary and all other allowances paid to the foreign national in cash. Perquisite like rent free accommodation etc, which are included in 'salary' for the purpose of calculating Income Tax may also be taken into account for this purpose. However, perquisites which are not included for working out the Income Tax should not be taken into account for working out the threshold limit of US\$ 25,000 per annum. The company/ organization concerned should clearly indicate in the Employment Contract – (i) the salary and allowances being paid in cash and (ii) all other perquisites like rent free accommodation etc., which would be taken into account for the purpose of working out the Income Tax payable by the employee. Such perquisites should be quantified and indicated in the Employment Contract.*

- (5) Nationals of Afghanistan, Bangladesh, China, Iran and Sri Lanka, who are married to Indian nationals and who are not eligible for grant of PIO card, must draw a minimum salary of US\$ 14,000 per annum for being eligible for grant of Employment Visa. Further, grant of Employment Visa in such cases will be subject to prior approval of the Ministry of Home Affairs.
- (6) The foreign national must hold a valid passport, and a re-entry permit if that is required under the law of the country of nationality of the applicant.
- (7) The foreign national must comply with all legal requirements like payment of tax liabilities etc.
- (8) The foreign national must submit proof of his/her employment or contract or engagement by the company/firm/organization in India.
- (9) The foreign national must submit documentary proof of his educational qualifications and professional expertise.
- (10) The documents/ papers pertaining to the proposed employment, like the registration of the company under the Companies Act, proof of registration of the firm in the State Industries Department or the Export Promotion Council concerned, or any recognized promotional body in the field of industry and trade etc. will be thoroughly checked to decide the category of visa that may be issued to the foreigner.
- (11) The name of the sponsoring employer / organization shall be clearly stipulated in the visa sticker.

## II. Categories of foreign nationals eligible for grant of Employment Visa

- (1) Foreign nationals coming to India for employment in a company/ firm/organization registered in India or for employment in a foreign company/ firm/organization engaged for execution of some project in India.
- (2) Foreign nationals coming to India as consultant on contract for whom the Indian company pays a fixed remuneration (this may not be in the form of a monthly salary).
- (3) Foreign artistes engaged to conduct regular performances for the duration of the employment contract given by Hotels, Clubs, other organizations.
- (4) Foreign nationals who are coming to India to take up employment as coaches of national /state level teams or reputed sports clubs.

- (5) Foreign sportsmen who are given contract for a specified period by the Indian Clubs/organizations.
- (6) Self-employed foreign nationals coming to India for providing engineering, medical, accounting, legal or such other highly skilled services in their capacity as independent consultants provided the provision of such services by foreign nationals is permitted under law.
- (7) Foreign language teachers/interpreters.
- (8) Foreign specialist Chefs.
- (9) Foreign engineers/technicians coming to India for installation and commissioning of equipment / machines / tools in terms of the contract for supply of such equipment / machines / tools.
- (10) Foreign nationals deputed for providing technical support/services, transfer of know-how/services for which the Indian company pays fees/royalty to the foreign company.

### **III. Issue of Employment Visa**

The Employment Visa will be issued only from the country of origin or from the country of domicile of the foreigner provided the period of permanent residence of the applicant in that particular country is more than 2 years.

### **IV. Documents to be submitted**

- (1) A valid passport, and a re-entry permit if that is required under the law of the country of nationality of the applicant.
- (2) Proof of his/her employment or contract or engagement by the company/firm/organization in India.
- (3) Documentary proof of his/her educational qualifications and professional expertise.
- (4) Documents/ papers pertaining to the proposed employment, like the registration of the company under the Companies Act, proof of registration of the firm in the State Industries Department or the Export Promotion Council concerned, or any recognized promotional body in the field of industry and trade etc.

V. Duration of Employment Visa

- (1) A foreign technician/expert coming to India in pursuance of a bilateral agreement between the Government of India and the foreign government, or in pursuance of a collaboration agreement that has been approved by the Government of India, may be granted an Employment visa for the duration of the agreement, or for a period of 5 (five) years, whichever is less, with multiple entry facilities.
- (2) Highly skilled foreign personnel being employed in the IT software and IT enabled sectors, may be granted Employment visa with validity up to 3 (three) years or the term of assignment, whichever is less, with multiple entry facility.
- (3) A foreigner coming to India for employment not covered in (1) or (2) above may be granted Employment visa with a validity up to 2 (two) years or the term of assignment, whichever is less, with multiple entry facility.
- (4) The Missions/Posts may issue multiple entry Employment Visa for a period of 180 days or less. In the case of Employment Visa issued for a period of 180 days or less, registration is not required with FRRO/FRO.
- (5) If, however, the Employment visa is valid for a period of more than 180 days, it will carry an endorsement to the effect that the E-visa holder must register with the FRRO/FRO concerned within 14 days of arrival.
- (6) The Employment visa of a foreign national may be extended by the FRROs / FROs beyond the initial visa validity period, up to a total period of 5 years from the date of issue of the initial Employment Visa, on an year to year basis subject to good conduct, production of necessary documents in support of continued employment, filing of Income Tax returns and no adverse security inputs about the foreigner. The period of extension shall not exceed five years from the date of issue of the initial Employment visa.

VI. Grant of Employment visa for foreigners wishing to work with NGOs registered in India

- (1) A foreigner who wishes to come to India for honorary work (without salary) with NGOs registered in India may be granted Employment 'E' Visa with special endorsement on his/ her E Visa "**TO WORK WITH NGO----**" (Name of the NGO and place of work). The foreigners eligible for honorary work with the NGOs may be paid an honorarium up to a ceiling of Rs. 10,000 per month.
- (2) Subject to usual checks and formalities, a foreigner wishing to work with an

NGO registered in India, may be granted an Employment (E) visa on the following conditions:

- (i) The foreigner must submit proof of his/her employment with the NGO registered in India.
- (ii) The foreigner may be granted a multi- entry Employment visa for one year initially. The visa may be extended by FRROs / FROs beyond the initial visa validity period up to a total period of 5 years from the date of issue of the initial Employment Visa, on an year to year basis, subject to good conduct, production of necessary documents in support of continued employment and no adverse security inputs about the foreigner. The period of extension shall not exceed five years from the date of issue of the initial Employment visa.
- (iii) Foreign nationals holding an Employment Visa for a period exceeding 180 days will be required to get themselves registered with the FRROs/FROs concerned within 14 days of arrival in India. However, if the Employment Visa is valid for a period of 180 days or less, no registration would be required.

**VII. Visa to family members of a foreigner granted Employment Visa**

- (i) Family members / dependents of a foreigner who is granted 'E' visa shall be granted 'X' visa subject to usual security checks provided the family members are otherwise eligible for grant of such a Visa. Its validity shall be co-terminus with the validity of the visa of the principal visa holder [or for such shorter period as may be considered necessary by the Indian Mission]. Such family members may also obtain Student/Research Visa etc. subject to usual security checks provided they are otherwise eligible for grant of such a visa.
- (ii) 'X' visa of the family members/ dependents of such foreign national can also be extended by the FRROs/ FROs beyond the initial visa validity period up to a total period of 5 years from the date of issue of the initial visa, co-terminus with the visa of the principal Visa holder, subject to no adverse inputs against the said foreign national.

**VIII. Special provisions for grant of employment visa to the nationals of United States of America**

- (1) US nationals who are the CEOs/Senior executives of a US company may be granted Employment Visa for a period of 3 years or co-terminus with

the contract, whichever is earlier. The visa shall be issued subject to his/her qualifying for the Employment visa.

- (2) The FRROs/ FROs concerned may grant an extension on an year-to-year basis, if required. This extension will be granted subject to good conduct, production of necessary documents in support of continued employment, filing of income tax returns and no adverse security inputs. The total period for which extension may be granted shall not exceed 5 years from the date of issue of the initial employment visa.
- (3) Family members of a US national, who is the CEO/Senior Executive of a US company, would be governed by the provisions as mentioned in VII above.

**IX. Specific provisions relating to the grant of Employment visa to Japanese nationals.**

- (1) A multiple-entry employment visa may be issued to Japanese technicians or experts coming to India in pursuance of bilateral arrangements between the Government of India and the Government of Japan or in pursuance of arrangements between non-governmental organizations including arrangements regarding cultural or academic exchanges that have been approved by the Government of India for the duration stated in the arrangement or a period of five years, whichever is less.
- (2) For those Japanese applicants who are not covered under (1) above but are highly skilled and qualified professionals employed by a company, organization or industry in the IT software and IT enabled sectors in India, multiple-entry employment visa valid for 3 years initially may be granted. The applicant must submit proof of his or her employment contract or engagement by the company, organization or industry in India or of the undertaking in India. The applicant may be asked to submit proof of registration of the company, organization or industry under domestic laws and regulations. An extension of the period of stay for 2 more years beyond the initial 3 years may be granted to those Japanese applicants who entered India with visa mentioned in this paragraph, in accordance with the procedures determined by the Govt. of India. In this connection, the Govt. of India will ensure that such procedures will be completed as expeditiously as possible.
- (3) For those Japanese applicants who are highly skilled and qualified professional coming to India for employment by a company, organization or industry in India or engaged in an undertaking in India on contract not covered in (1) and (2) above, multiple-entry employment visas valid for up to 3 years or the terms of assignment whichever is less, may be granted.

An extension of the period of stay for 2 more years on a year to year basis beyond the initial period of 3 years may be granted to those Japanese applicants who entered India with visas mentioned in this paragraph subject to provision of necessary documents.

- (4) A multiple entry visa may be issued to the family members (spouse and children who are dependent on the applicant and forming part of the same household) of the nationals of Japan mentioned in (1), (2) and (3) above, co-terminus with the Employment Visa issued to the principal visa holder, upon presentation of proof of their relationship and a sponsoring letter from their employer.
- (5) Nationals of Japan and their family members mentioned above will complete formalities for residence permits by applying to the FRRO/ FRO concerned within fourteen (14) days after their arrival in accordance with the relevant regulations of India. The residence permits issued by the FRRO/ FRO need to be renewed on annual basis.

**X. Visa for interns under the French International Internship Programme (VIE)**

A foreigner visiting India under the French International Internship Programme (VIE) may be granted Employment Visa subject to the following conditions:-

- (a) The visa for interns under the French VIE programme would be granted for fresh graduates within one year of graduation.
- (b) The visa would be valid for such graduates for a maximum period of one year with no extension permissible.
- (c) It would normally be restricted to a maximum of 50 interns per year.
- (d) Visa would be company specific and would only be issued on receipt of a letter from the company requesting for visa under the programme, with the period to be clearly specified, subject to a maximum period of one year.
- (e) The interns shall observe all registration formalities as per rules after their arrival in India.

**XI. Conversion of Employment Visa**

**Employment Visa cannot be converted to any other kind of visa during the stay of the foreigner in India except in the following circumstances by the FRRO/ FRO concerned:-**

- (a) Employment visa may be converted to 'X' (Entry) Visa if a foreigner who has come to India on Employment visa marries an Indian national during the validity of his/her Employment visa and does not intend to continue on Employment Visa. Such conversion would be considered subject to fulfillment of following conditions:
- (i) submission of a copy of the registered Marriage Certificate; and
  - (ii) a report about their marital status which will, inter-alia, include his/her antecedents, confirmation about their living together and security clearance.
- (b) Employment visa in case of Persons of Indian Origin, who were otherwise entitled for 'X' (Entry) Visa but have entered India on Employment visa, may also be converted to 'X' Visa subject to verification of PIO status.
- (c) Employment visa of a foreigner who falls ill after his/her entry into India rendering him/her unfit to travel, and requiring specialized medical treatment, may be converted to a Medical visa if he/she is eligible for grant of the Medical Visa and a medical certificate is obtained from a government / ICMR recognized hospital. In such cases, 'X' visa of the family members/ dependents accompanying the foreigner (whose Employment visa is converted into Medical Visa) may also be converted into Medical Attendant [Med X] visa co-terminus with the Medical visa of the foreigner.

**Note :** On conversion of Employment visa into 'X' visa / Medical visa/ 'Med X' visa, the following endorsement shall be made on the Passport / Residential Permit '**Employment / Business not permitted**'.

**XII. Conversion of 'X' Visa of nationals of Afghanistan, Bangladesh, China, Iran and Sri Lanka married to Indian nationals into Employment Visa.**

'X' Visa of nationals of Afghanistan, Bangladesh, China, Iran and Sri Lanka married to Indian nationals, but not entitled to a PIO card, may be converted into Employment Visa, on application, by the Ministry of Home Affairs, after prior screening by Security Agencies, subject to the following:-

- (a) He/she fulfils the conditions laid down for the grant of Employment Visa in such cases i.e. he/she must draw a minimum salary of US\$ 14,000 per annum.
- (b) Submission of adequate proof of marriage with the Indian national.



- (c) Obtaining a field report about the satisfactory conduct of the said national.
- (d) Such conversion would be permissible only after two years of marriage having subsisted.

The period of such visa will be for one year and can be extended on an yearly basis (without any limit) by the FRROs /FROs subject to the subsistence of the marriage with the Indian national, good conduct, production of necessary documents in support of continued employment, filing of Income Tax returns and no adverse security inputs about the said national.

Any change in the employer will be permitted only with the prior approval of the Ministry of Home Affairs (Foreigners Division).

If he/she discontinues the employment, his/her visa may be converted into 'X' Visa subject to the conditions laid down (Para XI above).

### **XIII. Conversion of 'X' visas to 'E' visas of the spouse of an employee on intra-company transfer**

Conversion of 'X' (Entry) visa of the spouse of an employee on intra-company transfer into Employment Visa may be permitted within the country, subject to the fulfillment of the following conditions:

- (i) The applicant will have to fulfill all the conditions laid down for grant of Employment Visa.
- (ii) Conversion of 'X' Visa into Employment Visa in such cases shall be permitted only with the prior approval of the Ministry of Home Affairs (Foreigners Division).
- (iii) All other conditions regarding duration of Employment Visa, extension etc will be governed by the provisions as mentioned above.

### **XIV. Change of Employer**

**No change of employer shall be permitted during the currency of the Employment Visa**, except in cases mentioned below. If the foreign national desires to change the employment to another company/organization, he/she will have to leave the country and apply for a fresh Employment Visa.

The change of employment may be considered only between a registered holding company and its subsidiary and vice-versa or between subsidiaries of a registered holding company subject to the following conditions:-

- (i) Prior permission of the Ministry of Home Affairs is required for change of employment.
- (ii) The change of employment would be permitted at a senior level e.g. managerial or a senior executive position and/ or at a skilled position e.g. a technical expert.
- (iii) The foreign national concerned will have to fulfill all other conditions for grant of Employment Visa.
- (iv) A certificate from the holding company, that the company in which the change of employment has been requested, is a subsidiary of the holding company.
- (v) No objection from the company from where the foreigner is seeking change of employment.
- (vi) Justification from the holding company warranting change of employment.
- (vii) Change of employment between the holding company and its subsidiary and vice-versa or between two subsidiaries may be permitted only once during the currency of 5 years on Employment Visa.
- (viii) Change of employment would not entitle the foreigner to stay in India for a period of 5 years from the date of change of employment. The residency of 5 years on Employment Visa would commence from the date of issue of the original Employment Visa.
- (ix) The change of employment would be subject to approval and satisfaction of the competent authority.

**In all other cases, if a foreign national desires to change the employment to another company/ organization, he/she will have to leave the country and apply for a fresh Employment Visa at the Indian Mission/ Post concerned.**

### **Frequently Asked Questions**

**Q.1 Whether a foreign company/organization that does not have any Project office/subsidiary/joint venture/branch office in India sponsor a foreign national/employee of a foreign company for Employment visa ?**

**Ans.: No**

**Q.2 Whether an Indian company/organization which has awarded a contract for execution of a project to a foreign company that does not have any base**

in India, sponsor employee of foreign company for Employment visa?

Ans. : Yes

**Q.3** If the Indian organization/entity sponsors an Employment Visa, does this mean that the Indian organization/entity has to necessarily be the legal employer of the person?

Ans.: No

**Q.4** Which type of Visa would be granted to senior management personnel and/or specialists employed by foreign firms who are relocated to India to work on specific project/management assignment?

Ans.: Employment Visa

**Q.5** A large number of female foreigners from different countries are coming to India on the strength of 'Employment Visa' to work in the field of modeling, advertising, acting in films etc. At the time of registering, they normally produce a contract agreement with their sponsoring company in which it is usually mentioned that the sponsoring company will provide work to the foreign national through different assignments with different companies and will share the money earned by the foreign national in a particular ratio. Such foreigners don't get fixed salary from their sponsoring company and till they get assignment, their income doesn't start. How will their cases be regulated?

**Ans.:** All such cases will be covered by the Employment Visa regime and the minimum salary condition of US\$ 25,000 per annum will be applicable in their cases. This will also cover foreign nationals being engaged by various circus companies.

While all such foreign nationals will be allowed to register, they will be granted 3 months time to submit documentary proof to the effect that they would be getting remuneration of at least US\$ 25,000 per annum. If they are not able to produce documentary proof to this effect within the period of 3 months, they will be granted immediate exit after 3 months from the date of registration.

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