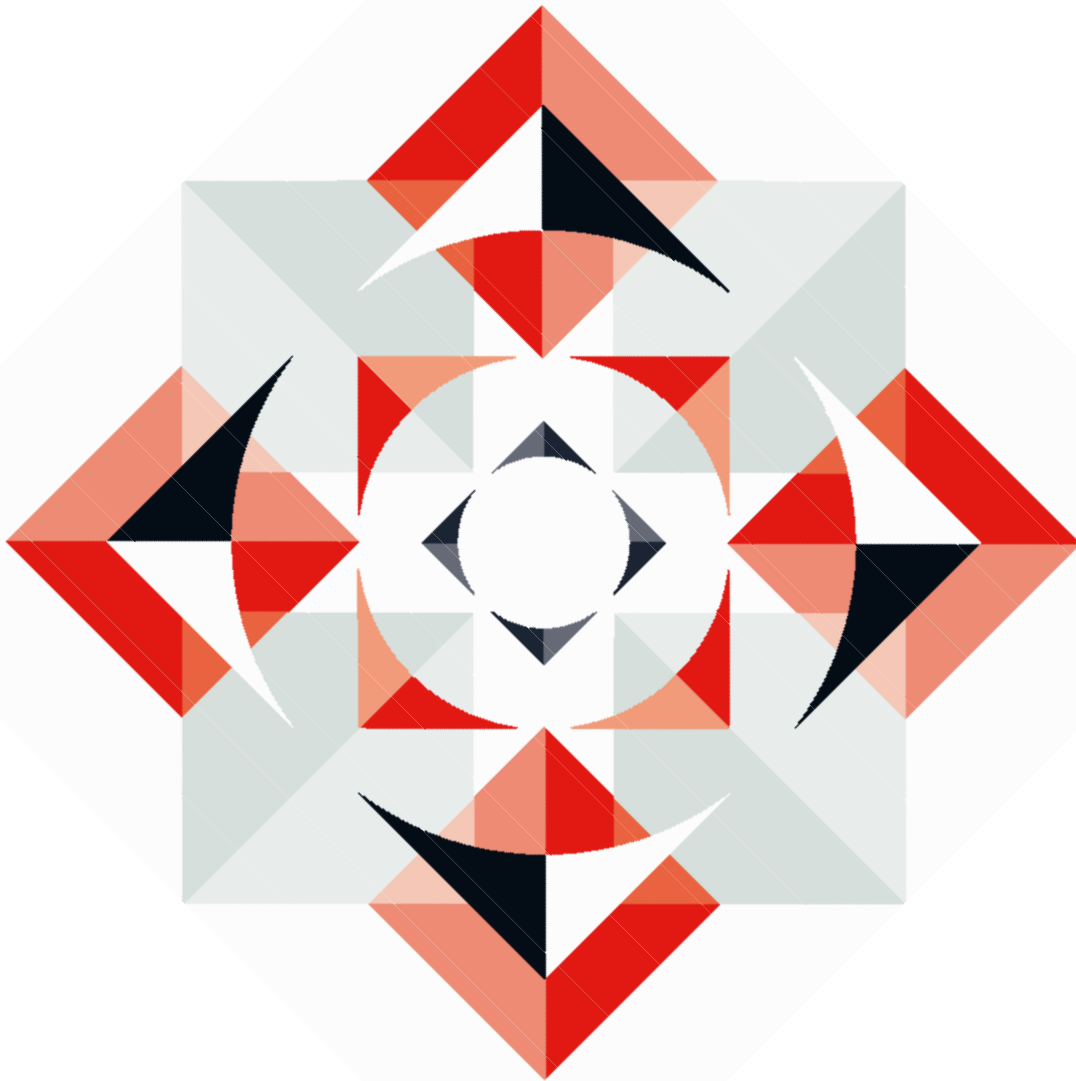


Immigration law in China – an overview



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Introduction

This inbrief is designed to provide a general overview about business visits and employment authorisation requirements for China. As with all countries the immigration laws may be amended with little or no notice and this guide is designed to be general in nature.

This publication provides general guidance only: expert advice should be sought in relation to particular circumstances. Our Hong Kong office can source Chinese law advice through its links with local firms in the China.

Business visitors

What constitutes a business visit?

A business visit is generally a short term trip in order to undertake business related activities for which the Immigration Authorities in the destination country would not require the individual to have employment or work authorisation. Individuals should ensure that the activities undertaken fall within the guidelines on 'permitted activities' as a business visitor.

It is important to note that the activities being conducted will define the nature of the trip and not the length of the trip. For example a very short visit may require the individual to hold employment or work authorisation because the activities fall outside of the 'permitted activities' and amount to substantive or productive work.

Permitted activities

What constitutes a permitted activity?

In China, business visitors should generally limit their activities to the following:

- Negotiating or signing contracts
- Attending pre-planned business meetings
- 'Fact finding' missions and exploring business opportunities
- Attending or receiving training
- Attending seminars or conferences
- Auditing company accounts

Individuals should note that even in circumstances where activities are limited to the above, employment or work authorisation may be required if the foreign national will generate profit for the host entity, receive compensation or take direction from the host entity in China. For specific advice on legally permitted activities please contact our Immigration Team.

Visa categories

For foreign nationals who are not visa exempt, business visitors to China should use the M visa, which is issued to those intending to go to China

for commercial and trade activities. The visa can be obtained from a Chinese diplomatic post in the foreign national's country of origin or legal residence prior to entering China.

Occasionally the Chinese Immigration Authorities operate an exemption for certain nationalities. Currently, for example, nationals of Singapore, Brunei and Japan may visit China visa free for up to 15 days.

Basic requirements

The following are the general requirements for business visitors and are subject to change by the Chinese authorities:

- The foreign national must have a residence and an employer outside of China
- The trip to China must be for a set and pre-determined period and purpose
- The duration of the trip must be consistent with the purpose
- The foreign national should not receive compensation from within China although 'per diem' expenses such as meals and accommodation may be covered by the host company
- The applicant may be required to produce return airline tickets and proof of sufficient funds for the trip.

Please note that documentary requirements and processing times may vary across Chinese diplomatic posts. Please contact our Immigration Team for specific advice.

Maximum period of stay

Business visitors may remain for a period up to 180 days cumulatively within a calendar year.

Employment authorisation

Permission for foreign nationals to take employment/work in China is more complex than entry as a business visitor. This country briefing provides an overview of the basic requirements for an intra-company transfer to China. For specific advice on visa categories please contact our Immigration Team.



Work visa validity period

Work visas (also known as Z visas) may be issued for 30 days, during which, Z visa holders must apply for a Residence Permit with a duration period of 90 days up to five years, depending on the length of the assignment. This permit will allow foreign nationals unlimited exits and entries.

Basic Requirements

Each province has its own immigration requirements and will operate a specific process. In general, to obtain the Work Visa:

- A local registered company in China must be the sponsor and the applicant must reside and work in the same location as the sponsoring company
- Applicant must hold a university degree and two years' work experience
- Applicant must meet specific health requirements and should not have any criminal convictions
- Medical examinations are required as part of the Work Permit process but where the examination can be taken and at what stage is specific to the particular region of China.

The authorities have recently updated the application process and the list of required documents effective from November 2016. Please seek specific advice from our Immigration Team.

Submission Process

The process to obtain a permit to work in China consists of several stages. Although it generally takes approximately four to six weeks to issue a Z visa, timescales and processes vary from region to region across China. This country guide is a general overview and you should seek specific advice for particular regions.

Generally, the Chinese entity must first be registered for the online application system. Each business entity will need to be registered separately in each province. The next step would be to apply for the notification letter of Work Permit. Once this has been completed, the foreign national will take the issued documents and apply for the Z visa (single entry) at the Chinese diplomatic post in their country of origin or legal residence.

Post arrival

Within 24 hours of arrival in China all foreign nationals must register their place of accommodation. The process is normally completed at the local police station by producing a passport and completing a Temporary Residence Registration Form.

Within 15 days of entry into China using the Z visa, the Chinese entity will need to apply for a Work Permit for the foreign national. The foreign national will need to attend a medical check up prior to the application for the Work Permit.

Within 30 days of entry into China, the foreign national must personally submit an application to the Labour Bureau for a Residence Permit. The Residence Permit is the foreign national's evidence of a right to reside legally in China.

These documents must be in place before the foreign national commences employment in China.

Note that there are specific processes for Chinese nationals who have permanent residence outside of China.

Please seek specific advice from our Immigration Team.

Exit requirements

On the final departure from China the foreign national must surrender their Work and Residence Permits to the local authorities for cancellation. In some regions the cancellation process must be commenced 7 days prior to departure from China.

Please note that documentary requirements and processing times can vary depending on the destination province. Additionally there are financial and custodial penalties for non compliance with immigration requirements in China. Please contact our Immigration Team for specific advice.

For further information on this subject please contact:

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