

Edition

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SHANGHAI PROMISE LAW FIRM

Corporate Affairs Group

Alien Employment in Mainland China

CORPORATE AFFAIRS GROUP

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Seven keys to working legally in Mainland China

In making a tiger, use a long stick

- Chairman Mao

The truth is that Chinese border guards are not as stupid as some people seem to think: aside from being a costly inconvenience, Hong Kong "visa runs" are easily detectable and can lead to hefty fines and even deportation for those unlucky few. There is no alternative to completing the employment process legally and failure to do so can lead to serious trouble for both employee and employer. The legalities, however, are particularly complex due to the decentralized nature of Chinese bureaucracy: there is no central authority to which all application materials can be given; rather a number of completely separate applications must be made which finally culminate in permission to live and work in China. Failure to accomplish any step properly will invariably jeopardize the outcome of your efforts and likely stop you clear in your tracks. For this reason it is extremely important to have a clear understanding of the overall procedure as well as the technicalities of each step. This Manual is designed to give you the necessary knowledge as well as provide you with some tips to help you out along the way.

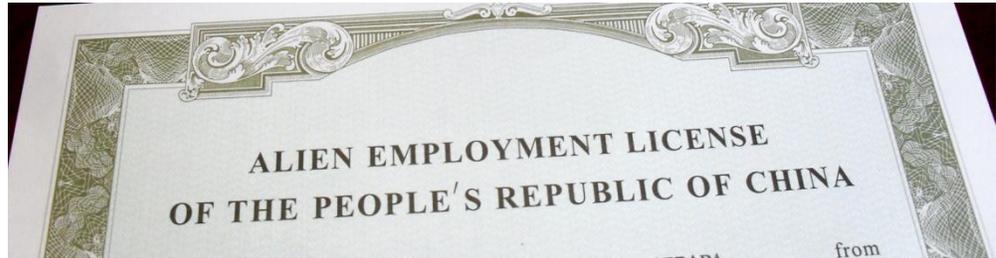
Permission to Employ a Foreign National

Although not the most auspicious start, the only truthful thing to say is that there is no broadly applicable procedure for this step. The exact process your employer will have to follow depends on the type of business they are involved in. (For example, a law firm will require certification from the Shanghai Justice Bureau granting them permission to hire foreign legal counsel.) Your employer will have to enquire with the local government and follow the procedures they set out for their type of enterprise. Indeed, certain types of enterprise may required no additional permission. If this is the case you may proceed directly to the next step and apply for an Employment License.



The Employment License

The title of this document is somewhat deceptive as it does *not* allow for employment in China. Rather, it is simply the culmination of various checks into your work and educational background and signifies only that you are deemed eligible to move on to the next major stage of process (namely, applying for official permission to enter China for the purpose of taking up employment: the Z visa). The Chinese version of the License will cite your job title, so be sure to choose something appropriate before you apply as you will have to specify the *same* title in all remaining applications.



English side of an Alien Employment License certificate

- i. **Application form for foreigners' employment in China:** Downloadable from www.12333sh.gov.cn
- ii. **Copy of the employers Business License:** This should be sealed by the employer to certify it as a true copy of the original.
- iii. **Copy of the employers Organization Code Certificate:** This should be sealed by the employer to certify that it is a true copy.
- iv. **Copy of the employers Certificate of Approval:** This is necessary only for foreign-invested enterprises (*e.g.*: a WFOE) and should similarly be sealed.
- v. **The employees CV:** Written in Chinese and sealed by the employer. A Chinese-style CV is usually a single page in a simple point-form layout.
- vi. **Letter(s) of Reference:** You should obtain such letters from your past employer(s). They should include the period of your employment and your job description. These will need to be translated into Chinese and the translation sealed by your prospective Chinese employer.
- vii. **Qualifications:** You must have qualifications related to your perspective employment in China. You should submit a copy of your highest diploma along with a translation, both sealed by your employer.
- viii. **Passport:** You should bring the original along with a copy of the identity page (and signature page if they are separate) and visa page.

Certified translations are never required for this process.

Legal Requirements

All of the following stipulations will be examined at some point during the application process - with the notable exception of a criminal record verification. No background check or police certificate from your home country is required to work in China. However, you *are* required to declare if you have a criminal history in order to obtain a Chinese visa (regardless of class). Answering this question deceitfully is an offense in and of itself. Dishonestly, if discovered, can jeopardize not only your employment in China but negatively impact your chances of ever being granted a Chinese visa in the future.

The applicant must:

- be in good health;
- have a clearly-defined employer;
- have relevant professional skills;
- have the proper educational background;
- have at least two (2) years of relevant work experience;
- have no criminal record, and
- be between the ages of 18 and 60 for males and 18 and 55 for females.

Practical information

Shanghai Administrative Center for Employment of Foreigners

Forth floor, 77 Meiyuan Road, Shanghai

Phone: +86.21.3251.1585

Monday to Thursday: 09:00 - 11:30, 13:30-17:00

Friday: 09:00-11:30, 13:30-15:30

The Health Certificate

Luckily, this is not nearly as bad as it sounds. In fact, most people find the report to be genuinely useful in managing their personal health and well worth the effort. Although it is sometimes possible to have the examination performed in another country this usually leads to nothing but trouble and added expense on your part. In Shanghai, you must have the exam done at the Shanghai International Travel Healthcare Center. Although available online, you are well advised to complete the health questionnaire at the Center as it is updated often - if you show up with the wrong version they will just ask you to do it again.

The exam consists of nine parts for men and ten for women.

1. Health questionnaire
2. Height and Weight
3. General consultation (Based mostly on your answers to the questionnaire)
4. Eye exam
5. Ear-Nose-Throat exam
6. Electrocardiogram
7. Abdominal Ultrasound (Liver, Spleen, Gallbladder, Kidneys)
8. Chest Radiograph (Heart, Lungs, Diaphragm)
9. Blood Tests (Routine Blood Panel, Blood Group, Rh factor, Biochemistry, Immunology: HIV, Syphilis, Hepatitis C, Tuberculosis)
10. Gynecological exam (Women only)

After check-in you will be instructed to go to a changing room and assigned a locker. You need only remove your shirt and don a freshly laundered robe. The attendant will take your height and weight and mark it on a form that you carry with you to each exam station. A nurse in the hallway will check your form to see which exams you have had and which you must still undergo and direct you to the appropriate room. Each exam is done in a private room by a specialist and takes no more than a few minutes. A bound **Health Examination Record** in English along with the official **Certificate of Verification** will be available for pickup (or couriered to you for an extra fee) in about five (5) working days. If you opt for courier you must buy the envelope and either be able to write the address in Chinese yourself or have it written for you by the clerk. You will also need to call the Center at least five (5) days ahead to book an appointment and be sure to bring at least 700 RMB in cash to pay the fees.

The Invitation Letter

In the past this step could be fulfilled easily by a simple letter written by your employer; this is unfortunately no longer the case. You must apply to the relevant government agency in order to receive an official **Invitation Letter of Duly Authorized Unit**. You will need this letter to apply for your Z visa whether in Hong Kong or in your home country.

- i. **Application:** Your employer must apply for the Letter using the employer portal on the Pudong government website (www.pudong.gov.cn). Once complete, they must print a copy of the application and seal it with the company seal. Employers not located in Pudong should contact the Shanghai Municipal Commission of Commerce and/or Shanghai Municipal Foreign Affairs Office for instructions on how to obtain the Letter.
- ii. **Passport:** Your original and a photocopy of the identity page (and the signature page if they are separate).
- iii. **Original of the Business License, Organization Code Certificate and, if applicable, the Certificate of Verification:** Although not usually required it is best to bring along a sealed photocopy of each document. (The Certificate of Verification pertains only to foreign-invested enterprises (e.g.: a WFOE)).

NOTE: The "Duly Authorized Unit" cited in the title of the letter is *not* your employer. Rather, it refers to the local government department ("unit") responsible for issuing the document. For example, in Pudong the Duly Authorized Unit is the Shanghai Pudong New Area People's Government.

TIP: You will need to decide where you want to apply for your Z visa *before* you apply for the Invitation Letter as the letter will specify where you should apply for your visa. Once the document is issued you can only use it to apply in that country. In the Application your employer can (and must) specify which country should appear in the Letter (for example, a Czech national can request to do his visa application in Hong Kong rather than return to the Czech Republic), but you must make this clear to your employer before they submit the application to the government.

Practical information

Pudong Government Reception Center

2 Hehuan Road, Pudong New Area, Shanghai

Monday to Saturday: 09:00 - 17:00 (Reduced service 11:30-13:30)

The Z Visa

This is perhaps the most onerous step as an employment visa cannot be issued from within Mainland China. This is because, formally speaking, a visa serves only as official permission to *enter* a country for a specific purpose (e.g.: tourism, employment, study, etc). For certain people this poses no problem whatsoever as Chinese visa's are readily available from the Chinese Embassy or Consulate responsible for your place of residence abroad. However, for those already residing in China (for instance on a multiple entry tourist "L" visa) completion of this step will invariably require a trip abroad. Most commonly people head to Hong Kong to complete this step with little difficulty. Whilst technically possible, applications made in Macau or Pusan (South Korea) are far less common and generally not recommended. The following procedure applies *only* to Hong Kong; if you plan on making your application elsewhere you must follow whatever procedures your local Chinese Embassy or Consulate has in place.



Visa applicants waiting to enter the Commissioner's Office in Hong Kong.

- i. **Passport:** Your passport must have at least six (6) months validity remaining, have two (2) empty visa pages and be in good physical condition. Bring a photocopy of the identity page (and the signature page if separate).
- ii. **Visa Application:** This is available online (www.fmcoprc.gov.hk) or at the Commissioner's Office in Hong Kong. Remember to write clearly and in black ink! (Well-meaning but misinformed attendants often tell applicants that the online form is not accepted, but this is simply not true.)
- iii. **Colour Passport Photo:** Bring one (1) photo.
- iv. **Employment License:** Bring the original and a photocopy.
- v. **Health Certificate:** Bring the original and a photocopy. (You do not need to photocopy the accompanying Health Examination Record)

A Z visa is issued in only one variety: single-entry with 30 days validity. This is because it only permits you to *enter* China for the purpose of taking up employment; permission to *stay* in the country is granted by issuance of a Residence Permit (the last step). You needn't worry about this now, however, as a single entry visa is in the lowest fee category which means less to pay. Remember to bring enough cash (HKD only).

FOREIGNER'S EMPLOYMENT

NOTE: As Hong Kong is a Special Administrative Region of Mainland China they do not have an Embassy or Consulate as such. You will find, however, that the Commissioner's Office of China's Foreign Ministry acts just as an Embassy normally would and, for your purpose, is no different.

TIP: Many people think showing up to the Commissioner's Office well ahead of business hours will speed up their application. In general, this is not true as a hundred other people show up thinking exactly same thing. To enter the building everyone must pass through (a not terribly rigorous) security check which inevitably slows everything down even more. A better strategy is to arrive an hour after opening time once the crowd has had a chance to clear. Be aware that next-day service will be 24 hours from the time you hand over your application material to the clerk. So, if seconds really count, arriving very early (one or two hours) might help you secure an earlier pickup time.

TIP: Once inside the waiting area a clerk will quickly review your documents (to make sure you have everything) before issuing you a number, so be sure to keep all your documents handy and organized.

TIP: There is an attended photocopier and a photo booth available for use in a corner just to the left of the elevators outside the main waiting area on the 7th floor of the Commissioner's Office. You will need Hong Kong Dollars to make use of either.

Practical information

The Commissioner's Office of China's Foreign Ministry in the Hong Kong SAR

Seventh floor, China Resources Building, 26 Harbor Road, Wanchai, Hong Kong

Phone: +852.3413.2424

Monday to Friday: 09:00 - 12:00, 14:00-17:00

IMPORTANT

Don't put-off registering with the local police station upon your arrival in Mainland China as instructed on the back of the yellow *Arrival-Departure Card* given to you on the plane prior to landing. You will need an original, up-to-date *Registration Form of Temporary Residence* (given to you upon registration) to apply for a *Residence Permit*. Consult the Police Registration section of this Manual for more information on this topic.

The Employment Permit

Another common misconception is that a Z visa allows you to work; this is simply not the case and attempting to do so could land you and your employer in trouble with the authorities. The Z visa merely allows you to enter China for the purpose of *applying* for your **Alien Employment Permit**, which is the document that actually allows you to work legally. In fact, you are given only thirty (30) days upon entering China to do this or you lose your right to apply. Luckily, if you go prepared with the correct documents, this step is rather painless thanks to the efficiency of the Shanghai Municipal Human Resources and Social Security Bureau. After accepting your documents the clerk will give you a pink bar-coded receipt indicating the pickup date.



Cover of an Alien Employment Permit.

- i. **Application form:** This form is available online (www.12333sh.gov.cn) and should be sealed by your employer. You should bring two (2) originals.
- ii. **Passport:** Your original and a photocopy of the identity page (and the signature page if they are separate). Also bring a photocopy of your Z visa.
- iii. **Copy of the Business License:** The photocopy should be sealed by the employer to certify it as a true copy of the original.
- iv. **Copy of the Organization Code Certificate:** Again, sealed by the employer to certify that it is a true copy.
- v. **Copy of the Certificate of Approval:** This is necessary only for foreign-invested enterprises (*e.g.*: a WFOE) and should similarly be sealed.
- vi. **The employees CV:** Written in Chinese and sealed by the employer. A Chinese-style CV is usually a single page in a simple point-form layout.
- vii. **Letter(s) of Reference:** You should obtain such letters from your past employer(s). They should include the period of your employment and your job description. These will need to be translated into Chinese and the copy sealed by your Chinese employer. Bring both the translation and the originals.

FOREIGNER'S EMPLOYMENT

- viii. **Qualifications:** You must have qualifications related to your perspective employment in China. You should submit a photocopy of your highest diploma along with a translation, both sealed by your employer. Be sure to translate it accurately line-by-line.
- ix. **Labour Contract:** A photocopy sealed by your employer.
- x. **Employment License:** Bring the original and a photocopy.
- xi. **Colour Passport Photos:** You will need three (3) photos: Two (2) glued on to the applications forms and one (1) submitted to the Bureau.
- xii. **Employer's User Card:** Very important! You can't complete the application without it. If your employer doesn't have one, they must apply for it first.

Certified translations are never required for this process.

TIP: Make sure your employer's Business License, Organization Code Certificate and, if applicable, Certificate of Approval are up-to-date. If they are close to expiry or will expire before the end of your contract, the Bureau will ask you to come back once they are renewed.

Practical information

Shanghai Administrative Center for Employment of Foreigners

Forth floor, 77 Meiyuan Road, Shanghai

Phone: +86.21. 3251.1585

Monday to Thursday: 09:00 - 11:30, 13:30-17:00

Friday: 09:00-11:30, 13:30-15:30

The Residence Permit

Practically speaking, this is the most important step as your hard-fought Alien Employment Permit is of little value if you are not legally able to remain in China to begin your job. Unlike a visa, the **Residence Permit for Foreigner in the People's Republic of China** allows unrestricted access to Mainland China without limits on your length of stay. For example, an "L" tourist visa might allow for unlimited re-entry, but each stay will be limited to, say, 60 days - the Residence Permit eliminates the stay limit and the requirement to register at the police station after each entry. Unlike most of the above, this Permit is not free: the fees range from 400RMB to 800RMB depending on the validity period.



Title of a Residence Permit pasted into a passport.

- i. **Foreigner Visa and Residence Permit Application Form:** This form is available only at the Bureau. There are desks (complete with pens and glue to attach your photo to the form) set-up for you to use for this purpose.
- ii. **Registration Form of Temporary Residence:** This can be either a print out (often, but not always, using a dot matrix printer on very thin paper) or a pink form. Be sure to bring the original and a photocopy.
- iii. **Health Certificate:** Bring the original and a photocopy.
- iv. **Alien Employment Permit:** Bring the original.
- v. **Employment Registration Form:** This form is given to you when you pick-up your Alien Employment Permit. (In fact, it is the second copy of the Application you submitted to apply for the Permit, but now with your Permit number written on it and a governmental seal applied.)
- vi. **Copy of the Business License:** Bring a photocopy sealed by your employer.
- vii. **Copy of the Organization Code Certificate:** Bring a photocopy sealed by your employer.
- viii. **Copy of the Certificate of Approval:** Necessary only for foreign-invested enterprises (e.g.: WFOE). Bring a photocopy sealed by your employer.

FOREIGNER'S EMPLOYMENT

- ix. **Passport:** Must have at least two blank visa pages.
- x. **Application Letter from employer:** This letter, written by your employer, should begin by asking the Bureau to help you obtain a Residence Permit, followed by who you are (name, gender), what job you will be doing, the length of your contract, what experience you have and what your highest degree is. It should be sealed by your employer and on letterhead if practical.
- xi. **Colour Passport Photo:** Bring one (1) along with you.

NOTE: You will find that your Z visa has been canceled when you get your passport back, but don't worry. The new Residence Permit replaces the single-entry Z visa and allows you unrestricted access to China visa-free for as long as it is valid.

TIP: If you don't want to go back to the Bureau to pick-up your passport and Alien Employment Permit you can opt to have it couriered back to you. You can buy a courier envelope at a desk located at the back of the waiting area beside the windows and next to the washroom. You will need your address written in Chinese to show the clerk if you are unable to write it yourself (also be sure to list the phone number of a Chinese-speaking colleague). Take the envelope with you and hand it over with the rest of your documents when your number is called. You will get a receipt indicating which originals you handed over (i.e.: Passport, Alien Employment Permit) and how much you will have to pay the courier upon delivery.

Practical information

Shanghai Public Security Bureau - Exit-Entry Bureau

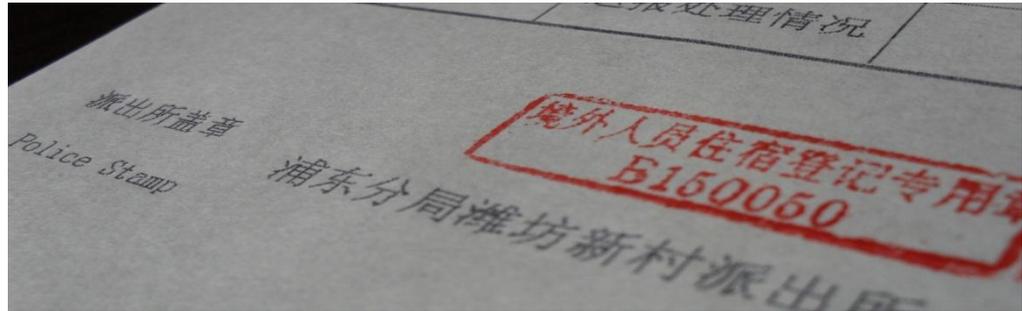
1500 Minsheng Road, Pudong New Area, Shanghai

Phone: +86.21.6854.1199

Monday to Saturday: 09:00 - 17:00 (Reduced service 11:30-13:30)

Police Registration

After receiving your Residence Permit you must complete a new **Registration Form of Temporary Residence** with your local police station. This time, rather than entering your visa information you must list the details of your Residence Permit. The good news is you can leave and return to China as many times as you wish without having re-register upon each entry (as you are required by law to do if you enter on a visa). However, if you move, the terms of your employment change or the owner of your flat changes, you must return to update the registration right away.



Seal area of a Registration Form of Temporary Residence.

- i. **Application Form:** The police station will provide this to you.
- ii. **Passport:** Your original and a photocopy of the identity page (and the signature page if they are separate).
- iii. **Lease Agreement:** Bring the original and a photocopy. If you are staying with friends or family, this is not necessary.
- iv. **Property Ownership Certificate:** Bring the original and a photocopy.
- v. **Property Owner's ID Card:** Bring the original and a photocopy.

In practice the owner will never release the Property Ownership Certificate or their ID card into your possession, so you will need to arrange a convenient time to go with them to the police station. Due to the decentralized housing registration system in place today, trips such as these are likely a common occurrence for your landlord and should not be viewed as a major inconvenience for them.

TIP: Most police stations *do not* have a publicly accessible photocopier, so you are well advised to take care of this beforehand. You cannot complete the registration without the required copies.

General Information

Company Seals: In China the accepted way to discern a true document from a fake is by examining the veracity of the seal. This is why every official document you encounter in China invariably bears a red stamp. Without a seal many documents are rendered completely useless. In this Manual we suggest you have every photocopy sealed (that is, stamped in red ink using your employer's company seal) before presenting it as part of your applications. There is no harm in sealing a photocopy where a plain copy might well suffice. However, the converse is absolutely not the case.

Black Ink: *Always* write in black ink. Chinese legal practice dictates that all signatures should be made using a black fountain pen. This is because markings made in ballpoint pen or another colour of ink are thought to fade with the passage of time and thus destroy the record. At the very least, complete all applications using a black gel pen.

Original Documents: In cases where you must present original documents belonging to your employer, such as the *Business License*, *Organization Code Certificate*, or *Certificate of Verification* a staff member will mostly likely take care of this step for you. At the very least expect a colleague to accompany you to the government office. These documents are very important for your employer and under normal circumstances almost never leave the office safe. Under no circumstances are you required to submit the originals of the *Business License*, *Organization Code Certificate* or *Certificate of Verification* to the government.

However, other originals, such as the *Health Certificate* (but not the accompanying *Health Examination Record*) and the *Invitation Letter* will be retained by the government. So, if you wish, make a photocopy beforehand.