

## **Part B : Employment Visa**

### **Q.5 What is an Employment Visa?**

**Ans.:** An Employment Visa is granted to foreigners desiring to come to India for the purpose of employment, subject to fulfillment of the following conditions:

- (i) The applicant is 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.
- (ii) 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.
- (iii) The foreign national seeks 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.
- (iv) 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 and (c) Staff working for the concerned Embassy/High Commission in India. 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 three categories mentioned above. There will be no need to refer such cases for consideration of the Ministry of Labour & Employment for clearance. The guidelines issued by the Ministry of Labour & Employment vide their OM no.DGET-M-26025/4/2009-MP(G) dated 8<sup>th</sup> September 2009 and the amendment dated 22<sup>nd</sup>

December, 2009 will no longer be applicable in view of these stipulations.

- (v) The foreign national must comply with all legal requirements like payment of tax liabilities etc.
- (vi) The Employment Visa must be issued 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.
- (vii) 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 recognised 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.

The name of the sponsoring employer / organization shall be clearly stipulated in the visa sticker.

**Q.6 What are the other categories of foreign nationals who are eligible for Employment visa?**

**Ans.:** Subject to the fulfillment of the conditions enumerated in Question B5 above, the following categories of foreign nationals will also be eligible for Employment visa:-

- (i) 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).
- (ii) Foreign artists engaged to conduct regular performances for the duration of the employment contract given by Hotels, Clubs, other organizations.
- (iii) Foreign nationals who are coming to India to take up employment as coaches of national /state level teams or reputed sports clubs.

- (iv) Foreign sportsmen who are given contract for a specified period by the Indian Clubs/organizations.
- (v) 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.
- (vi) Foreign language teachers/interpreters.
- (vii) Foreign specialist Chefs.
- (viii) 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.
- (ix) 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.

**Q.7 What is the duration of an Employment Visa?**

**Ans.:** Validity of an Employment visa will be as follows:-

- (i) 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, can be granted an Employment visa for the duration of the agreement, or for a period of five years, whichever is less, with multiple entry facilities.
- (ii) In the case of highly skilled foreign personnel being employed in the IT software and IT enabled sectors, the Missions/Posts can grant Employment visa with validity up to 3 years or the term of

assignment, whichever is less, with multiple entry facility.

- (iii) A foreigner coming to India for employment not covered in (i) or (ii) above can be granted Employment visa with a validity up to two years or the term of assignment, whichever is less, with multiple entry facility.
- (iv) In the case of Employment Visa issued for a period of 180 days or less, registration is not required with FRRO/FRO. The Missions/Posts may issue multiple entry Employment Visa for a period of 180 days or less.
- (v) However, if the Employment visa is valid for a period of more than 180 days, it should carry an endorsement to the effect that the E-visa holder must register with the FRRO/FRO concerned within 14 days of arrival.
- (vi) On registration, the FRRO/FRO concerned may issue Residential Permit for the validity of the visa period. However, if there is any change in the residential address, the foreign national concerned shall immediately report the change of address, in writing, to the FRRO/FRO concerned.
- (vii) The Employment visa may be extended by the State Governments / UTs / 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.

**Q.8 What documents are required to be submitted along with application for Employment Visa?**

- Ans.** (i) The foreign national must have a valid travel document and a re-entry permit, if required under the law of the country concerned.
- (ii) The foreign national must submit proof of his/her employment of contract or engagement by the company / organization, etc. in India.
- (iii) The foreign national must submit documentary proof of his educational qualifications and professional expertise.
- (iv) The foreign national must submit 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 recognised promotional body in the field of industry and trade etc.

**Part C: Other queries relating to Business and Employment Visa**

**Q.9 : What is the type of visa granted to foreigners wishing to work with NGOs registered in India?**

**Ans.:** A foreigner who wishes to come to India for honorary work (without salary) with NGOs registered in India may be granted Employment Visa with special endorsement on his/ her E Visa **“TO WORK WITH NGO—** (Name of the NGO and place of work) subject to usual checks and formalities 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 the State Governments / UTs / 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) All registration formalities as per rules, after his/her arrival in India, shall be strictly complied with and the registration must be done with the FRRO/FRO within 14 days from the date of his/her arrival.

**Q.10 Which category of Visa will be granted to family members of foreign nationals coming to India on Business Visa?**

**Ans. :** Family members/dependants of a foreigner who is granted 'Business visa' visa may be granted 'X' visa subject to usual security checks provided the family members are otherwise eligible for grant of such a visa . Its validity should 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."

**Q.11 Which category of Visa will be granted to family members of foreign nationals coming to India on Employment?**

**Ans.:** 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]

**Q. 12 Whether the Business visa can be converted to any other type of visa within the country?**

**Ans.:** Business visa shall be non-convertible and non-extendable beyond 5 years from the date of issue. At time of issue of Business visa, India Missions/Posts must make it clear to the foreigner that a Business visa cannot be converted to any other kind of visa during his/her stay in India except in the following circumstances and with the prior approval of the Ministry of Home Affairs:

- a) Business visa can be converted to 'X'(Entry) Visa if a foreigner who has come to India on Business visa marries an Indian national during the validity of his/her visa and does not intend to continue on Business Visa. Such conversion would be considered subject to fulfillment of following conditions:
  - (i) submission of a copy of registered Marriage Certificate , and
  - (ii) report from the FRRO/FRO concerned about their marital status which will inter-alia include his/her antecedents, confirmation about their living together and security clearance.
- b) Business visa in case of Persons of Indian Origin, who were otherwise entitled for 'X' (Entry) Visa but have entered into India on Business visa, can also be converted to 'X' Visa.
- c) Business visa of the foreigners who fall ill after their entry into India rendering them unfit to travel and require specialized medical treatment may be converted to Medical visa if they are eligible for grant of Medical Visa and medical certificate is obtained from government / government-recognized hospitals. In such a case, 'X' visa of family members/ attendant accompanying the foreigner (whose 'Business' 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 Business visa into 'X' visa / Medical visa/ 'Med X' visa, the following

endorsement shall be made on the Passport / Residential Permit - “**Employment/Business not permitted**”.

**Q.13 Whether Employment visa can be converted to any other type of visa within the country?**

**Ans.:** Employment Visa cannot be converted to any other kind of visa during the stay of the foreigner in India except in the following circumstances and with the prior approval of the Ministry of Home Affairs:

- a) Employment visa can 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 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 registered Marriage Certificate , and
  - (ii) report from the FRRO/FRO concerned 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 into India on Employment visa, can also be converted to ‘X’ Visa.
- c) Employment visa of the foreigners who fall ill after their entry into India rendering them unfit to travel and require specialized medical treatment can be converted to Medical visa if they are eligible for grant of Medical Visa and medical certificate is obtained from government/government-recognized hospitals. In such a case, ‘X’ visa of family members/ attendant accompanying the foreigner (whose ‘Employment’ visa is converted into



Medical Visa) can 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”**.

**Q.14 Can foreign nationals coming to execute projects in India be granted Business Visas?**

**Ans.:** No. A foreign national coming for executing projects / contracts will have to come only on an Employment Visa.

**Q.15 Can foreign nationals already in India for executing projects on Business Visas be allowed to extend their Business Visas?**

**Ans.:** No.

**Q.16 Can foreign nationals already in India for executing projects on Business Visas be allowed to convert their Business Visas to Employment Visas without leaving the country?**

**Ans.:** No.

**Q.17 Whether a foreign company/organization that does not have any Project office/subsidiary/joint venture/branch office in India can sponsor a foreign national/employee of a foreign company for Employment visa ?**

**Ans.:** No.

**Q.18 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, can sponsor employee of foreign company for Employment visa?**

Ans. : Yes

**Q.19 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.20 Which category of Visa will be granted to the foreign language teachers/interpreters?**

Ans.: Employment Visa

**Q.21 Which category of Visa will be granted to the foreign specialist Chefs?**

Ans.: Employment Visa.

**Q.22 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.

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