

MINISTRY OF LABOR

NATIONAL IMMIGRATION COUNCIL

NORMATIVE RESOLUTION Nr. 74, February 9, 2007

Regulates the procedures related to the concession of working visas to foreigners as well as setting other provisions.

THE NATIONAL IMMIGRATION COUNCIL, instituted through Law nr. 6.815, August 19, 1980, organized according to Law nr. 10.683, May 28, 2003, and empowered by Decree nr. 840, June 22, 1993, determines:

Art. 1 A legal entity interested in hiring foreign labor, either permanently or temporarily, must request a work permit, issued by the General Immigration Coordination of the Ministry of Labor. The request must be according to the "Work Permit Request Form", duly signed and forwarded by his/her legal representative or attorney, and accompanied by the following documents:

1 – legal entity:

- a) legal corporate document of the legal entity duly registered with the competent organ;
- b) other constitutional documents of the legal entity that are deemed necessary to prove its organizational structure;
- c) document on the election or appointment of its legal representative duly registered with the competent organ;
- d) copy of the National Registry of Legal Entities card– CNPJ;
- e) public delegation of power of attorney or, if the request is from an individual represented by an attorney, with a notarized signature;
- f) document vouching that the applicant assumes all and any medical or hospital expenses of the foreigner during his/her permanency in Brazil, as well as those incurred by his/her dependants;
- g) document vouching that the applicant is responsible for the return of the foreign citizen, as well as his/her dependants, to his/her country of origin at the end of the contract;
- h) original receipt as proof of payment of individual immigration tax;
- i) information on all of the addresses and locations where the foreigner will work; and
- j) other documents required in Resolutions taken by the National Immigration Council.

2 – from the candidate:

- a) copy of the passport page that contains the number, name, date of birth, nationality and a photo of the foreign citizen; and
- b) other documents required in Resolutions taken by the National Immigration Council.

3 – information form on the applicant and the candidate according to Model 1 (appendix); and

4 – employment contract stating the validity period, or for an undetermined period, duly signed by all of the parties and according to Models 2 and 3 (appendixes).

§ 1 If the request concerns the transference of the employee to a firm within the same economic conglomerate/group, the applicant must present:

- 1 – notarized copy of the articles of incorporation or statutes of the applying firm as well as of the previous five alterations duly registered in the Board of Trade, even if they were changed before the appointment of the foreigner as an administrator, manager, president or any other position with management responsibilities;
- 2 – proof of the economic links between the requiring firm and the firm where the work permit originated; and
- 3 – letter by the firm where the work permit originated stating it agrees to the transfer request.

§ 2 If the request is for the employment of a legal representative of a transport aviation company and/or related services, the applicant must present a public attorney document where he/she delegates his/her responsibilities to the foreigner as well as an authorization letter issued by the National Civil Aviation Agency – ANAC, authorizing the appointment of the representative and/or his/her substitute in Brazil.

§ 3 If the request deals with the employment of a foreign manager with general powers of representation in financial institutions and other institutions that required the authorization of the Central Bank of Brazil (BACEN), the applicant must submit a letter from the Central Bank of Brazil authorizing the employment of the foreign citizen.

§ 4 If the request is from firms that operate within the insurance, capital and the private open health insurance sectors, the applicant must present a document issued by the Superintendence of Private Insurance (SUPEP) authorizing the foreigner to occupy the position in the firm's Management, Board of Directors, Deliberative Board, Consultative Board, Financial Board or any other positions foreseen in other constitutive documents.

§ 5 The presentation of documentation is not required from a legal entity if the request is supported by art. 13, point 3 of Law nr. 6.815,1980.

§ 6 The Ministry of Labor will simplify procedures related to document requirements for applicants that annually request large quantities of work permits from the General Immigration Coordination office.

§ 7 Documents originating abroad must be translated and approved by the Brazilian consulate according to current legislation.

§ 8 Notarized signatures are not required unless demanded by specific laws.

Art. 2 The lack of a document, or any other failure in the regulation process, will result in an official request for the documentation to be presented within 30 days from the date of notification. The lack of compliance with the notification will result in the denial of the request.

Sole paragraph. The General Immigration Coordination office will notify the applicant on any administrative document or decision by Certified/Registered Mail, telegram or any other electronic means that guarantee the applicant's reception and awareness of the notification.

Art. 3 A work permit will only be granted if the intended recruitment of the foreign citizen does not imply a remuneration that is lower than that paid by the firm to other employees in the same position/activity.

Sole paragraph. A work permit will only be granted to a foreign citizen employed by a firm in the same conglomerate/group if his/her remuneration in Brazil is not lower than the last remuneration paid abroad.

Art. 4 The General Immigration Coordination office will, upon conclusion of the regulatory process, deliberate on the authorization during a period of time stipulated by Law nr. 9.784, January 1999. This period that can be extended for an equal period, if justifiable.

§ 1 The denial of a work period can be contested through an appeal addressed to the authority that issued the denial. The appeal must be submitted within the period established by law, counting from the date of publication in the Official Gazette (DOU).

§ 2 The appeal must be accompanied by proof of payment of double immigration tax.

§ 3 The appeal will be forwarded to the higher offices if the pertinent authority does not reach a decision during the period stipulated by law.

Art. 5 The General Immigration Coordination office is hereby authorized to:

- 1 – deny requests for transferences, without incurring any fines or other administrative measures foreseen in current legislation, if the start date for the employment of the foreign citizen contained in previous contractual alterations does not comply with legal requirements or with data contained in previous processes; and
- 2 – recall the process and cancel the work permit if any contractual clause or legal requirement is breached. The decision can be appealed within the period stipulated by this Normative Resolution.

Art. 6 The legal entity is required to, within fifteen days, inform the Ministry of Labor and justify the transference of a foreign citizen to another firm within the same conglomerate/group.

Art. 7 If the employed foreign citizen changes his/her position or adds other activities to his/her work, the employer/applicant must present justifiable causes, as well as pertinent appendixes to the contract, and must notify the General Immigration Coordination office within fifteen days of the occurrence.

Art.8 A foreign citizen will not be granted a new work permit for the same legal entity for a period of ninety days starting from the date of the end of the work permit or its cancellation.

Art. 9 Requests for extensions of period of stay or of change of visa for foreign citizens holding a valid work permit must be addressed to the Foreigner's Department at the Ministry of Justice, and accompanied with the following documentation:

1 – for extension of period of stay:

- a) proof of the legal existence of the firm/institution (articles of incorporation, statutes, etc);

- b) original work permit accompanied with a copy of the authorization from the Ministry of Labor as published in the Official Gazette (DOU);
- c) notarized copy of all the pages of each individual passport;
- d) original receipt of payment of immigration tax for each individual;
- e) filled work permit form;
- f) notarized and full copy of the labor card;
- g) statement on period of requested extension of original work permit (maximum two years) and statement, signed by both parties, where the employer assumes all responsibilities related to the repatriation of the foreign citizen(s);
- h) detailed written information on the duties and activities of the foreign citizen during his/her initial period of work;
- i) a legal document stating that the employer's signatory party of the new contract has the mandate to employ in the name of the firm (articles of incorporation, statutes, minutes of the assembly or notarized power of attorney);
- j) filled requirement form, obtained at Federal Police offices, for each individual;
- k) notarized copy of temporary official registration (foreigner's identity card or registration with the respective organ of the Federal Police);
- l) proof of the foreign citizen's marital status, if applicable;
- m) justification for the extension of the work permit taking into account the existence of professionals with the Brazilian work pool;
- n) proof, if applicable, of existing training Program for Brazilians; and
- o) proof, if applicable, of employment of Brazilians according to the quotas set by a Normative Resolution of the National Immigration Council.

2 – for the change of a temporary visa, granted in accordance with art. 13, point V of Law nr. 6.815, 1980, into a permanent visa and if applicable;

- a) notarized and complete copy of the labor card;
- b) original work permit accompanied with a copy of the authorization from the Ministry of Labor as published in the Official Gazette (DOU);
- c) original receipt of payment of immigration tax for each individual;
- d) statement by the foreign citizen that he/she has not been convicted and is not currently answering any criminal process in Brazil or abroad;
- e) notarized copy of all the pages of each individual passport;
- f) notarized copy of temporary official registration (foreigner's identity card or registration with the respective organ of the Federal Police);
- g) if applicable, valid power of attorney in favor of the representative of the firm;
- h) notarized copy of the work permit that is the basis for the extension;
- i) employment contract for an undetermined period;
- j) filled requirement form, obtained at Federal Police offices, for each individual;
- k) a legal document stating that the employer's signatory party of the new contract has the mandate to employ in the name of the firm (articles of incorporation, statutes, minutes of the assembly or notarized power of attorney);
- l) the foreign citizen's curriculum vitae; and
- m) detailed justification of the continued employment of the foreign citizen by the firm.

Sole paragraph. A decision of the request will be reached within a thirty day period once the application/documentation process has been concluded. This period includes the time for deliberation by the General Immigration Coordination office at the Ministry of Labor. The period is, if rightfully justifiable, extendable for equal periods of time.

Art. 10. This Normative Resolution enters into effect on the date of its publication.

Art. 11. Administrative Resolution nr. 07, October 6, 2004 is hereby revoked.

NILTON FREITAS

President of the National Immigration Council

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