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— CHINA —  
**LEGAL BULLETIN**



## Overview of China's New Rules on Foreigners' Employment Management

According to the orders of Office of Administration Approval Reform in the State Council, and State Administration of Foreign Experts Affairs ("SAFEA"), the China's government is going to reform its foreigners working management rules in two phases. Two separate management rules for foreign expert and alien workers are now integrated under the new rule (i.e. "Integration of Two Permits"). And a classification management will be implemented based on a principle of "encouraging top talents, controlling average, and restricting low level"

**Principle of  
"encouraging top  
talents, controlling  
average, and  
restricting low level"  
shall be used for the  
management**

### Legal Basis

1. Office of Administration Approval Reform in the State Council's letter regarding the integration of foreigners' work permit (ShenGaiBanHan [2015] 95, December 30, 2015);
2. Pilot Implementation Plan on Foreigner Work Permit (WaiZhuanFa [2016] 151, September 27, 2016).



### Implementation Timeline

1. Shanghai, Beijing, Tianjin, Hebei, Anhui, Shandong, Guangdong, Sichuan, Yunan, and Ningxia first launched the pilot implementation of the new Foreigner's Work Permit in November 2016. And this pilot phrase will end at the end of March 2017.
2. The new rules will start to be implemented national wide from April 1, 2017.

### Summary:

1. Unified Certificate. China began to gradually abolish the Foreign Expert Work Permit, Foreign Expert Certificate, Alien Employment License, and Alien Employment Permit from November 2016, and instead, issue the Approval Notice for the Employment of Foreigners, and Foreigner's Work Permit. The new unified Foreigner's Work Permit will bear one set of number for holder's life time.
2. Classification Management. Under the new policy, foreigners working in China are going to be classified in three different categories, i.e. High-end Foreign Talents (Class A), Professional Foreign Talents (Class B), and Ordinary Foreign Workers (Class C). A Class A-expat is encouraged and welcomed to work in China and will have no limitation of age or working experience on this Class; Limitations of age, educational background, and working experience will apply on Class-B expats; National quota will be imposed on Class-C expats.
3. Simplified Application Materials. Seven different application materials required in the old rule are no longer needed, such as Application Letter, Permit Stub, Bilingual Resume, and Recommendation Letter. Applicants are asked to provide two new documents, and they are the legalized diploma of the highest degree, and the legalized police certificate.
4. Optimized Approving Process. State Administration of Foreign Experts Affairs ("SAFEA") sets up a unified "Foreigner Working Management Service System" and a "Fast Channel" for Class-A expats, in which the whole application can be done online.
5. The current Foreign Expert Certificate and Alien Employment Permit within term of validity will continue to be valid, and a holder of old license may apply for the new Foreigner's Work Permit voluntarily.

### Standards of Classification:

*Applicant who satisfies any one of following criteria will be categorized as Class A. No limitation of age or working experience for this Class.*

- a. Selected by one of China's talents introduction programs;
- b. Obtain any internationally recognized professional achievements;
- c. The post is encouraged in the market trend;
- d. Innovative talents meeting certain requirements;
- e. Outstanding young talents;
- f. Obtain 85 points or more under the scoring system.

*Applicant who satisfies any one of following criteria will be categorized as Class B.*

- a. With bachelor or higher degree, and 2 years of related working experience, plus satisfaction of any one of the followings:
  - (1) Researching, educating, or managing staff in area of education, research, press, publication, culture, art, public health, or sports.
  - (2) Working personnel under intergovernmental agreement, inter-organizational agreement, contracts for Sino-foreign economic and trade or engineering.
  - (3) Employee of international organization's Chinese office or representative of a foreign professional organization.
  - (4) Middle or higher level staff dispatched by MNC; or first representative and representative of foreign company's representative office in China.
  - (5) Management or professionals.
- b. Graduated cum laude with a master or higher degree from a university in China.
- c. Graduated from top 100 foreign universities with a master or higher degree (based on the Academic Ranking of World Universities published by Shanghai Jiao Tong University, for full list please refer to: <http://www.shanghairanking.com/>);
- d. Educator of foreign language;
- e. Obtain 60 points or more under the scoring system.

*Applicant who satisfies any one of following criteria will be categorized as Class C, but subject to a national wide quota (details unknown)*

- a. Approved by competent government agency or employed under intergovernmental agreement;
- b. Certain young intern approved in accordance with intergovernmental agreement;
- c. House maids following a Class-A expat;
- d. Special occupation, such as fish man;
- e. Seasonal labor provider;
- f. Other posts subject to quota restriction.

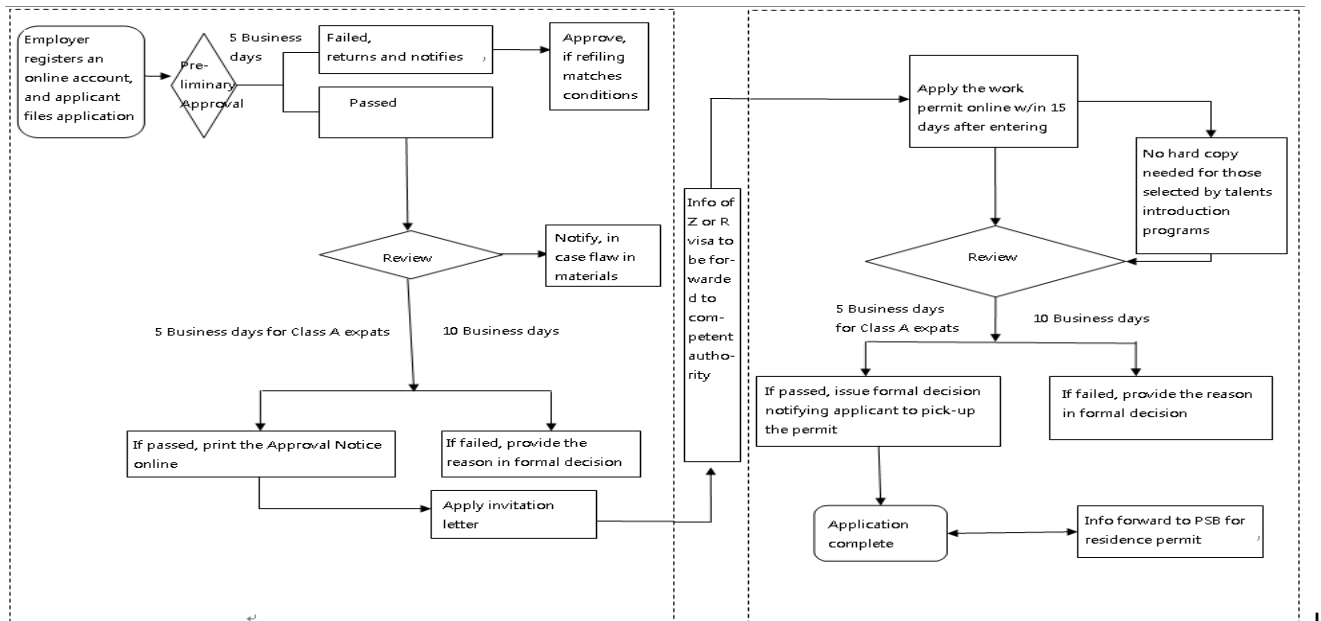
The scoring system is as follow:

<i>Items</i>	<i>Criterion</i>	<i>Points</i>
Annual salary paid by a Chinese employer (in thousands)  20 points max.	450 or higher	<b>20</b>
	[350,450)	<b>17</b>
	[250,350)	<b>14</b>
	[150,250)	<b>11</b>
	[70,150)	<b>8</b>
	[50,70)	<b>5</b>
	Less than 50	<b>0</b>
Educational Background or International Professional Qualification  20 points max.	PHD or equivalent	<b>20</b>
	Master or equivalent	<b>15</b>
	Bachelor or equivalent	<b>10</b>
Related working experience  15 points max.	1 extra point for each year exceeding 2 years	<b>15 points max.</b>
	2 years	<b>5</b>
	Less than 2 years	<b>0</b>
Annual working time (in months)  15 points max.	9 or higher	<b>15</b>
	[6,9)	<b>10</b>
	[3,6)	<b>5</b>
	Less than 3	<b>0</b>
Chinese Proficiency  10 points max.	Bachelor or higher degree with Chinese education	<b>10</b>
	HSK 5 or higher	<b>10</b>
	HSK 4	<b>8</b>
	HSK 3	<b>6</b>
	HSK 2	<b>4</b>
	HSK 1	<b>2</b>
Region of work  10 points max.	West China	<b>10</b>
	Old industrial zones such as the North-east	<b>10</b>
	Special areas such as poor part in central China	<b>10</b>
Age  15 points max.	[18,25)	<b>10</b>
	[26,45)	<b>15</b>
	[46,55)	<b>10</b>
	[56,60)	<b>5</b>
	60 or older	<b>0</b>
Graduated from famous universities or experience at Fortune 500 companies  5 points max.	Graduated from top 100 foreign universities	<b>5</b>
	Working experience at Fortune 500 companies	<b>5</b>
Bonus points approved by provincial level agencies of foreigner management  10 points max.	Urgently needed talents depend on demand of local economy and society development (Specific standards to be made by provincial level agencies of foreigner management)	<b>0-10</b>

\*Please note that satisfying one of the criteria above is not a guarantee of approval.

**Application Procedure and Materials:**

**Application Procedure of Foreigner's Work Permit**



**Materials for applying abroad:**

No.	Item	Remark
<i>Applying the Approval Notice for the Employment of Foreigners</i>		
1	Approval Notice Application Form	After filling the form online, printed and signed by applicant, submitted by Chinese employer.
2	Credentials for work experience	Credentials issued by original employers for related working experience, which shall include position, length of employment or projects done, and contact information of supervisor, and seals of employer or signature of supervisor.
3	Diploma of the highest degree or certificate of professional qualification	Shall be notarized and legalized, except for expats classified as a, b, c, or d under Class A.
4	Police certificate from country of nationality or domicile	Shall be notarized and legalized, except for expats classified as Class A.
5	Certificate of Health Examination	Shall be issued by foreign medical institutions recognized by China's embassy or consulate, or China's CIQ, which shall be issued in last 6 months.
6	Employment Contract or Certificate of Employment	Contract shall be in Chinese, and shall be signed by applicant and chopped by employer. The contract shall not be altered by any means. Such contract shall include the place of work, job description, remuneration, term, position, signature page.
7	Passport or other international travel document	Information page.
8	Photo taken in last 6 months	During the pilot phase, applicant is required to submit another 1-inch photo with white background when applying the Foreigner's Work Permit after entering the border.
9	Documents for accompanying family members	Including family members' passport (or other international travel document) information page, Certificate of Kinship (marriage certificate for spouse, birth certificate for kids), Certificate of Health Examination (for family members who are 18 or older), and electronic photos.
10	Others	

Applying the Foreigner's Work Permit		
1	Applicant's visa or residence permit	Visa page, Border Protection officer's chopping page, or residence permit info page.
2	Family members' visa or residence permit	Visa page, Border Protection officer's chopping page, or residence permit info page.

#### Materials for applying inside China

No.	Item	Remark
1	Foreigner's Work Permit Application Form	After filling the form online, printed and signed by applicant, submitted by Chinese employer.
2	Credentials for work experience	Credentials issued by original employers for related working experience, which shall include position, length of employment or projects done, and contact information of supervisor, and seals of employer or signature of supervisor.
3	Employment Contract or Certificate of Employment	Contract shall be in Chinese, and shall be signed by applicant and chopped by employer. The contract shall not be altered by any means. Such contract shall include the place of work, job description, remuneration, term, position, signature page.
4	Certificate of Health Examination	Shall be issued by foreign medical institutions recognized by China's embassy or consulate, or China's CIQ, which shall be issued in last 6 months. Those currently work in China but change a company does not need to provide this certificate.
5	Visa or valid Residence Permit	For those change an employment shall provide valid Residence Permit with the purpose of employment recorded.
6	Certificate of Cancelling Foreigner's Work Permit	Applicant under Condition b. below shall first cancel her current Work Permit.
7	Others	A holder of Foreigner's Work Permit shall bring the permit for new application.

\*Please note: application in China only apply to those meeting any one of following conditions:

- a. Holder of other type of visa or valid residence permit, who is categorized as Class A expat;
- b. Change of employer but the position in the new employer is the same, and the residence permit is still valid;
- c. Accompanying family member with valid visa or residence permit; or
- d. Other condition approved by competent authority.



#### F.A.Q.:

Q: Whether Foreign Expert Certificate and Alien Employment Permit will continue to be valid?

A: During the pilot phase, all those unexpired Foreign Expert Work Permit, Foreign Expert Certificate, Alien Employment License, and Alien Employment Permit will continue to be valid. Holder of such permit may apply the Foreigner's Work Permit voluntarily.

Q: How to apply the Foreigner's Work Permit for holder of valid Foreign Expert Certificate or Alien Employment Permit?

A: The materials and procedure will be similar for those applying inside China.

Q: How to apply for extension, if Foreign Expert Certificate or Alien Employment Permit expires before April 1, 2017?

A: For those whose Foreign Expert Certificate or Alien Employment Permit expires before official implementation of new rules (i.e. April 1, 2017), the permit holder may extend her Foreign Expert Certificate or Alien Employment Permit in accordance with the old rules. It is unclear what procedure will apply to those whose permit expires after the official implementation. But we believe such procedure will be the same as or similar to those applies inside China.

Last but not the least, because the new rules are still under pilot phase, actual practice of government agencies may change based on feedbacks or problems they encounter. Therefore, the requirements and procedures when this article is composed may differ to the practice of your local government.

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