

FAQs RELATING TO WORK RELATED VISAS ISSUED BY INDIA

Introduction

Several queries have been raised about the type of Visas issued by India to foreigners for work related visits. It is clarified that basically there are two (2) types of work related Visas, namely:-

1. 1. Business Visa designated as 'B' Visa
2. 2. Employment Visa designated as 'E' Visa

Frequently asked questions with regard to the above issues and replies thereto are outlined below for information, guidance and compliance of all concerned:

Part A : Business Visa

Q.1 : What are the conditions to be fulfilled for grant of a Business visa?

Ans.: The conditions to be fulfilled for grant of a Business visa are as follows:-

- .(i) The foreign national must have a valid travel document and a re-entry permit, if required under the law of the country of nationality of the applicant.
- .(ii) The foreign national should be a person of assured financial standing. The foreigner must submit proof of his/her financial standing and documentation in support of intended business visit to India. Proof of his financial standing and expertise in the field of intended business will be checked thoroughly by the Indian Missions while granting the visa.
 - (iii) The foreign national should not be visiting India for the business of money lending or for running a petty business or petty trade or for full time employment in India, etc.
- .(iv) The foreign national shall comply with all other requirements like payment of tax liabilities etc.
- .(v) The Business Visa must be issued from the country of origin or from the country of habitual domicile of the foreigner provided the period of residence of that foreigner in that particular country is more than 2 years. If the period of permanent residence of the applicant in the particular country is less than two years, the Mission / Post concerned will issue Business visa only after personal interview, review of documentation and prior clearance from the Mission where the applicant has permanent residence. Such cases will be examined by the Missions / Posts on merits on case-to-case basis and, after issue of Business visa, an intimation will be sent to the Indian Mission / Post in the applicant's country of origin.

¶ .(vi) The documents/ papers pertaining to proposed business activity such as the registration of the company under the Companies Act, proof of registration of the firm with the State Industries Department or the Export Promotion Council concerned or any recognised promotional body in the relevant field of industry or trade etc. will be thoroughly checked to decide the category of visa applicable to the foreigner

(vii) The grant of Business Visa is subject to any instructions issued by the Government of India on the basis of reciprocity with other foreign countries from time to time.

Q.2 Who are eligible for a Business Visa ?

Ans.: A Business visa may be granted to a foreigner for the following purposes:-

- (i) Foreign nationals who wish to visit India to establish industrial/business venture or to explore possibilities to set up industrial/business venture in India.
- (ii) Foreign nationals coming to India to purchase/sell industrial products or commercial products or consumer durables.
- (iii) Foreign nationals coming to India for technical meetings/discussions, attending Board meetings or general meetings for providing business services support.
- (iv) Foreign nationals coming to India for recruitment of manpower.
- (v) Foreign nationals who are partners in the business and/or functioning as Directors of the company.
- (vi) Foreign nationals coming to India for consultations regarding exhibitions or participation in exhibitions, trade fairs, business fairs etc.
- (vii) Foreign buyers who come to transact business with suppliers/ potential suppliers at locations in India, to evaluate or monitor quality, give specifications, place orders, negotiate further supplies etc., relating

to goods or services procured from India.

(viii) Foreign experts/specialists on a visit of short duration in connection with an ongoing project with the objective of monitoring the progress of the work, conducting meetings with Indian customers and/or to provide technical guidance.

□ .(ix) Foreign nationals coming to India for pre-sales or post-sales activity not amounting to actual execution of any contract or project.

□ .(x) Foreign trainees of multinational companies/corporate houses coming for in-house training in the regional hubs of the concerned company located in India.

□ .(xi) Foreign students sponsored by AIESEC for internship on project based work in companies/industries.

(xii) Foreign nationals coming as tour conductors and travel agents and / or conducting business tours of foreigners or business relating to it, etc.

Q.3 What is the duration of a Business Visa ?

Ans: A Business Visa with multiple entry facility can be granted for a period up to five (5) years or for a shorter duration as per the requirement. A stay stipulation of a maximum period of six (6) months will be prescribed for each visit by the concerned Indian Mission keeping in view the nature of the business activity for which such Business Visa is granted.

In case Missions/ Posts abroad, while issuing Business Visa, decide to prescribe a stay stipulation of maximum 6 months for each visit, a clear endorsement should be made stating "**each stay not to exceed 6 months (or the duration of stay stipulation) and registration not required**". In case no such stay stipulation is being prescribed, a simple endorsement stating "**registration within 14 days**" should be made.

Indian Missions can grant Business Visa with 10 years validity and multiple entry facility to the nationals of the United States of America. This visa should be issued with the stipulation that the stay in India during each visit shall not exceed six (6) months.

In case business visa is granted for a period less than five years by the Indian Missions, the same can be extended up to a maximum period of five years subject to following:

□ .(a) The gross sales/turnover from the business activities, for which the foreigner has

been granted visa, is not less than Rs.1 crore per annum (to be achieved within 2 years of setting up the business).

¶ .(b) First extension on business visa shall be granted by the Ministry of Home Affairs.

¶ .(c) Further extensions, if required, may be granted by the State Governments/ UT administrations/ FRROs/ FROs on year-to-year basis subject to good conduct, production of necessary documents in support of continued business activity and no adverse inputs, security related or otherwise, about the foreigner.

¶ .(d) The period of extension shall not be beyond five years from the date of issue of the Business visa.

¶ .(e) If the extension of Visa is denied by MHA/FRRO/FRO/State Government/ UT Administration, the foreigner shall leave India forthwith on expiry of the period of validity of the visa.

Q. 4 What are the documents to be submitted alongwith application for a Business 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) Proof of financial standing and expertise in the field of intended business.

(iii) Documents/ papers pertaining to proposed business activity such as the registration of the company under the Companies Act, proof of registration of the firm with the State Industries Department or the Export Promotion Council concerned or any recognised promotional body in the relevant field of industry or trade etc.

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

8th no. DGET-M-26025/4/2009-MP(G)
dated September 2009 and the
amendment dated 22nd 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 monthly salary).
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- (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 alongwith 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.

Q. 23 Whether a foreign national who has come on Employment Visa to work in one company/organization change his employment to another company/organization within the visa validity period during his stay in India?

Ans.: No change of employer shall be permitted during the currency of the Employment Visa within India except in respect of change of employment between a registered holding company and its subsidiary and vice-versa or between subsidiaries of a registered holding company. The change of employment in such cases could be considered subject to the following conditions:-

- (a) Prior permission of the Ministry of Home Affairs is required for change of employment.
- (b) The change of employment would be permitted at a senior level e.g. managerial or a senior executive position and/or at a skilled position e.g. a technical expert.
- (c) The foreign national concerned will have to fulfill all other conditions stipulated for grant of Employment Visa.
- (d) A certificate from the holding company, that the company in which the change of employment has been requested, is a subsidiary of the holding company.
- (e) No objection from the company from where the foreigner is seeking change of employment.
- (f) Justification from the holding company warranting change of employment.
- (g) Change of employment between the holding company and its subsidiary and vice versa or between two subsidiaries may be permitted only once during the currency of 5 years on Employment Visa.

- (h) Change of employment would not entitle the foreigner to stay in India for a period of 5 years from the date of change of employment. The residency of 5 years on Employment Visa would commence from the date of issue of the original Employment Visa.
- (i) The change of employment would be subject to approval and satisfaction of the competent authority.

Note: For the above purpose, the 'holding company' and 'subsidiary' shall have the same meaning as provided in Section 4 of the Companies Act 1956.

In all other cases, if a foreign national desires to change the employment to another company/organization, he/she will have to leave the country and apply for a fresh Employment Visa at the Indian Mission/Post concerned.
