

Japan

Executive Summary

In general, a foreign national who comes to Japan must apply for landing permission at the port of entry. If Japanese border officials grant the landing permission, residency status from the twenty seven different types of status of residence will be issued corresponding to the nature and period of stay. Foreigners in Japan are allowed to engage only in those activities permitted under the residency status granted.

Except for temporary visitors, in most cases it is recommended for foreigners to obtain a Certificate of Eligibility prior to coming to Japan.

In addition, foreigners are generally required to obtain an appropriate visa from a Japanese consulate. In Japan the term “visa” carries all, or at least one, of the following meanings:

- a visa issued from a Japanese consulate located overseas;
- landing permission applicable at the port of entry; or
- a visa granting residency status.

Key Government Agencies

The Immigration Bureau of the Ministry of Justice has jurisdiction over immigration and residence in Japan. The Immigration Bureau has eight regional immigration bureaus, six district offices, 63 branch offices and three detention centers. The Immigration Bureau is in charge of entry into and departure from Japan, residency, deportation and recognition of refugee status.

The issuance of visas is handled by Japan's Ministry of Foreign Affairs through consulates and diplomatic offices abroad.

Current Trends

Beginning in November 2007, all applicants (with limited exemptions) upon arrival must submit personal identification, be fingerprinted and photographed as part of an immigration inspection.

In Japan, the focus is on facilitating entry and residency for foreign nationals with specialized knowledge and skills, while the admission of unskilled foreign laborers has generally been outside the scope of discussion.

Since the end of the 20th century, however, Japan's rapidly aging society has resulted in a diminished workforce. As a result, certain industries face serious labor shortages and are now considering foreign labor as a solution. For example, nursing is an industry where the Japanese government has attempted to address the labor shortage by entering into agreements with certain countries (*e.g.*, Indonesia and the Philippines) to allow citizens of those countries to enter Japan to study and work. It is anticipated that the government will ease restrictions to allow entry of unskilled foreign labor as Japanese industries continue to struggle with labor shortages due to the shrinking work force.

Beginning April 1, 2010³, applicants seeking to change their residency status or extend their period of stay will be required to show their health insurance identification card to immigration officials when they submit their application. If a company is filing on behalf of an applicant, a photocopy of the health insurance identification card will be required.

³ As at July, 2010, this has not been yet followed in practice.

The Japanese government officially announced revisions to the Immigration Control and Refugee Recognition Act in July 2009. Currently, records for foreign residents are separately controlled by the Immigration Bureau and local municipal offices. The changes to the system are designed to consolidate the management of records for foreign residents in Japan under the Immigration Bureau and to better ensure that administrative services are available for foreign residents of Japan. In addition, the current alien registration system will be replaced with a new system which uses a “Residency Card” (tentative title) by July 1, 2012. Upon the implementation of the Residency Card system, the valid period for visas and re-entry permits will be extended up to 5 years. Holders of the Residency Card will not be required to obtain re-entry permits for absences from Japan lasting no more than 1 year.

Finally, effective from July 1, 2010, the government will create a new residency status tentatively titled “Technical Intern Training” and, in addition, will unify the College Student and Pre-College Student status as “Student” status.

Business Travel

Temporary Visitor

The status of “temporary visitor” is for foreign nationals who intend to stay in Japan for a limited amount of time (up to ninety days) for such business purposes as meetings, contract signings, market surveys and post-sale services for machinery imported into Japan.

Activities involving business management (*i.e.*, profit making activities) or remuneration other than those activities permitted under the residency status (“paid activities”) by temporary visitors is not permitted. Violation of residency status rules is considered illegal labor. Both the foreign worker and employer may incur criminal liability.

“Paid activities” means activities for remuneration for certain services, such as employment by another person or organization for compensation or any other activities for compensation (both financial and material) for completion of any project, work or clerical work. There is an exemption for certain types of incidental or nonrecurring compensation of certain amounts that occur within a regular, daily life.

In principle, temporary visitor status may not be extended because it is intended for foreign nationals who stay in Japan for a short period of time.

Visa Waiver

Currently, Japan has entered into reciprocal visa exemption agreements with sixty one countries and regions. Foreign nationals from these areas are not required to obtain a visa to enter Japan if: the purpose of their stay is authorized under the temporary visitor visa status; and the length of the stay does not exceed the terms of the agreement between their country and Japan (either 6 months, ninety days (3 months), thirty days or fifteen days).

List of Countries and Regions With Visa Exemption

Countries and Regions	Term of residence
Asia	
Singapore	3 months or less
Brunei	14 days or less
Hong Kong (BNO, SAR passport)	90 days or less

Countries and Regions	Term of residence
Korea	90 days or less
Taiwan	90 days or less
Macau (SAR passport)	90 days or less
North America	
Canada	3 months or less
U.S.A.	90 days or less
Europe	
Austria	6 months or less
Germany	6 months or less
Ireland	6 months or less
Liechtenstein	6 months or less
Switzerland	6 months or less
United Kingdom	6 months or less
Belgium	3 months or less
Croatia	3 months or less
Cyprus	3 months or less

Countries and Regions	Term of residence
Denmark	3 months or less
Finland	3 months or less
France	3 months or less
Greece	3 months or less
Iceland	3 months or less
Italy	3 months or less
Luxembourg	3 months or less
Macedonia	3 months or less
Malta	3 months or less
Netherlands	3 months or less
Norway	3 months or less
Portugal	3 months or less
San Marino	3 months or less
Slovenia	3 months or less
Spain	3 months or less
Sweden	3 months or less

Countries and Regions	Term of residence
Andorra	90 days or less
Bulgaria	90 days or less
Czech Republic	90 days or less
Estonia	90 days or less
Hungary	90 days or less
Latvia	90 days or less
Lithuania	90 days or less
Monaco	90 days or less
Poland	90 days or less
Romania	90 days or less
Slovakia	90 days or less
Latin America and Caribbean	
Mexico	6 months or less
Argentina	3 months or less
Bahamas	3 months or less
Chile	3 months or less

Countries and Regions	Term of residence
Costa Rica	3 months or less
Dominican Republic	3 months or less
El Salvador	3 months or less
Guatemala	3 months or less
Honduras	3 months or less
Suriname	3 months or less
Uruguay	3 months or less
Middle East	
Israel	3 months or less
Turkey	3 months or less
Oceania	
Australia	90 days or less
New Zealand	90 days or less
Africa	
Mauritius	3 months or less
Tunisia	3 months or less

Note that if there is a waiver of visa requirements of up to three months or ninety days, upon landing foreigners are granted a temporary visitor status for a period of ninety days (fifteen days for Brunei).

Nationals of countries and regions that have taken measures concerning the waiver of visa requirements with Japan for stays of up to 6 months are granted permission to stay in Japan for ninety days at the time of entry. Nationals of these countries and regions who wish to stay in Japan for more than ninety days must apply at their nearest immigration authority in Japan for an extension of their period of stay.

However, nationals of some of these countries that have taken measures concerning the exemption of visa requirements, including Malaysia (since June 1, 1993), Peru (since July 15, 1995), and Colombia (since February 1, 2004), are still encouraged to obtain visas before entering Japan; otherwise these nationals without visas will be strictly examined upon entering Japan.

Similarly, the above measure applies to those who possess Non-Machine-Readable passports commencing on April 1, 2010, in the case of nationals of Barbados and Lesotho.

Training

Trainee status is granted to foreign nationals who come to Japan in order to acquire technological skills or knowledge by training at public organizations or private companies.

Trainee status was designed to facilitate international cooperation with, and contribution to, developing countries by inviting nationals from those countries to come to Japan for training. Trainee visa holders are expected to contribute to the development of their countries after training in Japan.

Despite its stated purpose of facilitating cooperation with developing countries, trainee visa status is actually very difficult to obtain. Applicants must submit detailed information, including not only personal information but also the contents of the training, the profile and the training system of the inviting organization, the training period, and any limitations on the number of trainees invited and compensation.

Employment Assignment

Foreigners may engage in the activities authorized for the specified period of time under their visa only after obtaining the appropriate residency status. Therefore, it is crucial that the applicant and intended activities meet the criteria for at least one residency status category, as well as fulfill the criteria required specifically by the status of residence for which they are applying.

Among the twenty seven types of visas allowed in Japan, twenty one create residency status and allow the applicant to engage in profit making activities and paid activities. The 4 most common residency statuses for employment are Engineer, Specialist in Humanities/International Services, Intra-company Transferee and Investor/Business Manager visas, as well as the Dependent visa for dependent family members.

Engineer

Foreigners coming to engage in services that require technology and/or knowledge pertinent to physical science, engineering or other natural science fields on the basis of a contract with public organizations or private companies in Japan generally rely on Engineer residency status. For these purposes, natural science includes such fields as agriculture, medicine, dentistry, pharmacology, *etc.* Typical professions requiring Engineer visa status are IT or biotechnology engineers.

The law requires the activities to be based on a contract with public organizations or private companies in Japan, therefore, the applicant must enter into an employment agreement, service contract or consignment agreement, *etc.* The applicant's employer must have an office located in Japan and, in many cases, is required to arrange social and labor insurance for the applicant.

Applicants must either:

- Have graduated from or completed a course at a college or acquired an equivalent education majoring in a subject relevant to the skills and/or knowledge necessary for the proposed employment;
- Have at least ten years experience (including time spent studying the relevant skills and/or knowledge at a college or upper secondary school, *etc.*); or
- Be coming to work in a job that requires skills or knowledge concerning information processing for which the applicant has passed an information processing skills examination designated by the Minister of Justice or has obtained the information processing skills' qualification designated by the Minister of Justice.

In addition, the applicant must be offered a salary equal to salary a Japanese national would receive for comparable work. The Immigration Bureau does not announce the actual amount which satisfies this requirement; however, it is currently understood that a minimum of ¥200,000 is to be paid as monthly salary.

Specialist in Humanities/International Services

This visa was designed to authorize services that require knowledge pertinent to jurisprudence, economics, sociology or other human

science fields; or to engage in services that require specific training or sensitivity based on experience with foreign cultures.

Examples are professionals in international trade and/or sales, translation and interpretation requiring language skills, copywriting and public relations requiring sensitivity unique to foreign background and fashion design.

This visa also requires an employment agreement, service contract or consignment agreement, *etc.* with public organizations or private companies. The applicant's employer must have an office located in Japan and in many cases is required to arrange social and labor insurance for the applicant.

Applicants must either:

- Have graduated from or completed a course at a college or acquired an equivalent education majoring in a subject relevant to the skills and/or knowledge necessary for the proposed employment;
- Have at least ten years experience (including time spent studying the relevant skills and/or knowledge at a college or upper secondary school, *etc.*); or
- If the job requires specific training or sensitivity based on experience with foreign cultures, the applicant must have a minimum of 3 years experience in the relevant field, except where the applicant is to engage in translation, interpretation or language instruction.

Furthermore, the applicant must receive salary equal to salary a Japanese national would receive for comparable work. The Immigration Bureau does not announce the actual amount which

satisfies this requirement; however, it is currently understood that a minimum of ¥200,000 is to be paid as monthly salary.

Intra-company Transferee

This visa authorizes activities for personnel transferred to business offices in Japan for a limited period of time from business offices established in foreign countries by public organizations or private companies which have head offices, branch offices or other business offices in Japan and where applicants' work at these business offices is encompassed by the activities described in the Engineer or Specialist in Humanities/International Services status.

The applicant must be transferred from a business office located overseas to a business office in Japan, both offices being of the same company, to engage in a job requiring skills or knowledge pertinent to physical science, engineering or other natural science fields, or knowledge pertinent to jurisprudence, economics, sociology or other human science fields, or to engage in services which require specific training or sensitivity based on experience with foreign cultures.

The main difference among the Inter-company Transferee, Engineer and Specialist in Humanities/International Services residency status categories is that an Inter-company Transferee status does not require the applicant to have a contract with public organizations or private companies in Japan. The applicant therefore may receive his/her salary from business offices overseas.

Transfers between offices of the same company include transfers between the parent company and its subsidiary as well as transfer between group companies that have a certain level of financial ties with each other. In addition, applicants for Intra-company Transferee residency status are different from applicants who are to operate or manage businesses of business offices located in Japan (who should apply for the Investor/Business Manager status).

Applicants must have been continuously employed at business offices outside of Japan for at least one year immediately prior to the transfer to Japan in a position that falls under the residency status categories of Engineer or Specialist in Humanities/International Services.

Further, the applicant must receive salary equal to salary a Japanese national would receive for comparable work. The Immigration Bureau does not announce the actual amount which satisfies this requirement; however, it is currently understood that a minimum of ¥200,000 is to be paid as monthly salary.

Investor/Business Manager

This visa authorizes foreign nationals to commence the operation of international trade or other activities, invest in international trade or other businesses, and operate or manage international trade or other business on behalf of a foreign national (including foreign corporations). This includes foreign nationals who intend to:

- Invest in and operate a business in Japan;
- Operate a business on behalf of foreign nationals who have invested in such business;
- Operate a business on behalf of foreign nationals who have begun operations of such business;
- Manage business on behalf of foreign nationals who have begun such operations or have invested in such businesses; or
- Manage businesses operated in Japan by foreign nationals.

Investor/Business Manager residency status is for applicants who substantively operate or manage a business (“Business Operator”) by making decisions regarding important business operations or the

duties of the company auditors and for employees engaged in management of the company's internal departments of a certain level or higher ("Managers"). Examples of Business Operators include the president, director and auditor, *etc.* Examples of Managers includes department managers, factory heads and branch manager, *etc.*, subject to the size of the business and the number of employees at the office in Japan.

To qualify, the office for the business concerned must be located in Japan (for private companies, the office needs to be registered with the Legal Affairs Bureau) and the business must have the capacity to employ at least 2 full-time employees residing in Japan in addition to those who operate or manage the business. Full-time employees mentioned here excludes foreign nationals residing in Japan, except for those foreign nationals with residency status as "Permanent Resident," "Spouse or Child of Japanese National," "Spouse or Child of Permanent Resident" or "Long Term Resident."

Further, if the applicant is to invest in international trade or other business in Japan and operate or manage that business, or if the applicant is to operate or manage international trade or other businesses on behalf of foreign nationals who have begun such operations in Japan or have invested in such a business in Japan, the following condition must be satisfied:

- The office for the business must be located in Japan (for private companies, the commercial registration must be completed prior to the visa application); and
- One of the following conditions should be satisfied:
 - The business concerned must have the capacity to employ at least 2 full time employees residing in Japan in addition to those who operate and/or manage the business. Full time employees mentioned here excludes foreign

nationals residing in Japan, except for foreign nationals with residency status as “Permanent Resident”, “Spouse or Child of Japanese National”, “Spouse or Child of Permanent Resident” or “Long Term Resident”; or

- The amount of investment should be at least JPY 5 million, which may vary depending on the size of entire business operating in Japan.

If the applicant is to engage in the management of international trade or other business in Japan, the applicant must:

- Have at least 3 years experience in the operation or management of the business (including the time during which the applicant majored in business operation and/or management at a graduate school); and
- Receive salary equal to salary a Japanese national would receive for comparable work.

Dependent

Residency status as a Dependent is for applicants whose daily activities are as the spouse or dependent child of foreign nationals who stay in Japan with a status of residence other than “Diplomat,” “Official,” “Temporary Visitor,” “Pre-college student” or “Designated Activities.”

A dependent spouse must be legally and substantively married to the principal applicant. The Immigration Bureau does not recognize common-law or same-sex marriages. Dependent children include adult children (age twenty or above) and adopted children.

Permissible “daily activities” include non-profit making activities which family members are reasonably expected to be engaged in, such

as household duties or attending elementary and high schools. Profit making activities and paid activities are excluded. However, job hunting is considered to be within a Dependent's authorized activities. Subject to obtaining special permission from the Immigration Bureau, a family visa holder may engage in profit-making activities within the limit of 28 hours per week.

Other Comments

Certificate of Eligibility

The Certificate of Eligibility ("CoE") is a document issued by the Minister of Justice prior to arrival at a port of entry in Japan, certifying that the applicant fulfills the requirements for the residency status requested. It is the applicant's responsibility to prove conformance to the disembarkation and residency requirements. The CoE procedure, which aims to complete the inquiry into the applicant's qualification prior to arrival, helps to expedite the process for landing permission at the port of entry.

The CoE evidences that the examination of residency status and disembarkation permission have already been completed. Therefore a CoE will speed up the visa process at the Japanese consulate overseas (usually completed within 3 to 5 business days after filing) as well as the process for obtaining landing permission at the port of entry.

In principle, the applicant's proxy (*e.g.*, staff of the sponsoring company) or its agent (*i.e.*, authorized attorney at law and administrative scrivener or "*gyoseishoshi*") in Japan must submit the CoE application to the local Immigration Bureau. The application documents, as provided by the Immigration Control Act Enforcement Regulations, differ depending on each visa category.

Reentry Permit

The residency status granted to foreign nationals at the time of their entry automatically expires upon departure. If a foreign national subsequently wishes to re-enter and continue the residency status they were previously granted, it is important to obtain re-entry permission prior to departure. By obtaining re-entry permission prior to leaving, the procedure for entry and landing can be simplified and the foreign national can retain residency status for the stay period originally granted.

Further, a foreign national with a re-entry permit may register personal identification information (*e.g.*, fingerprints and photograph) with the Immigration Bureau prior to departure in order to further simplify the immigration inspection at the time of departure and re-entry.

Extension of Period of Stay

If a foreign national wishes to remain in Japan under the same residency status beyond the period originally approved and for the same purpose, they must apply for permission at their local Immigration Bureau before the current visa expires.

Filing an application does not mean an extension of stay will be approved. The Minister of Justice will give permission only if the Minister determines there are reasonable grounds to grant an extension.

As mentioned earlier, Temporary Visitor status generally may not be extended, because it is intended only for foreign nationals who plan to stay in Japan for a short period of time.

Change of Residency Status

If a foreign resident in Japan wishes to change the activities authorized under their current residency status, they must obtain permission to change their residency status from the local Immigration Bureau.

Certificate of Authorized Employment

A Certificate of Authorized Employment certifies that a foreign national seeking employment in Japan is legally authorized to be engaged in certain types of jobs. This certificate may be issued by the Minister of Justice when a foreign national files an application with the local Immigration Bureau for such purposes, such as when intending to switch to another company for a job which falls under their current residency status.

Alien Registration

A foreign national who has stayed or intends to stay in Japan for more than ninety days must file an alien registration application at the local municipal office for the area in which they live.

Once registration is completed, a Certificate of Alien Registration certifying registration will be issued from the municipality. All foreign nationals sixteen years old or over are required to carry a Certificate of Alien Registration at all times during their stay in Japan.

If there is any change to information registered under the Certificate of Alien Registration (*e.g.*, change of address), a foreign national must apply to register the change at the local municipal office for the area in which they live within a certain period of time.