

MIGRATION CODE

Under Law No. 713-IVQ of the Republic of Azerbaijan “On Approval, Coming into Force of Migration Code of Republic of Azerbaijan and Related Legal Regulation”, dated 2 July 2013, the Migration Code came into effect as of 1 August 2013.

Upon the enactment of the Migration Code, Laws of the Republic of Azerbaijan “On Legal Status of Foreigners and Stateless Persons”, “On Immigration”, “On Labour Migration”, and “On Approval of ‘Regulations on Transit Passage through Territory of Republic of Azerbaijan of Foreigners and Stateless Persons’” were repealed. Consolidation of various legal acts governing migration issues in Azerbaijan into a single code should be considered an important step in developing the migration management system. The Code governs arrival into and stay and employment in the Republic of Azerbaijan as well as the procedures to leave Azerbaijan.

The Migration Code determines the rules of implementing in the Republic of Azerbaijan of the state policy in relation to migration, regulation of migration processes and of relations arising within them, as well as the rules in relation to the legal status of foreigners and stateless persons in the Republic of Azerbaijan. The Code proclaims foundation of the migration law upon the principles of respect for human and civil rights and freedoms, rule of law, equality before law and justice, ensuring compliance of migration law with the generally accepted rules of international law, implementation of innovative methods of regulation of migration processes and ensuring transparency.

The Code incorporates a number of new provisions.

For the first time, rules in relation to tracking (registering) foreigners and stateless persons are introduced. These include the purposes of the migration registration as well as the rules of and grounds for maintaining it. Migration registration is one of the forms of managing migration processes and is aimed at securing free movement according to the Constitution of the Republic of Azerbaijan of each foreigner and stateless person legally staying in the Republic of Azerbaijan, rights and freedoms of residing in the country and of choice of place of residence and other rights and freedoms, as well as pursuing through migration of national interests and the prevention of illegal migration.

The Code has a separate chapter devoted to visas. In the chapter, there are types and categories of visa, the list of documents required for issuing a visa, the rules of issuing visas, as well as provisions on time periods to consider applications for visas. Foreigners and stateless persons visiting the Republic of Azerbaijan can obtain visas, such as an official visit, business travel, science and education, labour, treatment, personal visit, humanitarian visit, culture and sports, tourism, and transit visa, within the general entry visa category.

At the same time, the procedure in the Code for issuing visas has been eased and a possibility to file e-applications for visas and permits to stay and reside in the Republic of Azerbaijan issued to foreigners and stateless persons introduced.

Issuance of electronic visas to tourists was introduced to the legislation in 2011 and issue of electronic visas is now governed by a separate article of the Migration Code. The period of stay in the country on a tourist entry visa under the Code has been determined at 30 days. Under the Migration Code, a travel agency accredited in the Republic of Azerbaijan having filled out an application-questionnaire placed over internet on the IT resource of the relevant executive authority of the Republic of Azerbaijan attaches scans of the

passport, photograph of a visitor as well as the documents proving that the purpose of his/her visit is tourism (tourist or travel voucher, passenger ticket as well as a proof of reservation at a hotel, campsite, tourist base, and other similar facilities). The documents are considered in ten days of having been filed and the visa is issued by being e-mailed to a travel agency that filed an e-application for such.

Law “On Legal Status of Foreigners and Stateless Persons” repealed pursuant to the Law of the Republic of Azerbaijan “On Approval, Coming into Force and Related Legal Regulation of Migration Code of Republic of Azerbaijan” provided that temporary residence permits can, in a manner established by law, be revoked and renewed by no more than four times by the relevant executive authority that issues them. The Migration Code does not have that limitation.

Under the Migration Code, a permit to temporarily reside in the Republic of Azerbaijan can be issued for a period up to one year and, upon relevant grounds, can be extended each time for a period up to two years.

At the same time, a permit to temporarily reside in the Republic of Azerbaijan to those foreigners and stateless persons who have invested at least 500,000 Manats into the country’s economy can be issued for a period up to three years and extended each time for a period up to three years.

Based on these revisions, concepts of “immigrant” and the “status of immigrant” defined in law are redefined in the Migration Code as a “permanent resident in the Republic of Azerbaijan” and a “permanent residence permit”, respectively.

Another revision consists of replacing a general exemption from the work permit requirement for seconded foreigners with the specific type of activity exemption (the types of activity shall be determined by the Cabinet of Ministers). A limitation of a no-more-than four time extension of an issued work permit has not been incorporated into the Code.

Additionally, while the Code effectively restates the rules of employment placement outside Azerbaijan, it now requires that announcements and advertisements in relation to placement can be made only by those specifically permitted to engage in the mediation.

The Migration Code is a legal act establishing the bases of the rules of visiting and staying and working in Azerbaijan – its implementation is pending enactment of relevant regulations (to include preparation by the Cabinet of Ministers of draft documents, among others, concerning the types of liability for the breach of the new Code, rules of detaining illegal migrants, procedure for employers to consider forecast information for demand in foreign labourers) as well as a practical implementation of the enacted rules (for instance, issuance of specific types of visa).

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