

Leaflet

# Employment of Foreign Workers in Germany

Questions, answers and tips for employees and employers

# 7



**Bundesagentur für Arbeit**

## Guide to This Leaflet

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This leaflet informs you of the most important legislation that you must comply with when employing foreign workers. It cannot, however, provide an exhaustive representation of the legal situation.

If you have any questions, please consult your immigration office or a local employment agency that is responsible for the labour-market admission procedure regionally.

You can obtain information on the nationwide telephone number **0228/713 2000**.

**Chapter 1** covers **important terms** and **legal bases** for the employment of foreigners, as well as providing general information.

**Chapter 2** gives details of regulations for labour-market access for **individuals that wish to immigrate for the long term**.

**Chapter 3** offers a summary of **occupations that** can only be engaged in **temporarily in Germany**.

**Chapter 4** contains requirements for labour-market access for **posted workers**.

**Chapter 5** provides admission facts for **specific groups of individuals**.

**Chapter 6** contains labour-market access requirements based on **international agreements**.

**Chapter 7** contains the regulations for **employment in the event of residence for reasons of international law or for humanitarian or political reasons**, as well as for **individuals with temporary suspension of deportation and asylum seekers**.

**Chapter 8** explains **procedural rules**.

**Chapter 9** provides information on the prohibition of the recruitment and placement of health-care and nursing professionals from certain states

**Chapters 10 to 13** contain **other important aspects** relating to taking up employment


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Nationals of states that are not part of the European Union (EU) or the European Economic Area (EEA) require a residence title for entry and residence in Germany. Admission to the German labour market is determined by the regulations of the German Residence Act (AufenthG), as well as the German Regulation on the Employment of Foreigners (German Employment Regulation – BeschV) that was issued pursuant to this. Section 18 of the German Residence Act regulates residence for the purpose of economic activity and fundamentally requires the consent of the German Federal Employment Agency (BA).

The approval for taking up employment is granted by the immigration office with the residence title if the BA has consented to the employment. This consent is obtained in an internal procedure. In many cases, however, the residence title for the purpose of employment can also be granted without the BA's consent.

 **This procedure applies both to workers recently entering the country and to people who are already domiciled or ordinarily resident in Germany.**

People that wish to enter Germany to take up employment must always apply to the competent German diplomatic mission or consular post in the country of origin (embassy, consulate) for a visa for the taking up of employment prior to entry. The procedure is described in Chapter 12.

 **This leaflet can also be accessed online at [www.arbeitsagentur.de/arbeitsmarktzulassung](http://www.arbeitsagentur.de/arbeitsmarktzulassung), along with other leaflets, information and forms from the BA.**

## 1. General

For consent to be granted, the following requirements must be met:

1. A legislative provision grants access to the German labour market.
2. A specific job offer exists.
3. No preferential employees are available for the specific occupation, and the working conditions are comparable to those of domestic employees.

### 1.1 Legal Bases

The following bases govern both the decision on whether to grant a residence title that entitles the holder to take up work:

- German Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory (Residence Act – AufenthG)
- German Regulation on the Employment of Foreigners (Employment Regulation – BeschV)

### 1.2 Key Terms

- **Economic Activity is self-employment and dependent employment**
- **Employment is work as an employee, especially under an employment contract (Section 7, SGB IV).**

Employment also includes the acquisition of professional knowledge, skills or experience within the framework of in-company vocational training (further education, retraining, training, advanced training).

- **Foreigners**  
People that are not **Germans** pursuant to Article 116 of the Basic Law for the Federal Republic of Germany.
- **European Union (EU) Nationals**  
Citizens of an EU Member State may take up employment in another Member State without obtaining a work permit. They have the same rights as employees that are nationals of the host country.

Unlimited free movement of workers is enjoyed by citizens of the EU Member States Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, the United Kingdom and, since 1<sup>st</sup> July 2015, Croatia.

- **European Economic Area (EEA)**  
The EEA includes the EU Member States, as well as Iceland, Norway and Liechtenstein. Nationals of the EEA also enjoy unlimited free movement of workers.

Although **Swiss** citizens do not belong to the EEA, they are considered to be equivalent to EEA nationals in accordance with the “Agreement on the Free Movement of Persons between the EU and Switzerland”.

- **Third Countries**

In this leaflet, the term “third countries” refers to all countries that are not part of the European Union (EU) or the European Economic Area (EEA). Switzerland is treated as the equivalent of an EEA member state.

### 1.3 Residence Title

- **Visa [Section 6, Residence Act]**

The temporary visa is issued by the German diplomatic mission or consular post in the country of origin (embassy, consulate) prior to entry (see Chapter 12).

- **Residence Permit [Section 7, Residence Act]**

The residence permit is always temporary and issued for a specific purpose, for example to take up training or to engage in economic activity, to allow immigration of family members, or for humanitarian reasons.

- **EU Blue Card [Section 19a, Residence Act]**

The EU Blue Card is a temporary residence title for workers with an academic or similar qualification and a certain minimum income.

- **Settlement Permit [Section 9, Residence Act]**

The unlimited settlement permit is free of temporal or spatial restrictions and entitles the holder to engage in economic activity.

- **EU Long-Term Residence Permit – Unlimited – [Section 9a, Residence Act]**

Nationals of third countries receive an EU long-term residence permit after five years' legitimate residence in Germany or within the European Union. It entitles the holder to engage in economic activity.


The following documents are **not a residence title** but prove residence status:

- **Leave to Remain [Section 61 (2), Asylum law]**

Leave to remain is granted to individuals for the purpose of conducting their asylum procedure.

- **Temporary Suspension of Deportation [Section 60a, Residence Act]**

An exceptional leave to remain is granted when a foreigner's deportation is temporarily suspended.

 **All decisions relating to residence status are made by the competent immigration office at that location, which at the same time acts as the point of contact for residence and employment matters. Questions relating to visas should be directed to the competent German diplomatic mission or consular post or to the German Foreign Office.**

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## Immigration by Skilled Workers

This group includes in particular highly qualified individuals, graduates of German universities, managers, executives and specialists.

### 1.4 The Issuing of a Residence Title for Employment **without the Consent** of the BA for

- **Highly qualified individuals** with a settlement permit,
- **Holders of an EU Blue Card** whose salary is at least two thirds of the annual contribution assessment ceiling for the statutory pension fund 2016 = 49,600 Euro (2015 = 48,400 euros)
- **Graduates of German universities** for employment that is appropriate to the degree  
[Section 2 (1), Employment Regulation]
- **Managers** that as **executives hold general power of attorney or general commercial power of attorney**, as well as partners in commercial companies and executives at the level of the executive board, directorate and senior management in a company that is also active outside of Germany  
[Section 3, Employment Regulation]
- **Teachers, scientific assistants, guest scientists and engineers and technicians** that belong to the **research team** of a guest scientist, as well as teachers at state schools, state-approved private substitute schools or recognised private complementary schools  
[Section 5, Employment Regulation]
- **School leavers from German schools abroad** that wish to engage in employment that is appropriate to the school-leaving qualification or for the purpose of undertaking professional industrial training in an officially recognised profession or a profession with comparable regulation,  
[Section 7, Employment Regulation]
- **Foreigners that have an EU Blue Card or a residence permit and**
  - that have lawfully engaged in **employment that is subject to compulsory insurance for two years** in Germany or
  - that have been resident in **Germany for an uninterrupted period of three years** with a permit, suspension of deportation or leave to remain.  
[Section 9, Employment Regulation]

### 1.5 The Issuing of a Residence Title for Employment **with the Consent** of the BA for

- **Foreigners that practise a shortage occupation** and whose salary is at least 52 per cent of the annual contribution assessment ceiling for the statutory pension fund 2016 = 38,688 Euro (2015 = 37,752 euros)  
[Section 2 (2), Employment Regulation]
- **Foreigners with a recognised foreign university degree** or one that is comparable to a German university degree  
[Section 2 (3), Employment Regulation]

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- **Executives and specialists** of a company established in Germany with company-specific specialist knowledge for skilled employment in this company  
[Section 4 (1), Employment Regulation]
  - **Executives of a joint venture between German and foreign companies**  
[Section 4 (2), Employment Regulation]
  - **Foreigners that have acquired professional vocational training in Germany** in an officially recognised **profession** or a profession with comparable regulation.  
[Section 6 (1), Employment Regulation]
  - **Foreigners that acquired their professional qualification abroad** for employment that is appropriate to the professional qualification in an officially recognised **profession** or a profession with comparable regulation, provided that the competent authority as defined by federal or state regulations has determined the **professional qualification's equivalence with a skilled professional qualification in Germany and**
    - that the individuals in question were placed by the German Federal Employment Agency on the basis of an **agreement** on the procedure and the selection and placement processes with the country of origin's Public Employment Service (placement agreements for nurses and old people's nurses) **or**
    - the German Federal Employment Agency has determined that filling the vacant positions in the corresponding profession with foreign applicants is justifiable from a labour-market and integration-policy perspective. This **positive list** is published at [www.arbeitsagentur.de/positivliste](http://www.arbeitsagentur.de/positivliste).  
[Section 6 (2), Employment Regulation]
  - Foreigners that must carry out **practical work** on a temporary basis **in order to determine the equivalence** of professional qualifications acquired abroad  
[Section 8 (3), Employment Regulation]



## 2. Temporary Employment

### 2.1 The Issuing of a Residence Title **without the Consent** of the BA for

- Employees who are looking for **appropriate employment** following recognition of their vocational qualification.

[Section 17a (4), Residence Act]

- **Individuals participating in voluntary service** that is subject to statutory regulation or based on an EU programme (e.g. voluntary social year, federal voluntary service) **or** individuals that are employed primarily for **charitable or religious reasons**;

- **Students and pupils of foreign universities and technical schools for undertaking holiday employment for up to three months within a 12-month period**, provided that they were placed in the employment by the German Federal Employment Agency;

[Section 14, Employment Regulation]

- **Internships for the purpose of advanced training**

- during a period of residence for school education or university studies where the internship is a mandatory component of the education/studies or can be demonstrated to be necessary for the achievement of the objective of the education/studies;
- within the framework of a programme funded by the EU or through bilateral development cooperation;
- within the framework of a verified international exchange programme operated by associations, public bodies or student organisations for students or graduates of foreign universities by agreement with the German Federal Employment Agency;
- by skilled workers and managers in receipt of a scholarship from German public funds or EU funds (government interns);
- in relation to the field of studies for up to one year during university studies at a foreign university and undertaken after the fourth semester and by agreement with the German Federal Employment Agency.

[Section 15, Employment Regulation]

### 2.2 The Issuing of a Residence Title **with the Consent** of the BA for

- **Individuals undertaking basic and advanced industrial training** for the training period defined by the German Training Regulation and, in the case of advanced training, for the period required to achieve the advanced training objective;

[Section 17, Residence Act in conjunction with s. 8(1) Employment Regulation]

- Employees in possession of a vocational qualification who have **to complete an in-company training measure with a subsequent final examination** for the qualification to be recognised.
- Employment that is not limited in time that must be in close technical connection with the employment for which recognition is acquired. Prerequisite is that for the period after recognition there is a concrete job offer in the occupation that is to be exercised in the future. Both jobs require the consent of the BA; the job during the training measure may be approved without a priority check. Classical examples are nursing employees who come to Germany for recognition of their vocational training and work as nursing assistants during the recognition period.

- Employees in possession of a vocational qualification who have **to sit an examination if they have a corresponding offer of employment** for the qualification to be recognised.

[Section 17a (1), (3) and (5) Residence Act in conjunction with s. 8(2) Employment Regulation]

- Workers that have graduated from university or that have a comparable qualification and that are employed within the framework of **exchange of personnel within an internationally active company or group of companies**;

[Section 10 (1), Employment Regulation]

- Workers from an internationally active group of companies or part of a company with a qualification comparable to that of German skilled workers, provided that the **work is necessary for the preparation of a project's implementation abroad**;

[Section 10 (1), Employment Regulation]

- **Teachers for the provision of language tuition** in schools under the supervision of the competent non-honorary consular representation;

[Section 11 (1), Employment Regulation]

- **Specialty cooks** for full-time employment in specialty restaurants;

[Section 11 (2), Employment Regulation]

- **Au-pairs** with basic knowledge of German that are under 27 years of age and that are employed for up to one year in a family in which German is spoken as a native language. If German is spoken in the family as a family language, consent can be granted if the employee does not originate from a home country of the host parents. The consent is granted without a priority check.

[Section 12, Employment Regulation]

- **Domestic employees of posted workers** if they were employed in the household for at least one year prior to entry for supervision of a child under 16 years of age or a relative in need of care

[Section 13, Employment Regulation]

- **Seasonal employment, showman's assistants and home helps** on the basis of a placement agreement between the BA and the foreign Public Employment Service.

No placement agreements currently exist for this type of employment.

[Sections 15a – c, Employment Regulation]

### 3. Posted Workers

#### 3.1 The Issuing of a Residence Title **without the Consent** of the BA for

- **Business travellers** whose temporary employment at the premises of the German employer is necessary in connection with the company's commercial representation abroad or that enter the country within the framework of their employment abroad in order to undertake business activities for a short period of time, such as to attend meetings or negotiations, conclude contracts or purchase goods intended for export or to establish, monitor or control a domestic part of a company for an employer established abroad, provided that they do not reside in Germany for more than 90 days within a period of 180 days,

[Section 16, Employment Regulation]

- **Skilled workers employed abroad by an internationally operating company or group of companies for the purpose of advanced industrial training** at the German part of the company or group for up to 90 days within a period of 12 months,

[Section 17, Employment Regulation]

- **Journalists** that are recognised by the German Federal Press and Information Office and that work in Germany for a foreign employer for no longer than 90 days within a period of 12 months,

[Section 18, Employment Regulation]

- **Individuals that are posted to Germany by their employer, which is based abroad, for up to 90 days within a period of 12 months in order to**
  - **set up and install IT machines, systems and programs** ordered from the employer for commercial purposes, to provide **instruction** on their use and to **maintain** or **repair** such items \*)
  - **accept** purchased **machines, systems and other items** or to receive instruction on their operation,
  - **disassemble** purchased, used systems for the purpose of reconstructing them in the employer's country of establishment, \*)
  - **construct/dismantle** and **supervise** the company's own **trade-fair stands** or trade-fair stands for a foreign company that is based in the employer's country, or
  - complete an **industrial course** within the framework of export-shipment and license agreements;

\*) Exemption from consent requires the employer to notify the German Federal Employment Agency of the employment prior to its commencement. A corresponding form is available online at [www.arbeitsagentur.de/arbeitsmarktzulassung](http://www.arbeitsagentur.de/arbeitsmarktzulassung).

[Section 19, Employment Regulation]

- **The drivers and crew of international road and rail transport**
  - within the territory of the EEA for **transport by international traffic** or cabotage operations and for whom a driver attestation has been issued to the employer,
  - in a third country in **international goods traffic** and where the vehicle is registered in the employer's country of establishment for a maximum stay of three months within a period of 12 months or where a vehicle registered in Germany is transferred to a state outside of this area.

- **The drivers and crew** in international **passenger traffic** by road for an employer based abroad with a vehicle registered in the employer's country of establishment for international journeys
  - in scheduled international traffic with buses even if the vehicle is registered in Germany;
  - in international rail traffic if the transport company is based abroad.

[Section 20, Employment Regulation]

- **Employees from third countries** that are temporarily posted to Germany by a company based in the EEA for the purpose of **providing a service** if they are properly employed in the company's country of establishment.

The so-called freedom to provide services allows companies to temporarily provide their services in other member countries. The companies can bring their employees with them.

[Section 21, Employment Regulation]

### 3.2 The Issuing of a Residence Title **with the Consent** of the BA for

- **Individuals** who are **posted to Germany** by their employer, which is based abroad, for **longer than 90 days and up to three years** in order to
  - **set up** and **install IT machines, systems** and **programs** ordered from the employer for commercial purposes, to **provide instruction** on their use and to **maintain** or **repair** such items,
  - **disassemble** purchased, **used systems** for the purpose of reconstructing them in the employer's country of establishment.

[Section 19 (2), Employment Regulation]

## 4. Specific Occupations and Groups of Individuals

### 4.1 The Issuing of a Residence Title **without the Consent** of the BA for

- Individuals who, while retaining their habitual residence abroad, carry out work within the framework of **lectures and presentations of particular scientific or artistic value, sports performances, festivals, guest performances or music and culture days**, provided that the duration of the activity does not exceed 90 days within a period of 12 months;

[Sections 22 (1) and (2), Employment Regulation]

- **Individuals that perform in day performances** on up to 15 days in a year;

[Section 22 (3), Employment Regulation]

- **Professional sportspersons or professional trainers** intended for deployment in German sports clubs or similar sporting institutions participating in competitive sports, provided they are at least 16 years old and the club or institution pays a gross salary equal to at least 50% of the contribution assessment ceiling for statutory pension insurance and the competent German umbrella organisation for the sport in question confirms the individual's qualification as a professional sportsperson or trainer in agreement with the German Sports Federation;

[Section 22 (4), Employment Regulation]

- **Photographic models, advertising, fashion and other models;**

[Section 22 (5), Employment Regulation]

- **Tour guides** that, while retaining their habitual residence abroad, accompany foreign tourist groups to Germany, provided that the duration of the activity does not exceed 90 days within a period of 12 months;

[Section 22 (6), Employment Regulation]

- **Interpreters** that, while retaining their habitual residence abroad, participate in meetings and negotiations in Germany on behalf of a company based abroad, provided that the duration of the activity does not exceed 90 days within a period of 12 months;

[Section 22 (7), Employment Regulation]

- Individuals that are accredited for preparing, participating in, implementing and following up **international sports events;**

[Section 23, Employment Regulation]

- **Individuals in shipping and air traffic**

- that are members of the **crews** of seagoing ships in international traffic,
- that are approved as **sea pilots** in accordance with the German Sea Pilots Act and
- that are employed as **technical personnel on inland-waterway vessels** and as **service personnel** in international traffic for the necessary care of passengers on **passenger-carrying vessels**, as well as
- the **crews** of aircraft, with the exception of the pilots, flight engineers and navigators for companies based in Germany.

[Section 24, Employment Regulation]

## 4.2 The Issuing of a Residence Title for Employment **with the Consent** of the BA for

- **Artists and performers** and auxiliary personnel required for their performances;  
[Section 25 (1), Employment Regulation]
- Individuals that are posted for employment lasting longer than 90 days within the framework of **guest performances or foreign film and television productions**;  
[Section 25 (2), Employment Regulation]
- Nationals of **Andorra, Australia, Canada, Israel, Japan, Monaco, New Zealand, San Marino, South Korea and the United States of America** for employment irrespective of where the employer is based;  
[Section 26 (1), Employment Regulation]
- Nationals of Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro and Serbia irrespective of the vocational qualification for employment of any kind.

A binding offer of employment or a training place from an employer in Germany and a national visa are required to enter Germany. It is not possible to submit an application in Germany.

In addition, the applicant may not have received any benefits under the Asylum Seekers Benefits Act in Germany in the previous 24 months before applying for a visa. This prohibition does not apply to persons who applied for asylum between 1 January 2015 and 24 October 2015, were still in Germany on 24 October 2014 and then left the country without delay.

The rule applies in the years 2016 up to and including 2020.

[Section 26(2) Employment Regulation]

- **Employment entailing cross-border commuting.**  
[Section 27, Employment Regulation]

👉 **Further information can be obtained from the immigration office. This office can also provide information on other groups of individuals that may be employed with or without the German Federal Employment Agency's consent, as well as details of the maximum duration of this employment.**

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## 5. International Agreements

If there is an intergovernmental agreement regulating the engagement in an occupation, this agreement determines whether the consent is granted.

- **Contract Workers**

Foreign workers are admitted based on the agreements concluded between the Federal Republic of Germany and the countries Bosnia-Herzegovina, Macedonia, Serbia and Turkey on the posting and employment of employees of foreign companies based on work contracts.

Leaflet 16 provides information on the admission requirements and the procedure. The competent authority is the Stuttgart Employment Agency.


[Section 29 (1), Employment Regulation]

- **Guest Workers**

Guest workers are individuals that have already acquired a professional qualification in their home country, that have some knowledge of German and that take up employment in Germany to improve their professional and language skills (maximum duration: 18 months).

This is based on bilateral agreements with Albania and the Russian Federation.

[Section 29 (2), Employment Regulation]

 **Further possibilities exist for foreigners to enter and work in Germany within the framework of intergovernmental agreements. Further information can be obtained from the immigration office.**

## 6. Employment in the Event of Residence for Reasons of International Law or for Humanitarian or Political Reasons, as well as for Individuals with Temporary Suspension of Deportation and Asylum Seekers.

The issuing of the permit for employment **without the consent** of the BA for

- **Foreigners with a residence permit in accordance with Section 5 of the German Residence Act.**

[Section 31, Employment Regulation]

- **Individuals with temporary suspension of deportation or leave to remain**

- for **vocational preparation internships** that are not subject to minimum wage regulations.
- for **vocational training** in an officially recognised or comparable regulated profession,
- for work as a **highly qualified individual, manager, scientist/researcher**, within the framework of voluntary service that is subject to statutory regulation and educational internships and internships funded by the EU, along with other employment for which consent is not required,
- if they have been resident in Germany for an uninterrupted period of **four years** with a permit, suspension of deportation or leave to remain.

[Sections 32 (2), Employment Regulation]

**Consent to employment may be issued to persons with temporary suspension of deportation and asylum seekers if they have been in the Federal Republic of Germany legally for three months.** However, asylum seekers who are obliged to live in reception centres may not take up any employment during this period. For this reason, the waiting period may last up to 6 months (s. 61(1), s. 47(1) sentence 1 Asylum Act).

Asylum seekers from safe countries of origin are obliged to live in a reception centre for the complete duration of the asylum proceedings. In addition, there is a general ban on employment for asylum seekers and persons granted a suspension of deportation from safe countries of origin who submitted an application for asylum after 31 August 2015 or whose application for asylum was refused (s. 61(2) sentence 4 Asylum Act / s. 60a (6) sentence 1 No 3 Residence Act).

Safe countries of origin are Albania, Bosnia and Herzegovina, Ghana, Kosovo, Macedonia (former Republic of Yugoslavia), Montenegro, Senegal and Serbia.

[Section 32 (1), Employment Regulation]

Consent in accordance with s. 32(1) Employment Regulation basically presupposes that there are no preferred employees available for the particular employment (priority check). Consent will be issued **without a priority check** of the labour market

- for employment as a professional in an occupation where there is a shortage with a gross salary of not less than 52% of the contribution assessment ceiling in the pension fund, or
- for employment as a skilled worker in training occupations in accordance with the "**positive list**" or
- for participation in measures for the **recognition of professional qualifications** or
- after continuous **residence** in the Federal Republic of Germany of **fifteen months** with a permit, suspension of deportation or leave to remain.

[\$32 (5), Employment Regulation]

- ☞ **Consent in accordance with s. 32(5) Employment Regulation can also be issued for temporary employment. Temporary work is therefore possible after expiry of the waiting period of three months in the case of the above-mentioned periods of employment as a skilled worker, and in general after residence of 15 months.**



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## 7. Consent Procedure for Workers from Third Countries

Specific employment agencies are responsible at the German Federal Employment Agency for conducting the labour-market admission procedure. The work-permit teams (AE teams) are represented at particular locations. Please refer to the [overview](#) in connection with this leaflet to find out which team is responsible.

### 7.1 Application for a Residence Title for Taking up Employment

In an application for a residence title permitting the holder to take up employment, the German diplomatic mission or consular post, or the immigration office, checks whether the occupation requires consent or not. If the occupation requires consent, the Federal Employment Agency joins the procedure.

### 7.2 Competent Team

The competent team for the employer's registered office (factory, branch, subsidiary) is always responsible for the decision on the request from the German diplomatic mission/consular post or the immigration office for consent to take up employment.

Special jurisdictions apply to specific groups of individuals (e.g. artists, specialty cooks, nurses, subject-specific internships of students enrolled abroad and international exchange of personnel).

### 7.3 Checking the Requirements for Consent

Pursuant to the German Residence Act (Section 39), consent for the issuing of a residence title for employment may strictly only be granted if:

- the foreigner's employment would not result in any negative effects on the labour market;
- no German workers, nationals of EU/EEA countries or Switzerland, or foreigners considered as legally equivalent to German workers with regard to taking up employment are available for the employment (**priority check**),
- the foreigners are not employed with worse working conditions than comparable domestic workers.

The local Employment Agency, in whose district the employer has its registered office, carries out the priority check. It checks whether preferential applicants are available on the regional and wider (EU/EEA) labour market and that the conditions of employment offered to the foreign workers are not worse than those of comparable domestic employees. To this end, a detailed job advertisement must be submitted to the Employment Agency in good time, in particular providing information on the intended conditions of employment.

The question as to whether a vacant position can be filled with a foreign worker should usually be clarified within two weeks. This time frame assumes that the employer has already supplied all necessary information.

## Minimum Wage Act

The general statutory minimum wage of €8.50 per hour has been in force since 01.01.2015 for all persons employed in Germany. In case of employers and employees bound by a collective agreement, the collective wage takes precedence if it is more than €8.50 per hour.

You can find a calculation tool at: [www.der-mindestlohn-wirkt.de](http://www.der-mindestlohn-wirkt.de)

The general minimum wage does not apply to

- employees below the age of 18 who have not completed vocational training
- apprentices
- persons in voluntary employment

The statutory minimum wage applies in principle to interns as well.

In the following exceptional cases, the minimum wage does not apply to interns:

- obligatory internships (school, studies, vocational training),
- vocational guidance internships or internships for guidance for starting studying, up to three months
- internships parallel to jobs, or extra-curricular internships, of up to three months

- ☞ **Employers can shorten the decision-making process considerably by submitting the job advertisement to the Employment Agency early. In such cases, the BA's decision can be communicated immediately, if necessary, upon receipt of the request for consent.**
- ☞ **For individual persons/occupations, consent can be granted without a priority check, provided that the working conditions correspond to those of comparable domestic employees; e.g. for skilled workers with a foreign university degree at a certain minimum salary or for skilled workers following professional vocational training in Germany.**
- ☞ **Workers that can only be placed with support from the Employment Agency also belong to the preferential group of individuals.**
- ☞ **The employer at which a foreigner is to be employed is required to provide the German Federal Employment Agency's office with information on the remuneration, working hours and other working conditions.**
- ☞ **The requirements for consent apply both to foreigners already resident in Germany with a permit and to foreigners that wish to enter the country to take up employment.**

#### 7.4 Advance approval proceedings by the BA

Even before submitting a consent request for a foreign worker, the employer can check whether the labour-market requirements are in place for subsequent consent to be granted for this employment.

A detailed job description is needed with information on the working conditions and the applicant's required qualifications and, in principle, verification of the applicant's qualifications.

An employer can therefore make use of this opportunity if they wish to clarify in good time whether their vacancy can be filled with a foreign worker before searching abroad for a worker or also if they have already identified a foreign worker for the position.

 **Employers can shorten the decision-making process considerably through this procedure. You can find a description of the advance approval proceedings, including the application forms, online at [www.arbeitsagentur.de/arbeitsmarktzulassung](http://www.arbeitsagentur.de/arbeitsmarktzulassung).**

#### 7.5 Limitation of Consent by the BA

Consent for the issuing of a residence title allowing the holder to take up work can be limited with regard to the professional activity, the employer, the district of the Employment Agency and the timing and distribution of the working hours.

The consent is granted, in principle, for the duration of the employment but for three years at the longest.

In the case of employment for which a time limit is specified according to a regulation or intergovernmental agreement, the consent is granted for the allowed duration at the longest.

The German diplomatic mission or consular post/immigration office must include the restrictions of the Federal Employment Agency's consent in the residence title (time limit of the consent, type of employment, employing company, timing and distribution of the working hours).

 **Before the employee changes their place of work or their working conditions, they should clarify all residence matters at the immigration office.**

### 8. Recruitment and Placement from Abroad

Recruitment to and placement from the countries listed in the annex to this leaflet for employment in health-care and nursing professions must only be carried out by the German Federal Employment Agency. The list contains the 57 countries identified by the World Health Organization (WHO) as having a lack of health-care personnel. Immigration of health-care and nursing professionals from these countries is therefore only possible if the working relationship comes about on the future employee's own initiative.

Intentional or negligent recruitment or placement of this kind is an administrative offence (Section 404 (2)(9), SGB III).

[Sections 38 and 39, Employment Regulation]

## 9. Refusal of Consent

The consent for a foreign worker to take up employment **is** to be refused if the worker intends to work as a **temporary worker** or if the employment relationship came about on the basis of an unauthorised placement or recruitment (section 9).

The consent **can** be refused if

- the foreign worker or the employer has culpably violated applicable legislative provisions,
- the refusal is justified by important reasons relating to the worker's person.

[Section 40, Residence Act]

## 10. Revocation

The consent **can** be revoked if the foreigner is employed under less-favourable working conditions than comparable domestic employees or if grounds for refusal are present pursuant to Section 40 of the Residence Act.

[Section 41, Residence Act]

## 11. Application for a Visa for Entry for the Purpose of Taking up Employment

The German diplomatic missions or consular posts in the applicant's home country are responsible for issuing the necessary visa for taking up employment in Germany. The applicant should contact the relevant diplomatic mission or consular post in good time prior to the intended entry into Germany to inquire about the respective local conditions in relation to the issuing of a visa.

To avoid the need for further queries, the applicant should present all documents relevant to the decision-making process if possible. This always includes a valid passport and, if the applicant is not resident in their home country, a valid residence permit.

The visa should be applied for as early as possible prior to the intended date of taking up employment, as processing often takes a long time.

 **Please refer to the advance approval proceedings (section 8.4), which can be used to accelerate the entry procedure.**

## 12. Administrative Offences

It is an offence for foreign nationals to engage in employment without the necessary residence title and for employers to employ a foreign national without the necessary residence title.

This administrative offence is punishable by a fine.

[Section 404, SGB III]

### 13. Data Protection

The German Social Code protects you from, in particular, improper collection and use of personal data. This data may only be processed and used if a legislative provision permits this or if you have consented to it.

The Federal Employment Agency requires your details to allow checking of whether consent can be issued for the taking up of employment. Your cooperation is required pursuant to Section 60 and onwards of Volume I of the German Social Code (SGB I).

In accordance with the SGB, your personal data can also be stored and used to the necessary extent for the completion of other tasks at the Federal Employment Agency and at the competent employment agency.

You may request information on the personal data stored about you, correct the data or, in the instances stated in the law, have the data blocked or deleted.

Personal data is subject to social data privacy [Section 35, SGB I] and may only be transferred if the strict requirements of Section 67 and onwards of SGB X are met.

**Recruitment to and placement from the following countries for employment in health-care and nursing professions must only be carried out by the German Federal Employment Agency (Annex to § 38 BeschV):**

1. Afghanistan (Islamic Republic of Afghanistan),
2. Angola (Republic),
3. Bangladesh (People's Republic),
4. Benin (Republic),
5. Bhutan (Kingdom of Bhutan),
6. Burkina Faso,
7. Burundi (Republic),
8. Cambodia (Kingdom of Cambodia),
9. Cameroon (Republic),
10. Central African Republic
11. Chad (Republic),
12. Comoros (Union of the Comoros),
13. Congo (Democratic Republic),
14. Congo (Republic),
15. Djibouti (Republic),
16. El Salvador (Republic),
17. Equatorial Guinea (Republic),
18. Eritrea (State of Eritrea),
19. Ethiopia (Federal Democratic Republic),
20. Ghana (Republic),
21. Guinea (Republic),
22. Guinea-Bissau (Republic),
23. Haiti (Republic),
24. Honduras (Republic),
25. India (Republic),
26. Indonesia (Republic),
27. Iraq (Republic),
28. Ivory Coast (Republic of Côte d'Ivoire),
29. Kenya (Republic),
30. Laos (People's Democratic Republic),
31. Lesotho (Kingdom of Lesotho),
32. Liberia (Republic),
33. Madagascar (Republic),
34. Malawi (Republic),
35. Mali (Republic),
36. Mauritania (Islamic Republic of Mauritania),
37. Morocco (Kingdom of Morocco),
38. Mozambique (Republic),
39. Myanmar (Union of Myanmar),
40. Nepal (Kingdom of Nepal),
41. Nicaragua (Republic),
42. Niger (Republic),
43. Nigeria (Federal Republic),
44. Pakistan (Islamic Republic of Pakistan),
45. Papua New Guinea (Independent State of Papua New Guinea),
46. Peru (Republic),
47. Rwanda (Republic),
48. Senegal (Republic),
49. Sierra Leone (Republic),
50. Somalia (Democratic Republic of Somalia),
51. Tanzania (United Republic of Tanzania),
52. The Gambia (Republic),
53. Togo (Togolese Republic),
54. Uganda (Republic),
55. Yemen (Republic),
56. Zambia (Republic),
57. Zimbabwe (Republic),

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This leaflet  
can be found **online**, along with other current information on the legal  
requirements that must be complied with when taking  
up work in Germany, at

[www.arbeitsagentur.de/arbeitsmarktzulassung](http://www.arbeitsagentur.de/arbeitsmarktzulassung)

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