

## Frequently Asked Questions concerning Legal Aid for foreigners

ver.2 (20180921)

(Note : Although this FAQ are drawn up based on the advice from lawyers, SIFA assumes no responsibility for accuracy, completeness or usefulness of any answers disclosed herein. We recommend that you consult organizations concerned or lawyers if you have specific legal problems.)

### 【Legal consultation desk】

Q1 I would like to get a legal advice on a legal matter. Can I find a legal consultation aid for foreigners at bar associations or elsewhere?

A : Yes. For example, at Osaka Bar Association, “Legal Consultation for Foreign Nationals” is available for foreigners. (You can make an appointment by phone. 06-6364-1248) Also, people in financial difficulty are entitled to a legal consultation aid at some organizations, such as Hōterasu Osaka (050-3383-5425).

### 【Administrative relations】

Q1 Can I get an interpretation support for administrative procedures at city offices?

A : For example, you can get an English, Chinese or Korean interpretation support without a fee for administrative procedures or consultation at Suita City Office and branches (Yamada, Senrioka and Senri), Suita Municipal Health Center, Suita Municipal Kindergartens, Preschools, Elementary Schools and Middle Schools. You need to make a reservation at the place where you will require an interpreter at least 5 days before your actual visit. For more information in English, Chinese or Korean, please see the following URL of SIFA.

<http://suita-sifa.org/wp-content/uploads/2018/06/b69c65b3b3d84f198ca0c30c4b699dfc.pdf>

Q2 Can I ask an interpreter who accompany me to a hospital?

A : For example, Suita International Friendship Association (SIFA TEL:06-6835-1192)

offers hospital attendant interpreter system, which offers a volunteer interpreting service for foreigners free of charge at the partnership hospitals (Currently, SIFA is in partnership with Suita Citizen Hospital(*Suita Shimin Byōin*), Saiseikai Suita Hospital(*Saiseikai Suita Byōin*), and Saiseikai Senri Hospital(*Saiseikai Senri Byōin*)) or Suita Municipal Health Center (In 2017, the service was utilized in 196 cases). You need to make an appointment in advance directly at the hospital to utilize the service.

Q3 I heard that Japan used to have Ailen Registration System (*Gaikokujin Tōroku Seido*). Can you explain current situation of the registration system for foreigners?

A :In 2012 (*Heisei 24*), Ailen Registration System(*Gaikokujin Tōroku Seido*) is abolished. Currently, mid to long term resident aliens are registered in the Basic Residents Registration (*Jūmin Tōroku Daichō*).

## 【Status of Residence】

Q1 Am I allowed to work part-time to cover my cost of living?

A : You need to obtain a “Permission to engage in activity other than that permitted (*Shikakugai Katsudō Kyōka*)” from the Immigration Bureau(*Nyūkokukanrikyoku*) (Article 19(2) of ”Immigration Control and Refugee Recognition Act(*Shutsunyūkokukanri oyobi Nanminnteihō*)” (abbreviated to “Immigration Control Law”( *Nyūkokukanrihō* or *Nyukanhō*)). If you acquire permission, you are allowed to work part-time up to 28 hours per week. It usually takes from 2 weeks to 2 months after you submit an application to get permission.

Consultation service:

• Immigration Information Center

Tel : from 8:30 am to 5:15 pm on weekday

0570-013904 / 03-5796-7112(if make a call from IP Phone, PHS or from foreign countries)

<http://www.immi-moj.go.jp/english/info/index.html>

• Osaka Immigration Bureau(*Osaka Nyūkokukanrikyoku*)

1-29-53, Nankokita, Suminoe-Ku, Osaka

Q2 Although I have been attending my university regularly, I have been working hard as a part-time employee at a tavern to cover my cost of living and I found I had worked 30 hours per week.

A : As pointed out in the answer of Q1, permitted maximum working hour under a “Permission to engage in activity other than that permitted (*Shikakugai Katsudō Kyōka*)” is 28 hours per week and you did violate the rule. As a result, Article 24 item (iv)(a), which stipulates a deportation from Japan may be applicable to you. However, if the attendance rate and grade are good and the working hour is not too long, there are precedents which canceled issuance of a deportation order based on the reason that the condition of “A person who is clearly found to be engaged solely in activities other than that permitted under the status of residence previously granted” is not satisfied, such as the Osaka High Court’s decision on May 19, 2005 or the Tokyo District Court’s decision on January 31, 2007.

### 【Lifestyle · business relationship】

Q1 Although I have paid the rent for my apartment punctually, the landlord asked me to leave the apartment all of a sudden. Do I have to leave?

A : Under Act on Land and Building Leases of Japan (*Shakuchi Shakuyahō*), possibilities of terminating a lease contract by landlords is strictly restricted . Depending on whether a violation against the contract exists and a degree of the violation, usually you don’t need to leave the apartment unless a fiduciary relationship with the landlord has been broken.

Q2 If I am refused to enter a shop only because I am a foreigner, should I accept it meekly?

A : ①The Constitution of Japan, Chapter 3, Article 14, Paragraph 1 stipulates the guarantee of the human rights, which says “All of the people are equal under the law and there shall be no discrimination in political, economic or social relations because of race, creed, sex, social status or family origin.”, and the Supreme Court of Japan(*Saikō Saibansyō*) (Grand Panel Cases) did state that “It should be understood that the guarantee of fundamental rights included in Chapter 3 of the Constitution extends also to foreign nationals staying in Japan except for those rights, which by

their nature, are understood to address Japanese nationals only.” Also, Japan accedes to the “International Convention on the Elimination of All Forms of Racial Discrimination”.

② Depending on the specific circumstances, some courts ruled that those who treated foreigners unfairly are liable to compensate the foreigners for damage based on tort in some cases, such as the case that a jewelry store refused a foreigner to enter the shop [Shizuoka District Court Hamamatsu Branch (*Shizuoka Chihō Saibansho Hamamatsu Shibu*) decided on October 12, 1999], the case that a foreigner was refused to enter a public bath [Sapporo District Court (*Sapporo Chihō Saibansho*) decided on November 11, 2002], or the case that a bar owner refused a foreigner to enter the snack bar [Tokyo District Court (*Tokyo Chihō Saibansho*) decided on September 16, 2004].

Q3 Can I establish business in Japan as easy as Japanese do?

A : In Japan, because the minimum capital requirements to establish a joint-stock company does not exist, you can theoretically establish a company with the capital of 1 yen. Also, you can establish business without taking a form of a company. However, foreigners need a “Business Manager” visa to start business, and there are two requirements to obtain the visa: “securing (existence) of a place of business” and “continuity of the business”. There are guidelines about the requirements. For example, you can find “about the disambiguation of the standard of visa of alien entrepreneurs” published by the Immigration Bureau from the link below.

[http://www.moj.go.jp/nyuukokukanri/kouhou/nyukan\\_nyukan43.html](http://www.moj.go.jp/nyuukokukanri/kouhou/nyukan_nyukan43.html)

Also, there is another guideline called “About the treatment of “Business Manager” visa in case local public entities support entrepreneurs to establish business” for those who occupy business incubator facility owned by a local public entity and receive subsidy from the local public entity to cover a portion of its expense.

[http://www.moj.go.jp/nyuukokukanri/kouhou/nyuukokukanri07\\_00160.html](http://www.moj.go.jp/nyuukokukanri/kouhou/nyuukokukanri07_00160.html)

Q4 What kind of insolvency proceeding are there in Japan? Can foreigners utilize the proceeding? Is it possible to keep assets to some extent to reestablish livelihood?

A : In Japan, the Bankruptcy Act and the Civil Rehabilitation Act stipulate the bankruptcy procedure for an individual insolvency. Foreigners can use those procedures if they have their residence in Japan (Article 3 and Article 4 of the

Bankruptcy Act and the Civil Rehabilitation Act). Bankruptcy is a system to liquidate your assets (You can use the bankruptcy procedure even if you don't have any assets), but generally you can keep your assets worth up to 990,000 (nine hundred ninety thousand) yen to reestablish your livelihood (Article 34 Para. 3 of the Bankruptcy Act). An individual rehabilitation procedure is available to those who are at the risk of default (Article 21 of the Civil Rehabilitation Act). You can generally keep assets worth up to 990,000 (nine hundred ninety thousand) yen as is the case with the bankruptcy, and you should pay off a portion of debt in installments from a portion of your future income for generally 5 years to be absolved from the rest of your debt. In Japan, you can use either procedure. In 2017, 70 thousand people used the bankruptcy procedure and 10 thousand people used the individual rehabilitation procedure.

## 【Employment and labor issues】

Q1 I am supposed to graduate from the university next April. From when can I apply for change of visa from the “Student” visa to visa for employment?

A : You can apply from December of your 4<sup>th</sup> year at university.

Q2 I haven't found a job yet, although I am going to graduate my university soon. Can I stay in Japan for a while to find a job?

A : In that case, you should change the visa from “Student” to “Designated Activities” and generally a letter of recommendation from your university is needed. If you acquire a “Designated Activities” visa, you are able to seek a job for 6 months after the graduation, and you can extend the visa for another 6 months if you could not find a job until the end of the first 6 months. Also, if you acquire 「Permission to engage in activity other than that permitted (*Shikakugai Katsudō Kyōka*)」, you are able to work part-time while you are looking for a job. Please check below, the website of the Ministry of Justice(*Hōmushō*).  
[http://www.moj.go.jp/ONLINE/IMMIGRATION/ZAIRYU\\_HENKO/zairyu\\_henko10\\_21\\_10.html](http://www.moj.go.jp/ONLINE/IMMIGRATION/ZAIRYU_HENKO/zairyu_henko10_21_10.html)

Q3 I am going to start working in Japan, and I heard there is an act called Minimum Wage Act (“*Saitei Chinginhō*”). What is it? Does it apply to foreigners? How much is the minimum wage?

A : When you start working, a labor contract with the company is concluded. Normally, Labor Standard Act (*Rōdō Kijūhō*) applies to you and the act prohibits discriminatory treatment such as a discriminatory arrangement of salary based on the citizenship (Article 3). When it comes to wage, “Minimum Wage Act (*Saitei Chinginhō*’ *Chinginhō*)” applies. It guarantees laborers the minimum wage based on the type of industry and region. As of September 30, 2017, the minimum wage of Osaka Prefecture is 909 yen per hour (It would be higher in the specific kind of industry)

Q4 My friend is a student studying in Japan and he got injured while he was working part-time. Will he get compensated for the injury? What will happen if he was in training?

A : When foreigners get injured at work, employers may be liable to compensate them for damages due to the breach of employers’ obligations for employees’ safety . Also a workers’ accident compensation insurance covers workers’ injury. When he is a trainee other than a technical intern trainee, the workers’ accident compensation insurance is not applied to him, but civil liability of the company is still applicable.

## 【Family relationship】

Q1 I (non-Japanese) am going to get married with Japanese. I heard that when Japanese get married, the married couple is required to use the same surname in a family register (Koseki). In the case of us, are we also required to use the same surname? How about our child?

A : Unlike most other countries, married couples are required to use the same surname in Japan. When Japanese get married, generally, a family register of the married couple is newly made and they are required to use the same surname (Article 16, Para. 1 of the Family Register Act). However, in the case of a marriage between Japanese and a foreigner, only a family register of the Japanese spouse is newly made because such registers are maintained only for Japanese citizens. The name of

the non-Japanese spouse is only written in matters of the Personal Status of the family register of the Japanese spouse. That is, you are not required to use the same surname (Article 16, Para. 3 of the Family Register Act). Your children acquire Japanese nationality (Article 2, Para. 1 of the Nationality Act), and usually their information is written on the family register of your spouse (Japanese spouse), so they have the same surname of spouse in the family register (Article 790, para. 1 of the Civil Code and article 18, para 2 of the Family Registration Act).

Q2 I am a foreigner working in Japan, and I would like to bring my family from my home country to join me in Japan. How could I bring them?

A : For example, if you have a “Business Manager” visa (Appendix No.1 of the Immigration Control Law), you can bring your spouse and your dependent children under a “Dependent” visa. You can apply for Certificate of Eligibility (*Zairyū Shikaku Nintei Shōmeisho Kōfu Shinsei*) on their behalf at a local branch of the Immigration Bureau.

Q3 Though Recently I got married to Japanese, currently I have only a “Temporary Visitor” visa. Could I live in Japan permanently?

A : If you are allowed to change your visa from “Temporary Visitor” to “Spouse or Child of Japanese National”, you can live in Japan as long as you are married to Japanese. However, to be allowed to change the visa, you should verify the new visa is applicable to you and it is reasonable to allow you to stay under the new visa. In addition, “inevitable special circumstances” is required when it comes to change of visa from a “Temporary Visitor” visa (Article 20, para. 3, Of Immigration Control Law)

Q4 I am a foreigner working in Japan, and my spouse and I are both working. Does the salary we earned belong to each individually and separately?

A : In Japan, it is normal that a married couple doesn't have any special contract as to their property. In this case, Japanese Civil Code applies, and because it stipulates separate property rule (Article 762, para 1), generally what you earn is yours. In the case of a full-time housewife, her shares in the matrimonial property will be brought into shape at the time of distribution of property at divorce (Article 768) or at

inheritance (Article 890). But if, exceptionally, you chose a governing law regarding the matrimonial property in writing, the chosen law will be applied according to Article 26, Para 2 of Act of General Rules for Application of Laws(*Hō no Tekiyō ni Kansuru Tsūsokuhō*, abbreviated to *Tsūsokuhō*). Or if you registered a prenuptial agreement about matrimonial property, it is decided according to the contract.)

## 【Inheritance】

Q1 Could I write a will in a foreign language?

A : The Supreme Court of Japan(*Saikō Saibansyō*) ruled on December 24, 1974 that a will written in English, which was signed but did not have the seal, was valid. However, it is recommended to write a will in both foreign language and Japanese.

Q2 Which country's law applies to a legal issue of inheritance,?

A : When foreigners are involved in the inheritance, which national law to apply becomes an issue. According to Article 36 of General Rules for Application of Laws, inheritance shall be governed by a national law of the decedent, so when those who passed away is a foreigner, his national law applies. For example, when a father who is an American living in New York has a real property in Japan, according to the law of New York State, Japanese Civil Code applies due to Split Heirship, and when he has a real property in New York, a law of New York applies. Please consult professionals about the specific case.