

Employment in China: Practical Guide

D'ANDREA & PARTNERS

Mandy Du, Senior Associate

Date: 12/05/2019





D'Andrea & Partners
LAW & COUNSEL



© Studio Legale D'Andrea, 2013, 2015, 2018. All rights reserved. D'Andrea & Partners is a registered trademark of Studio Legale D'Andrea.





I D E A

Provide best legal and business consulting services in a fast way worldwide.

Make the world a better place where to do business.





D'Andrea & Partners

LEGAL COUNSEL

- D'Andrea & Partners Legal Counsel is a **Boutique Firm** which has become a point of reference as well as a well-established entity in the international professional service market.
- D'Andrea & Partners consists of highly experienced specialists from various countries in different fields, such as Legal, Accounting, Tax, Investment Consulting, Entry/Exit Strategy Consulting etc. Our talents are the guarantee that our firm provides the clients with all the necessary assistance they might need to globalize themselves.
- As a **Unique Selling Point**, our firm primarily serves Italian companies that want to focus on Asia as well as Chinese companies that are willing to enter the Italian/European market.



In account of the specific needs, D'Andrea & Partners Legal Counsel may provide your company with the following services

Commercial Contracts Draft and Upgrade

Labor law Compliance and HR Upgrade

Legal Compliance/Legal Translation

IPR (Intellectual Property Rights) Rights

Corporate – M&A

Investments (FDI&ODI)

Environmental Compliance

Dispute Resolution

Contents

01

Work Permit in China

02

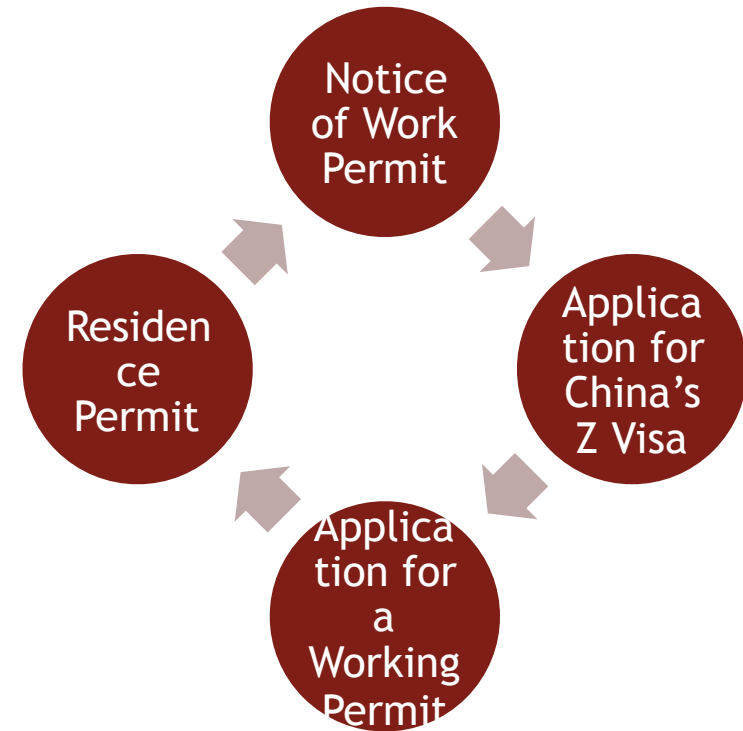
Labor Contract in China

03

Suggestions

Work in China

Everything you need to know about Work Permit



Work in China

Everything you need to know about Work Permit





This is the first step, only with the Notice of Work Permit for Foreigners, you can apply for a Z visa in order to enter into China. The following documents are required:



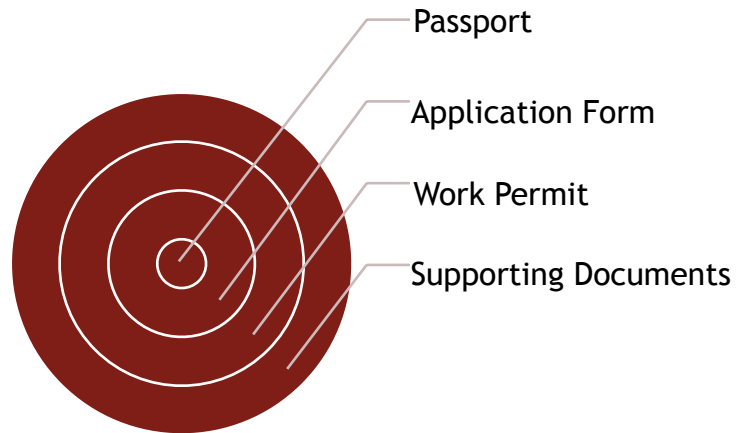
Note: the materials may be adjusted according to the policies and the legalization of the documents may be required.



D'Andrea & Partners

LEGAL COUNSEL

Upon obtaining the Notice of Work Permit of Foreigners issued by Bureau of Foreign Experts Affairs, the foreign candidate is then able to apply for China' Z visa at a Chinese Consulate or Visa Application Centre to get permission to enter into China.



Supporting Documents could include a medical form and criminal history check, which has been notarized and authenticated



When arriving in China, the employee shall apply for a Work Permit within thirty (30) days at the local Administration of Foreign Experts Affairs of Human Resources and Social Security Bureau where the employer is located. The necessary documents including the following:



requirements.

Upon receiving the Work Permit, the employee shall report to the local police station which will govern the area where he/she lives in China to apply for a Residence Permit within thirty (30) days.

Upon completion of all of the above-mentioned procedures, a non- Chinese citizen may work in China legally.



Legitimate internship

The necessary conditions :

- Consent of school
- Residence permit for study
- Apply for Internship remarks at the local bureau



Things we need to know about Labor Contract

- GOVERNING LAW

- ✓ Labor Law of PRC

- ✓ Labor Contract Law of PRC

- ✓ Local Labor Regulations & Policies at Provincial and Municipal Level

- ❖ Local Practice

- MAIN CLAUSES OF A LABOR CONTRACT

- ✓ Name, domicile and legal representative or main person in-charge of the company;
- ✓ Name, residential address and number of the resident ID card or passport number of the employee;
- ✓ Term of the labor contract;
- ✓ Scope of work and work place;
- ✓ Working hours, rest and leave;
- ✓ Labor compensation, such as salary, which shall not lower than the local minimum salary required in the area, bonus, subsidy, etc;
- ✓ Social insurance;
- ✓ Labor protection, working conditions and protection against occupational hazards



General:
8 Hours per day
40 Hours per week

Overtime Work by Maximum
3 Hours per day
36 Hours per week

BY LAW

WORKING HOURS



TERMS OF LABOR CONTRACT

HOLIDAYS/ANNUAL LEAVE

Fixed Term

National Holidays

Each Term
No More Than Five Years

1-10 years: 5 days
10-20 years: 10 days
20 years+: 15 days





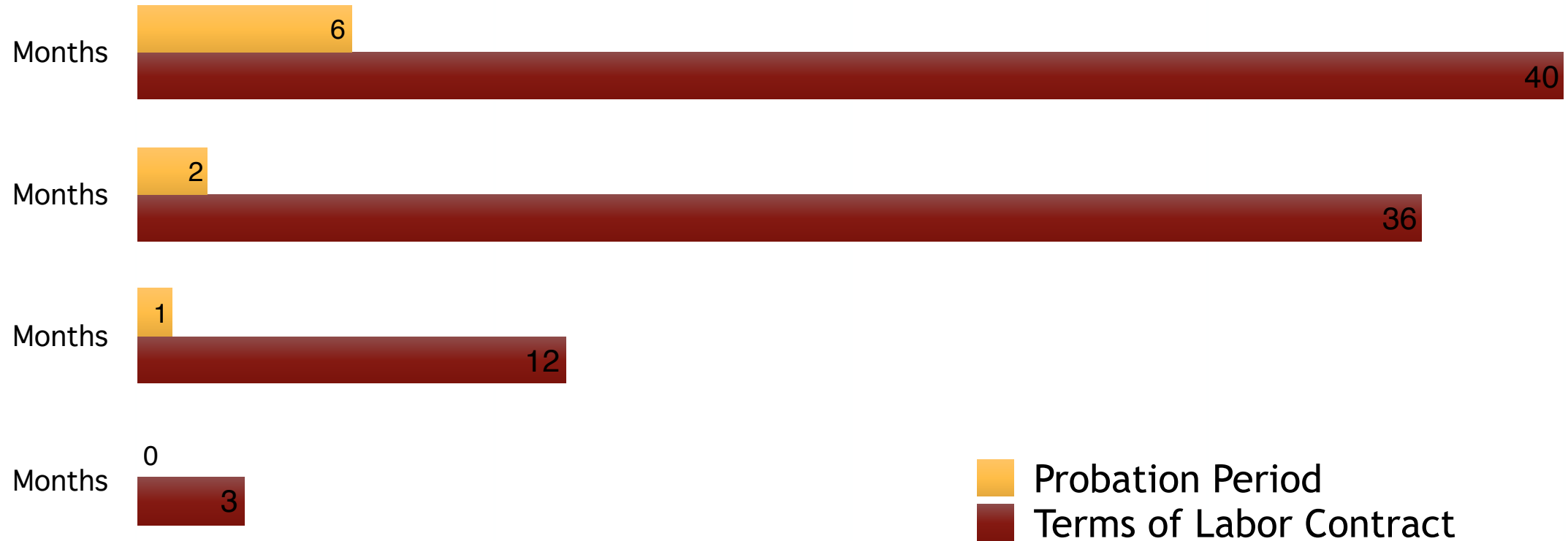
Holiday	Date	Days off
New Year	1st of January	1
Spring Festival	Generally in January or February, according to the lunar calendar	3
Qing Ming Festival	Generally in April, according to the lunar calendar	1
Labor Day	1st of May	1
Dragon Boat Festival	Generally in June, according to the lunar calendar	1
Mid-Autumn Festival	Generally in September or October, according to the lunar calendar	1
National day	1st, 2nd, 3rd of October	3





D'Andrea & Partners

LEGAL COUNSEL



SALARY:

- No less than the local minimum salary standard (Beijing RMB 2200/month)
- PROBATION PERIOD: no less than 80% of the usual salary agreed on labor contract

OVERTIME WORK:

- 150% of the usual salary

WORK IN WEEKENDS:

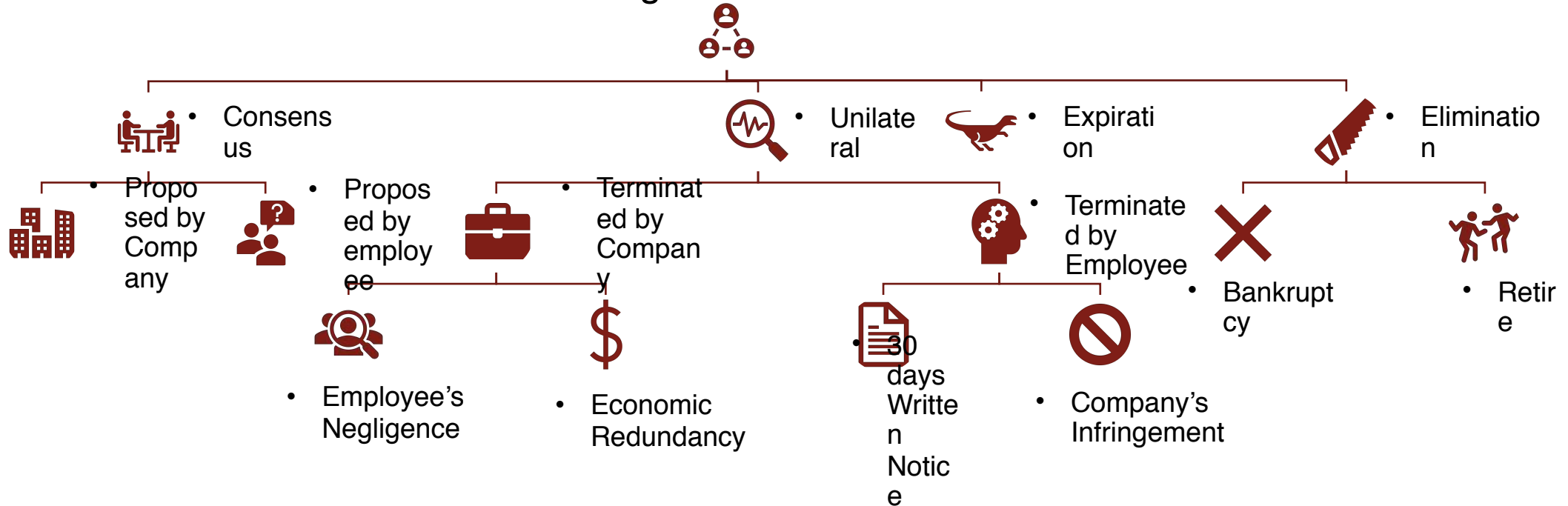
- 200% of the usual salary

WORK IN NATIONAL HOLIDAYS:

- 300% of the usual salary



Approaches





Reason of Termination		E c o n o m i c Compensation	
Terminate the Labor Contract by Consensus	Proposed by Company	✓	
	Proposed by employee	×	
Unilateral Termination	Terminated by Company	Due to the Employee's Negligence	×
		Objective Reason	✓
		Economic Redundancy	✓
	Terminated by employee	Due to the Company's Infringement	✓
		Without Legal Reason	×
Expiration of Contract	Renewal of contract with the same conditions, refused by the employee	×	
	Employer does not propose to renew labor contract with Employee	✓	
Elimination of Subject of Company	Bankruptcy	✓	
	The Company has been cancelled or closed in advance	✓	
Elimination of Subject of Employee	Enjoy the treatment of a retiree or has reached the legal retirement age	×	
	Dead, declaration of death or disappearance	×	



- Get work permit and visa
- Be Careful with the critical clauses in Labor Contract
 - ✓ Salary
 - ✓ Location
 - ✓ Termination Compensations
- Negotiate with Employer for better benefits

D'ANDREA & PARTNERS

Legal Counsel



#BECAUSEWECARE

m.du@dandreapartners.com

