

Annex 3: Implementation of Labour Market Admission Procedure

of the
Agreement
between the

Federal Employment Agency of Germany (Bundesagentur für Arbeit)

and

Norka Roots, Thycaud, Thiruvananthapuram under the Department of NORKA,
Government of Kerala, India

on

the Placement of Indian Health Professionals from the State of Kerala/India
in Employment as Registered General Nurse
in the Federal Republic of Germany

The procedure outlined refers to foreign skilled workers from the State of Kerala/India who wish to enter Germany on the basis of this agreement. They first require an entry visa and a later a residence permit. This agreement is a prerequisite for a residence title in accordance with § 16d (4) of the Residence Act (AufenthG) and § 2 of the Employment Ordinance (BeschV).

I. Entry

For new entry, the applicable residence title is the visa issued by the German embassy or the German consular representation in India. An approval for employment by the Federal Employment Agency (BA) is required for the visa to be issued. The visa entitles the holder to enter Germany and take up employment.

The visa is limited to several months by the German Embassy. The time limit of the visa may vary depending on the individual case.

To apply for a visa, the general requirements for issuance must be proven and the following requirements must be met before entering the country:

1. Proof of the required language skills (see annex 1).
2. Approval by the Federal Employment Agency to take up employment within a vocational context from the time of entry. The employment must require skills, knowledge and abilities acquired in a course of study or qualified vocational training.

For example, working as a “nursing assistant” (without a regulated degree) for the intended later employment as a registered nurse. In the case of the intended occupation, the Federal Employment Agency examines in particular the close professional connection and whether the customary local working conditions are complied with (§ 2 (12b) of the Residence Act). Full-time employment is only permitted in this field and only if the full-time employment does not impair the recognition procedure, e.g. visiting training classes. In addition, the residence permit entitles the holder to work for up to ten hours a week independently of

the residence permit - § Section 16d (4) Sentence 1 and Sentence 3 of the Residence Act (AufenthG). The approval is granted for an initial period of one year.

3. Assurance from the employer with a concrete job offer for employment as a recognised skilled worker starting from the successful completion of the recognition procedure.
4. Declaration of the foreign skilled worker to be submitted already in the pre-approval procedure that he/she will undertake the procedure to establish the equivalence of his/her foreign professional qualification and to obtain the authorisation to practise his/her profession after entry at the responsible recognition body. This is to prevent abuse through solely professional activity and to ensure the recognition procedure is undertaken.

II. Aim of One's Stay in Germany

The aim of the stay of up to three years in Germany is successful professional recognition (see annex 2). Therefore, the professional recognition procedure must be carried out **from the time of entry** and completed in 3 years.

III. Residence Permit in Germany

Before the expiry of the entry visa, the foreign skilled worker must apply for a residence permit at the competent immigration office of their place of residence in Germany.

The residence permit issued for the first time can be extended again for one year upon expiry if the relevant evidence is provided. A condition for the extension in both cases is that the foreign skilled worker proves that he/she has consistently pursued the recognition procedure (see annex 2) during his/her time in Germany. Alternatively, a new residence title for gainful employment as a recognised skilled worker can be applied for if the requirements are met (see below).

Proof of the consistent pursuit of the recognition procedure or the procedure for granting a licence to practise a profession in the case of regulated professions can be provided by means of suitable written documents, e.g.

- a. Application for recognition or licence to practise a profession (for example confirmation of receipt);
- b. Partial recognition notice;
- c. Confirmation of participation by the institution of a qualification measure;
- d. Employment certificate with company qualification content;
- e. Confirmations of tests taken;
- f. Evidence of good prospects of repeating failed examinations;
- g. Further correspondence with bodies responsible for recognition.

Residence titles can be extended up to a maximum period of residence of three years.

IV. Continued Residency upon Expiry of the Residence Permit within the Framework of the Placement Agreement for the Recognition of Foreign Professional Qualifications

If the maximum residence period of three years has expired, this residence permit cannot be extended again. The reason for this is that the skilled worker must now have acquired the entitlement to work as a recognised skilled worker in Germany within their previous period of residence.

If the foreign skilled worker has successfully completed his/her professional recognition during this time and if the required professional practice permit is available, he/she can now work as a recognised skilled worker. For this purpose, the foreign skilled worker can now apply for a residence permit for gainful employment at the Immigration Office responsible for them in Germany.