



C & C LAWYERS

Avoiding illegal work

Susana Batalha, Lawyer

The swift development of the economic and social environment of Macau created innumerable problems in terms of human resources for employers in the Macau Special Administrative Region, while at the same time making the territory a golden Mecca of sorts for those looking for better employment opportunities.

Unfortunately, this favourable economic situation does not mean that all of those who arrive in Macau expecting to land a job will be able to work here. The law establishes strict requirements and limits for non holders of Macau ID to exercise a professional activity in Macau, set out under Law 8/1999 of 20 December 1999.

Macau SAR non residents may not work in the region prior to having their work permit, commonly known as Blue Card, approved by local authorities. However, even after approval of the necessary work permit, non resident workers are still limited to work for the entity which applied for their permit.

According to the law, both the provision of services to an employer by a non resident worker without a work permit and the provision of services by a non resident worker to an entity other than that which applied for the work permit are considered illegal work for which administrative and criminal penalties may be imposed.

Both worker and employer using illegal work may be subject to the said administrative penalties, which range from MOP\$5,000.00 up to MOP\$50,000.00 for the employer, depending on the case, and from MOP\$5,000.00 up to MOP\$20,000.00 for the illegal worker, as established under Administrative Regulation no. 17/2004, June 14 (Regulation on Prohibition of Illegal Work) Moreover, a non resident found to be in breach of the law in any of the two situations above described may be barred from working in the MSAR for a period up to 2 years.

It is important to abide local regulations when hiring workers, even if the process is slow and cumbersome. Regardless of the type of contract, pay or benefits involved, employing someone who is not legally authorized to work in Macau is a criminal offence, established under Law 6/2004 and subject to a penalty of imprisonment of up to 2 years (or 2 to 8 years for recurrent offenders). You should not take chances in employing individuals holding HKID cards, China visas or foreign passports before applying for their respective work permits.

So, if you are an employer, in addition to providing a safe and sound working environment for your employees, you should also make sure that all employment relationships within your company are in compliance with the law. If you are a prospective employee, make sure your potential employer can apply for a work permit before you start working in order to ensure adequate legal protection, which will certainly increase your sense of security and confidence in your employment situation in your relationship with you employer and with the Macau community at large.