

Administrative Services for Irregular Foreign Residents



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Main Administrative Services to Remain Available to Irregular Foreign Residents After the Immigration Control and Refugee Recognition Act Is Amended

The Basic Resident Register System (resident registration system) for foreign nationals established in July 2012 does not allow foreigners without resident status (zairyu shikaku) or staying in Japan for less than three months to register as residents. This means that some of the people who had carried out alien registration before that time are unable to register as residents under the new system. Consequently, concern is spreading that the administrative services that used to be available to foreign nationals without resident status will no longer be provided.

International human rights conventions, however, require stabilizing the legal status of certain foreign nationals, and the new system guarantees their basic human rights on a par with those having resident status. Such foreign nationals include those irregular foreign residents who lack resident status but are nevertheless given permission to land for temporary refuge or provisional stay on the grounds that they might qualify as refugees. Also, the right to education, healthcare, social security and other rights that the system is required to guarantee under international human rights conventions are guaranteed as basic human rights for irregular foreign residents as well.

It is also the view of the national government and of the Ministry of Justice that the administrative services that have been available to irregular foreign residents up until the present moment will remain available under the new system. For example, at the session of the Lower House's Committee on Judicial Affairs held on June 19, 2009, the government's view was expressed as follows.

"The Act's amendment will not entail the immediate suspension of the administrative services hitherto available to illegal aliens; rather, it is my understanding that the revision will basically entail no changes in this respect."

Katsuyuki Nishikawa

(then Director-General of the Immigration Bureau, Ministry of Justice)

"The Act's amendment will not entail the immediate suspension of the administrative services hitherto available to illegal aliens; rather, it is my understanding that the scope of administrative services available to illegal aliens will basically remain unchanged after the Act's amendment."

Eisuke Mori

(then Minister of Justice)

In the past, administrative services for irregular foreign residents were provided on the basis of alien registration; the new system, however, no longer allows local governments to keep track of irregular foreign residents in their areas, giving rise to concerns that this may hinder the provision of administrative services by

the authorities. For this reason, Article 60, paragraph 1 of the Supplementary Provisions of the Act to Partially Revise the Immigration Control and Refugee Recognition Act (Act No. 79 of July 15, 2009) requested for the Minister of Justice to consider the establishment of a system for notifying local governments of the address and familial relationships of those granted permission for provisional release; likewise, Article 23 of the Supplementary Provisions of the Basic Resident Registration Act (Act No. 77 of July 15, 2009) requests the government to establish a system for monitoring the registration of those given permission for provisional release and other irregular foreign residents so that they may be provided with administrative services.

Unfortunately, the fact that the same administrative services will remain available to irregular foreign residents after the Immigration Control and Refugee Recognition Act is amended is virtually unknown to the irregular foreign residents themselves, and the NGOs that support them have not been provided with sufficient information. In some cases, misunderstandings have occurred even on part of local government staff.

Accordingly, here we provide a simple overview of the main administrative services available to foreign nationals who do not have resident status and are unable to register as residents under the new system for resident registration. If you require more information upon viewing this pamphlet, please inquire directly with a bar association near you, the Japan Legal Support Center, or your municipality's town hall.

Also note that government workers bear an obligation to report on foreign nationals without resident status (Article 62, paragraph 2 of the Immigration Control and Refugee Recognition Act); however, a written answer by the Prime Minister dated December 16, 2011 to a written question submitted by Lower House member Tomoko Abe states: "In exceptions where the administrative purpose borne by an administrative agency cannot be fulfilled by reporting, it is my understanding that the administrative agency can take case-by-case decisions on whether to report, upon weighing the benefits of fulfilling its duty to report against the public good done through the performance of the professional duties of individual government offices." (Lower House Question No. 121 for the 179th Session of the National Diet) In actual practice, too, it seems that there are some cases of administrative services in which reports are usually not made. The way in which such issues are dealt with may, however, vary at individual municipalities and government offices. It may therefore be advisable to check whether a report will be made before consulting or filing an application; if there is a risk of being reported, we believe it is possible to negotiate by referring to the above answer by the Prime Minister.

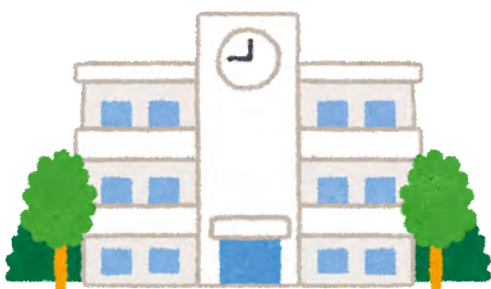


The children of foreign nationals without resident status may nevertheless enroll and attend classes at public elementary and junior high schools.

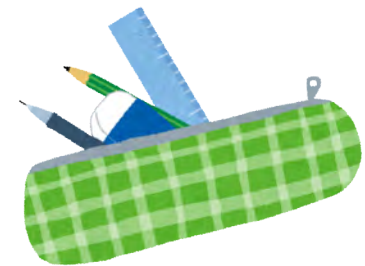
Under the new system, the children of foreign nationals without resident status may nevertheless enroll and attend classes at public elementary and junior high schools, as before. With regard to this point, the aforementioned written answer clearly acknowledges that "foreign children who wish to enroll at Japanese public schools for compulsory education will be accepted with no charge and in the same way as Japanese children, regardless of their resident status."

The alien registration system, however, is no longer in place, and foreign nationals without resident status are no longer registered as residents. Representatives of local governments are therefore unable to keep track of whether any school-age children of foreign nationals without resident status are living in their municipality (in some cases, the representatives of local governments may be able to keep track of children who live in their municipalities if their parents have visited the Immigration Bureau and obtained a permission for provisional release). If a child is close to reaching school age, we ask that his/her parents or representatives of a supporting NGO discuss the matter with the board of education of the area where the child lives.

A requirement for attending elementary and junior high schools in a municipality is for the child to be living in that municipality. This, however, cannot be ascertained due to the absence of resident registration. In such cases, government offices may use different means to verify the child's residence. A notification issued by the Director of the Elementary and Secondary



Education Bureau of the Ministry of Education, Culture, Sports, Science and Technology on July 5, 2012 ("Points to Note on Securing Education Opportunities for the Children Of Foreign Nationals", Elementary and Secondary Education Bureau, No. 388 of FY 2012) instructs local governments to accept the enrollment of children upon verifying their residence even if no registration card is presented due to the fact that the children are not registered as residents, urging local government staff to "work in a flexible fashion - for example, by verifying residence on the basis of documents deemed to be reasonably reliable even if a residence card is not presented." Presumably in response to these instructions, there have been instances in which representatives of local governments have sent a letter to the children's address and asked them to visit the government office once again with the letter to prove their residence.



Foreign nationals without resident status may nevertheless enjoy free or low-cost healthcare.

A foreign national without resident status may nevertheless pay reduced medical fees or be exempted from payment at healthcare institutions providing free/low-cost medical services.

The free/low-cost medical service system enables healthcare institutions to provide low-income earners with medical treatment free of charge or at reduced cost. Stipulated in the Social Welfare Act as a type 2 social welfare service (Article 2, paragraph 3, item 9 of the Social Welfare Act), the service is offered by healthcare institutions that meet certain conditions and are authorized by the government of their administrative division.

Those who wish to receive medical treatment free of charge or at reduced cost can do so in



two ways: 1) by discussing the matter with staff of their municipal government's department that is in charge of social welfare or social welfare office or council of their municipality, having a free or low-cost consultation ticket issued, and bringing this to a healthcare institution that provides free/low-cost medical services; or 2) by directly visiting a healthcare institution that provides free/low-cost medical services, and consulting with a medical social worker to determine whether medical expenses can be reduced or waived.

Healthcare institutions providing free/low-cost medical services are present across the country, and are listed on the website of the National Min-Iren (the Japan Federation of Democratic Medical Institutions) (<http://www.min-iren.gr.jp>). In a notification addressed to the directors of social welfare divisions of designated cities and core cities across the country, the Ministry of Health, Labour and Welfare states that "free/low-cost medical services are targeted at a broad range of persons facing livelihood difficulties," and that "the provision of treatment to illegal aliens does not violate the Immigration Control and Refugee Recognition Act, and does not entail the obligation to report." ("Concerning the Treatment of the Victims of Human Trafficking, etc. in Services Entailing the Provision of Free or Low-Cost Examination and Treatment to Persons Facing Livelihood Difficulties as Stipulated in Article 2, Paragraph 3 of the Social Welfare Act"; Issuance No. 0308001, Director, General Affairs Division, Social Welfare and War Victims' Relief Bureau).

The extent to which medical expenses are reduced, however, may vary at individual healthcare institutions. Accordingly, please inquire with social welfare offices or healthcare institutions that provide free or low-cost healthcare services.

Foreign nationals without resident status may nevertheless receive regular vaccinations.

Foreign nationals without resident status may nevertheless receive regular vaccinations (Article 5, paragraph 1 of the Preventive Vaccination Act and Article 1-3 of the Enforcement Ordinance of the Preventive Vaccination Act).

The Preventive Vaccination Act establishes a system for regular vaccinations to prevent the occurrence and spread of infectious disease (there are 13 target illnesses such as diphtheria, pertussis, poliomyelitis, measles, rubella, Japanese encephalitis, tetanus, tuberculosis, Haemophilus influenza type b, pneumococcal infection, human papilloma virus, chickenpox and influenza, each with a specific target age; Article 1-3 of the Enforcement Ordinance of the Preventive Vaccination Act). Vaccinations are beneficial when administered to the majority of a certain population, so a requirement is that they target the residents of a given area in an extensive fashion, regardless of nationality or resident status. Accordingly, the provision of regular vaccinations to foreign nationals without resident status is considered acceptable, and Japanese nationality is not a requirement. This approach will remain unchanged after transitioning from the alien registration system to the resident registration system.

In the past, local governments kept track of foreign nationals eligible for regular vaccinations based on the alien registration system. The enforcement of the resident registration system has rendered local governments unable to keep track of foreign nationals without resident status, but if the Immigration Bureau provides a local government with information on residence and



familial relationships of a foreign national who has received permission for provisional release, the local government will be able to acquire information on that foreign national. The means for monitoring

other foreign nationals without resident status are left to the discretion of local governments. If a foreign national notifies his/her local government and the latter is able to verify the foreign national's residence in some way or other, the foreign national will be entitled to receive regular vaccinations.

In some cases, however, local governments may not allow regular vaccinations for foreign nationals without resident status; therefore, please make reference to this pamphlet and inquire with your local government on this subject and on the types of regular vaccination that are available.

Foreign nationals without resident status may nevertheless receive regular tuberculosis screenings.

Foreign nationals without resident status may nevertheless receive regular screenings for tuberculosis.

As with the case of vaccinations, there is no reason to discriminate between Japanese and foreign nationals, or among foreign nationals on the basis of whether they have resident status or not, to prevent tuberculosis from spreading. Accordingly, foreign nationals without resident status are entitled to medical checkups as stipulated by law (Article 53-2, paragraph 3 of the Act on Prevention of Infectious Diseases and Medical Care for Patients Suffering Infectious Diseases, and Article 12, paragraph 2 of the Enforcement Ordinance of the same Act). If you suspect that you or your family member

may have contracted tuberculosis or another infectious disease, make reference to this pamphlet and discuss the matter with your local government.

Female foreign nationals without resident status may nevertheless be issued a maternal and child health handbook, and receive in-hospital midwifery care.

Female foreign nationals who are pregnant but do not have resident status may be issued a maternal and child health handbook (Article 16 of the Maternal and Child Health Act) and may receive in-hospital midwifery care, provided



that no expenses for delivery are incurred (Article 22 of the Child Welfare Act). Additionally, female foreign nationals are also entitled to medical checkups for infants (Article 12 of the Maternal and Child Health Act), the payment of treatment for premature babies (Article 20 of the Maternal and Child Health Act), and the rehabilitation of children suffering from tuberculosis (Article 20 of the Child Welfare Act).

As stated in the Prime Minister's written answer dated May 26, 2000 made in response to a written question by House of Councillors member Masako Oowaki at the 147th regular session of the National Diet, these administrative services have conventionally been provided to foreign nationals without resident status as well. All of these services are provided in response to individual applications, making it unnecessary for local governments to make use of residence registration to keep track of the addresses of those receiving the services, so that it is believed that the new system will not have an impact. If you wish to receive these administrative services, make reference to this pamphlet and discuss the matter with your local government.



About the admission of mothers and children of foreign nationality without resident status into homes for mothers and children

It appears that many local governments do not allow - either categorically or in principle - the admission of mothers and children of foreign nationality without resident status into homes for mothers and children (more accurately referred to as "maternal and child living support facilities").

Article 23 of the Child Welfare Act, however, stipulates that, in the case of fatherless families where custody and care of the child by the mother are considered insufficient from a welfare standpoint, the government of an administrative division must admit a mother and her child into a home for mothers and children upon application by the mother. The Child Welfare Act does not indicate resident status as a requirement for admission into homes for mothers and children. Cases in which mothers and children of foreign nationality without resident status were successfully admitted into homes for mothers and children have been reported within our Federation. Also, a representative of the Ministry of Health, Labour and Welfare (Family Welfare Division, Equal Employment, Children and Families Bureau) has given an oral answer to an inquiry from our Federation, to the effect that, in accordance with the Child Welfare Act, mothers and children of foreign nationality will not be denied admission into homes for mothers and children on the grounds that they lack resident status.

Likewise, representatives of local governments have stated that, in principle, mothers and children of foreign nationality without resident



status are not admitted, but some instances - such as emergencies or cases in which the child alone possesses resident status or Japanese nationality - will be treated on a case-by-case basis, and admission may be granted.

Therefore, we believe that it is possible to negotiate with the authorities by pointing to the urgency of protecting a mother and her child and to the fact that resident status is not a requirement for admission into homes for mothers and children.

Note that many local governments will bring up the obligation to report to the Immigration Bureau as grounds to deny the irregular foreign residents. The obligation to report and admission requirements, however, are two completely different issues, and the obligation to report does not constitute grounds for denying admission. Also, as mentioned above, there are instances in which the advisability of reporting is determined individually,

and the obligation to report is not necessarily universal. Therefore, we believe it would be possible to negotiate by pointing out the presence of circumstances that should not be reported.

