

9 FAM 42.72 Validity of visas.

(TL:VISA-195; 06-18-1999)

(a) Period of validity.

(TL:VISA-168; 08-08-1997)

With the exception indicated herein, the period of validity of an immigrant visa shall not exceed six months, beginning with the date of issuance. Any visa issued to a child lawfully adopted by a U.S. citizen and spouse while such citizen is serving abroad in the U.S. Armed Forces, is employed abroad by the U.S. Government, or is temporarily abroad on business, however, shall be valid until such time, for a period not to exceed 3 years, as the adoptive citizen parent returns to the United States in the course of that parent's military service, U.S. Government employment, or business.

[Amended by 62 FR 27693, 5-21-97.]

(b) Extension of period of validity.

(TL:VISA-3; 08-30-1987)

If the visa was originally issued for a period of validity less than the maximum authorized by paragraph (a) of this section, the consular officer may extend the validity of the visa up to but not exceeding the maximum period permitted. If an immigrant applies for an extension at a consular office other than the issuing office, the consular officer shall, unless the officer is satisfied beyond doubt that the alien is eligible for the extension, communicate with the issuing office to determine if there is any objection to an extension. In extending the period of validity, the officer shall make an appropriate notation on the visa of the new expiration date, sign the document with title indicated, and impress the seal of the office thereon.

(c) No fee for extension of period of validity.

(TL:VISA-3; 08-30-1987)

No fee shall be charged for extending the period of validity of an immigrant visa.

(d) Age and marital status in relation to validity of certain immigrant visas.

(TL:VISA-3; 08-30-1987)

In accordance with section 42.64(b), the validity of a visa may not extend beyond a date sixty days prior to the expiration of the passport. The period of validity of a visa issued to an immigrant as a child shall not extend beyond the day immediately preceding the date on which the alien becomes 21 years of age. The consular officer shall warn an alien, when appropriate, that the alien will be admissible as such an immigrant only if unmarried and under 21 years of age at the time of application for admission at a U.S. port of entry. The consular officer shall also warn an alien issued a visa as a first or second preference immigrant as an unmarried son or daughter of a citizen or lawful permanent resident of the United States that the alien will be admissible as such an immigrant only if unmarried at the time of application for admission at a U.S. port of entry.

(e) Aliens entitled to the benefits of sections 154(a) and (b) of Pub. L. 101-649.

(TL:VISA-195; 06-18-1999)

(1) Notwithstanding the provisions of paragraphs (a) through (d) of this section, the period of validity of an immigrant visa issued to an immigrant described in paragraph (e)(2) of this section may, at the request of the applicant, be extended until January 1, 2002, if the applicant so requests either at the time of issuance of the visa or within six months thereafter. If an applicant entitled to issuance of an immigrant visa having an extended period of validity fails to request extended validity at the time of issuance but subsequently, within six months thereafter, requests that the validity be extended pursuant to this paragraph, the consular officer shall issue a replacement visa to the alien in accordance with the provisions of §42.74(b).

(2) An immigrant may request the extended period of validity provided for in paragraph (e)(1) of this section if he or she is

(i) Resident in Hong Kong as of the date of enactment of Public Law 101-649.

(ii) Chargeable to the foreign state limitation for Hong Kong; and

(iii) Classifiable, during fiscal year 1991, as a preference immigrant under section 203(a)(1), (2)(4), or (5) of the INA or, during fiscal year 1991 and thereafter, as a preference immigrant under section 203(a)(1), (2), (3), or (4), or 203(b)(1) of the INA.

(3) An alien who elects to have the period of validity of his or her immigrant visa extended as provided in paragraph (e)(1) of this section and whose entitlement to the immigrant classification of such visa was based upon his or her status as a child at the time of issuance shall not cease to be entitled to such visa by reason of attaining age twenty-one or marrying prior to his or her application for admission into the United States.

(4) An alien who has elected to have the period of validity of his or her visa extended pursuant to paragraph (e)(1) of this section shall, if his or her contemplated date of application for admission into the United States is later than six months following the date of visa issuance, notify the appropriate consular officer of his or her intention to travel to the United States for this purpose. The consular officer shall thereupon schedule an appointment with such alien for the purpose of determining whether or not the alien remains admissible into the United States as an immigrant. Such appointment shall be scheduled not sooner than six months preceding the alien's contemplated date of application for admission for permanent residence. If the consular officer determines that the alien continues to be admissible to the United States as an immigrant, he or she shall issue to the alien a duplicate immigrant visa as provided in §42.74 of this part except that the alien shall pay only a new issuance fee. If the consular officer determines that the alien has become inadmissible to the United States as an immigrant, he or she shall revoke the visa as provided in §42.82 of this part. A consular officer who issues a visa having an extended period of validity pursuant to this paragraph shall, at the time of visa issuance, inscribe on the face of the visa "Section 154 applies" and shall notify in writing the alien concerned of this requirement.

[Amended by 64 FR 28915, 5-28-99.]

9 FAM 42.72 Related Statutory Provision

INA 221(c), in part

(TL:VISA-168; 08-08-1997)

(c) An immigrant visa shall be valid for such period, not exceeding six months, as shall be by regulations prescribed, except that any visa issued to a child lawfully adopted by a United States citizen and spouse while such citizen is serving abroad in the United States Armed Forces, or is employed abroad by the United States Government, or is temporarily abroad on business, shall be valid until such time, for a period not to exceed three years, as the adoptive citizen parent returns to the United States in due course of his service, employment, or business....

[Amended by Sec. 631(a) of Pub. L. 104-208, Sept. 30, 1996.]

Sec. 154 of the Immigration Act of 1990, (Pub. L. 101-649) in part

(TL:VISA-57; 04-15-1992)

(a) EXTENDING THE VALIDITY PERIOD—

(1) IN GENERAL.—Subject to paragraph (2) the limitation on the period of validity of an immigrant visa under section 221(c) of the Immigration and Nationality Act shall not apply in the case of an immigrant visa issued on or after the date of the enactment of this Act and before September 1, 2001, to an alien described in subsection (b) but only if—

(A) the alien elects within the period of validity of the immigrant visa under such section to have this section apply and

(B) before the date the alien seeks to be admitted to the United States for lawful permanent residence the alien notifies the appropriate consular officer of the alien's intention to seek such admission and provides such officer with such information as the officer determines necessary to verify that the alien remains eligible for admission to the United States as an immigrant.

(2) LIMITATION ON EXTENSION.—In no case shall the period of validity of a visa be extended under paragraph (1) beyond January 1, 2002...

(3) ...

(b) ALIENS COVERED.—An alien is described in this subsection if the alien—

(1) (A) is chargeable under section 202 of the Immigration and Nationality Act to Hong Kong or China, and

(B) (i) is residing in Hong Kong or China as of the date of the enactment of this Act and is issued an immigrant visa under paragraph (1), (2), (4), or (5) of section 203(a) of the Immigration and Nationality Act (as in effect on the date of enactment of this Act) or under section 203(a) or 203(b)(1) of such Act (as in effect on and after October 1, 1991), or

(ii) is the spouse or child (as defined in subsection (d) of an alien described in clause (i), if accompanying or following to join the alien in coming to the United States;...