

Part 3
Residence for educational purposes

Section 16

Principle underlying residence for educational purposes

Giving foreigners access to education serves to promote general education, international understanding and meeting Germany's demand for skilled labour. It also serves to promote Germany's relations in the global scientific community and international development. Access to education is organised in a manner ensuring public security interests.

Section 16a

Vocational training; advanced vocational training

(1) A foreigner may be issued a temporary residence permit for the purpose of basic and advanced in-company vocational training if the Federal Employment Agency has granted approval in accordance with section 39 or it has been determined pursuant to the Ordinance on the Employment of Foreigners (Beschäftigungsverordnung) or by intergovernmental agreement that such basic and advanced vocational training is permissible without the approval of the Federal Employment Agency. During a stay in accordance with sentence 1, foreigners may be issued with a temporary residence permit for another purpose only to pursue quality vocational training, employment as a skilled worker, employment in a job requiring a high degree of practical occupational skills as referred to in section 19c (2) or if they are legally entitled to it. The residence purpose of quality in-company vocational training as referred to in sentence 1 also comprises German language courses preparing participants for vocational training, in particular job-related German language training in line with the Ordinance on German Language Training (Deutschsprachförderverordnung).

(2) Foreigners may be issued with a temporary residence permit for the purpose of school-based vocational training, if such training leads to a state-recognised vocational qualification as determined by federal or state provisions, unless the qualification pathway is primarily tailored to nationals of one specific country. Bi- or multilateral agreements of the Länder with public bodies in another country governing attendance of domestic schools by foreign school pupils remain unaffected. A temporary residence permit for the purpose of school attendance may only be issued on the basis of such agreements if the supreme Land authority

responsible for residence law has endorsed the agreement.

(3) If the training constitutes quality vocational qualification, the temporary residence permit authorises its holder to work up to 10 hours per week in jobs which need not be related to such vocational training. As regards quality vocational training, foreigners are required to furnish proof that they have a sufficient command of the German language, if their command of the language required for the vocational training has not been tested by the educational institution and is not to be acquired in a preparatory German language course

(4) Before the temporary residence permit for the purpose of quality vocational training is withdrawn, revoked or its period of validity reduced retrospectively pursuant to section 7 (2) sentence 2, the foreigner is to be given the opportunity, for a period of up to six months, to find a place on another training course.

Section 16b

Further education

(1) For the purpose of full-time studies at a state or state-recognised university or a comparable educational institution, a foreigner is granted a temporary residence permit if he or she has been accepted by the educational institution. Residence for study purposes also extends to measures to prepare for studies and compulsory training. Measures to prepare for studies are

1. attending a language course to prepare for studies, if the foreigner has been accepted for full-time studies and the acceptance depends on the foreigner attending the preparatory language course, and

2. attending a preparatory or comparable course prior to studying, if the foreigner can prove that he or she has been accepted for the preparatory or comparable course.

Proof of knowledge of the language needed for the specific course of studies is only required if the foreigner's knowledge of the language has not been tested in the decision on acceptance and language acquisition is not the aim of the preparatory measures for the course of study.

(2) The period of validity when the temporary residence permit for study purposes is issued for the first time and for each subsequent extension is at least one year and does not, as a general rule, exceed two years. The period of validity is at least two years if the foreigner takes part in Union or multilateral programmes that comprise mobility measures or if the foreigner is covered by an agreement between two or more higher education institutions. Where the course of study takes less

than two years, the temporary residence permit is granted only for the duration of the course of study. The temporary residence permit is extended if the purpose of residence has not yet been achieved and is achievable within a reasonable period of time. The host educational institution may be consulted to find out whether the purpose of residence is still achievable.

(3) The temporary residence permit entitles the holder to take up employment totalling no more than 120 days or 240 half-days per year, and to take up a student job. This does not apply in the first year of residence during a stay for the purpose of preparatory measures for a course of study, except during holidays.

(4) During a stay in accordance with subsection (1), foreigners may be issued a temporary residence permit for another purpose only to pursue quality vocational training, employment as a skilled worker, employment in a job requiring a high degree of practical occupational skills as referred to in section 19c (2) or if they are legally entitled to it. Section 9 does not apply.

(5) A foreigner may be granted a temporary residence permit, if

1. the foreigner has been accepted by a state or state-recognised or comparable educational institution

a) for full-time studies, with acceptance dependent on a condition which does not aim at attending measures to prepare for studies,

b) for full-time studies, with acceptance dependent on attending a preparatory or comparable course, but the foreigner is unable to furnish proof of being accepted for a preparatory or comparable course pursuant to subsection (1) sentence 3 no. 2 or

c) for part-time studies,

2. the foreigner has been enrolled in a preparatory language course, without having been accepted for a course of study by a state or state-recognised university or a comparable educational institution, or

3. the foreigner has been accepted for a preparatory company traineeship.

In the cases covered by sentence 1 no. 1, subsection (1) sentences 2 to 4 and subsections (2) to (4) apply accordingly. In the cases covered by sentence 1 nos. 2 and 3, subsections (2) and (4) are to be applied accordingly; the temporary residence permit allows holders to work only during holidays or as a trainee.

(6) Before the temporary residence permit under subsection (1) or (5) is withdrawn,

revoked or its period of validity reduced pursuant to section 7 (2) sentence 2 for reasons which are beyond the foreigner's control, the foreigner is to be given the opportunity, for a period of up to nine months, to apply for admission to another educational institution.

(7) Foreigners who have been granted international protection status in another EU member state may be issued a temporary residence permit for study purposes if they pursued studies in another EU member state for at least two years and the requirements of section 16c (1) sentence 1 nos. 2 and 3 apply. The temporary residence permit will be granted for the part of the studies to be carried out in Germany. Subsection (3) applies accordingly. Section 9 does not apply.

(8) Subsections (1) to (4) and (6) serve to implement Directive 2016/801/EU of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing (OJ L 132 of 21.5.2016, p. 21).

Section 16c

Mobility of students

(1) By derogation from section 4 (1), a foreigner does not require a residence title for stays for study purposes not exceeding 360 days, if the host educational institution in the federal territory has notified the Federal Office for Migration and Refugees and the competent authority of the other member state that the foreigner intends to carry out part of the studies in the federal territory, submitting the following to the Federal Office for Migration and Refugees at the same time:

1. evidence that the foreigner has a residence title for study purposes from another member state of the European Union which is valid for the duration of the planned stay and falls within the scope of Directive 2016/801/EU,
2. evidence that the foreigner wishes to carry out part of the studies at an educational institution in the federal territory, because he or she is taking part in a Union or multilateral programme that comprises mobility measures or because he or she is covered by an agreement between two or more higher education institutions.
3. evidence that the foreigner has been accepted by the host educational institution,
4. a copy of the foreigner's recognised and valid passport or passport substitute, and

5. and evidence that the foreigner's subsistence is secure.

The host educational institution must notify the Federal Office for Migration and Refugees when the foreigner applies for a residence title in the scope of Directive 2016/801/EU in another member state of the European Union. If, at the time of application, the host educational institution is not yet aware of the foreigner's intention to carry out part of the studies in the federal territory, it is to notify the Federal Office for Migration and Refugees as soon as it becomes aware of this intention. If the residence title pursuant to sentence 1 no. 1 has been issued by a non-Schengen state, and if the foreigner enters the federal territory via a non-Schengen state, the foreigner must carry a copy of the notification and present it to the responsible authorities at their request.

(2) If the notification was made at the time referred to in subsection (1) sentence 2 and if the foreigner is not denied entry and residence in accordance with section 19f (5), the foreigner may enter the federal territory at any time during the validity of the residence title issued by another member state as referred to in subsection (1) sentence 1 no. 1 and stay there to study. If the notification was made at the time referred to in subsection (1) sentence 3 and if the foreigner was not denied entry and residence in accordance with section 19f (5), the foreigner may enter the federal territory and stay there to study. The foreigner is entitled to take up employment totalling no more than one-third of the period of residence, and to take up a student job.

(3) If a foreigner is denied entry and residence under section 19f (5), the foreigner must cease the studies immediately. The exemption from the obligation to hold a residence title which applied in accordance with subsection (1) sentence 1 ceases to exist.

(4) If, within 30 days of receipt of the notification referred to in subsection (1) sentence 1, the foreigner has not been denied entry and residence in line with section 19f (5), the Federal Office for Migration and Refugees is to issue the foreigner with a certificate confirming the entitlement to enter and stay in the federal territory to study as part of short-term mobility.

(5) Once a foreigner has been denied entry and residence under section 19f (5) or a certificate within the meaning of subsection (5) has been issued by the Federal Office for Migration and Refugees, responsibility for further measures and decisions under residence law rests with the foreigners authority, as set out in section 71 (1).

(3) The foreigner and the host educational institution are required to inform the foreigners authority of any changes to the requirements stipulated in subsection

(1).

Section 16d

Measures regarding the recognition of foreign professional qualifications

(1) For the purpose of recognising professional qualifications which a foreigner has acquired abroad, a foreigner is to be granted a temporary residence permit to undertake a qualification measure and to take a subsequent examination, if a body responsible according to federal or Länder regulations regarding recognition of professional qualifications has determined that adaptation or compensation measures or further qualifications are necessary

1. to establish the equivalence of the professional qualification with a German professional qualification or
2. to grant authorisation to practise the profession in a regulated profession in Germany.

The granting of a temporary residence permit is subject to the following conditions:

1. the foreigner has a command of the German language necessary for the qualification measure; as a rule that is at least an elementary knowledge of the German language,
2. the qualification measure is suited to enabling recognition of the foreigner's professional qualification or access to the profession, and
3. in the case of primarily in-company training, the Federal Employment Agency has granted approval in accordance with section 39 or it has been determined pursuant to the Ordinance on the Employment of Foreigners or by intergovernmental agreement that participating in the qualification measure is permissible without the approval of the Federal Employment Agency.

The temporary residence permit is issued for a period of up to 18 months and is extended by a maximum of six months, to add up to a maximum period of residence of two years. It authorises the holder to pursue employment which is independent of the qualification measure for up to 10 hours per week.

(2) The temporary residence permit referred to in subsection (1) entitles the holder to pursue an employment which is not restricted in terms of time and whose requirements are connected to the specialist skills needed in the later employment if there is a concrete offer of a job for later employment in the profession which is to be recognised or which is covered by the authorisation to practise the profession applied for and if the Federal Employment Agency has granted approval in

accordance with section 39 or it has been determined pursuant to the Ordinance on the Employment of Foreigners that such employment is permissible without the approval of the Federal Employment Agency. Section 18 subsection (2) no. 3 applies accordingly.

(3) As a general rule, a foreigner is to be issued with a temporary residence permit for a period of two years to have the professional qualification acquired abroad recognized and the foreigner is to be allowed to do skilled work in a profession which is not regulated in Germany and for which he or she is qualified, if

1. the foreigner has a command of the German language necessary for such work, as a rule at least an elementary knowledge of the German language,
2. a body responsible according to federal or Länder regulations regarding recognition of professional qualifications has determined that the foreigner primarily lacks practical skills, know-how and abilities,
3. the foreigner has a concrete job offer,
4. the employer has pledged to enable the foreigner to compensate the differences identified by the competent body within this period, and
5. the Federal Employment Agency has granted approval in accordance with section 39 or it has been determined pursuant to the Ordinance on the Employment of Foreigners or by intergovernmental agreement that such employment is permissible without the approval of the Federal Employment Agency.

(4) A foreigner may be granted a temporary residence permit for a year to have the professional qualification acquired abroad recognised and the permit may be extended by 12 months up to a maximum period of residence of three years, if the foreigner, on the basis of an agreement between the Federal Employment Agency and the employment administration of the foreigner's country have origin, has been placed into a job

1. using the procedure, selection, placement and the process to establish the equivalence of the professional qualification with a German professional qualification and to grant the authorisation to practise professions in the health and care sector regulated by federal or Land law, or
2. using the procedure, selection, placement and the process to establish the equivalence of the professional qualification with a German professional qualification and, where necessary, to grant the authorisation to practise other professions, taking into account the adequacy of the training structures in the

country of origin

and the Federal Employment Agency has granted approval in accordance with section 39 or it has been determined pursuant to the Ordinance on the Employment of Foreigners or by intergovernmental agreement that granting a temporary residence permit is permissible without the approval of the Federal Employment Agency. Moreover, foreigners must have the command of the German language laid down in the agreement; as a general rule that is an elementary knowledge of the German language. The temporary residence permit authorises the holder to pursue employment which is independent of the professional qualification to be recognised for up to 10 hours per week.

(5) A foreigner may be granted a temporary residence permit in order to take an examination for the recognition of a foreign professional qualification, if the foreigner has the necessary command of the German language for the examination, as a rule at least an elementary knowledge of the German language, unless the examination is intended to demonstrate a command of the German language. Subsection (1) sentence 4 does not apply.

(6) Once the maximum period of residence set out in subsections (1) (3) and (4) has expired, a temporary residence permit may be permitted for another residence purpose only under sections 16a, 16b, 18a, 18b, or 19c or where the foreigner is entitled to it. Section 20 (3) no. 4 remains unaffected.

Section 16e

Study-related EU training programmes

(1) A foreigner may be issued with a temporary residence permit for training purposes in accordance with Directive 2016/801/EU, if the Federal Employment Agency has granted approval in accordance with section 39 or it has been determined by the Ordinance on the Employment of Foreigners or by intergovernmental agreement that such training is permissible without approval from the Federal Employment Agency, and

1. if the training programme is designed to enable the foreigner to gain knowledge, practice and experience in a professional environment,
2. if the foreigner presents a training agreement which provides for theoretical and practical training with a host entity and contains the following:
 - a) a description of the training programme, including the educational objective or learning components,

- b) the duration of the training programme,
 - c) the conditions under which the foreigner will work and be supervised,
 - d) the working hours and
 - e) the legal relationship between the foreigner and the host entity,
3. if the foreigner provides evidence of having obtained a higher education degree within the two years preceding the date of application or of pursuing a course of study that leads to a higher education degree,
4. if the training is equivalent to the higher education degree or studies referred to in no. 3, in terms of both content and level, and
5. if the host entity has undertaken in writing to bear the costs incurred by public bodies up to six months after termination of the training agreement for
- a) the foreigner's subsistence during an unlawful stay in the federal territory, and
 - b) deportation of the foreigner.
- (2) The temporary residence permit is issued for the agreed duration of training, but not to exceed six months.

Section 16f

Language courses and school attendance

- (1) A foreigner may be granted a temporary residence permit to attend language courses which do not serve to prepare for a course of study or to participate in a pupil exchange scheme. A temporary residence permit for participation in a pupil exchange scheme may also be granted in cases where there is no direct exchange.
- (2) As a general rule, a foreigner may be granted a temporary residence permit to attend school as of grade nine, provided it is guaranteed that the school class comprises pupils of various nationalities and that the school
- 1. is a state or state-recognised school with an international orientation or
 - 2. is a school which is not or not primarily funded from public funds and prepares pupils for international qualifications, qualifications issued by other countries or state-recognised qualifications.
- (3) As a general rule, while foreigners are residing in Germany to attend a language course under subsection (1) or school under subsection (2), they are to be granted a temporary residence permit for another purpose only if they are legally entitled to it. After staying in Germany to take part in a pupil exchange

scheme foreign pupils may only be granted a temporary residence permit for another purpose if they are legally entitled to it. Section 9 does not apply. The temporary residence permit in accordance with subsections (1) and (2) does not entitle the holder to pursue an economic activity.

(4) Bi- or multi-lateral agreements of the Länder with public bodies in another country governing attendance of domestic schools by foreign pupils remain unaffected. A temporary residence permit to attend school can only be issued on the basis of such agreements if the supreme Land authority responsible for residence law has endorsed the agreement.

Section 17

Seeking a vocational training place or a place in higher education

(1) A foreigner may be granted a temporary residence permit to seek a training place in order to pursue quality vocational training, if

1. the foreigner is not yet 25 years of age,
2. the foreigner's subsistence is secure;
3. the foreigner has a school-leaving certificate issued by a German school abroad or a school-leaving certificate entitling the holder to access to higher education in the federal territory or in the country where the school-leaving certificate was acquired, and
4. the foreigner has a good command of the German language.

The temporary residence permit is granted for up to six months. It may only be issued anew if the foreigner, after leaving Germany, stayed abroad for at least as long as he or she stayed in the federal territory on the basis of a temporary residence permit pursuant to subsection (1).

(2) A foreigner may be issued a temporary residence permit for the purpose of applying for a course of study, if

1. the foreigner meets the educational and linguistic requirements to take up a course of study or if they are to be met within the period of residence under sentence 2, and
2. the foreigner's subsistence is secure.

The temporary residence permit is granted for up to nine months.

(3) The temporary residence permit in accordance with subsections (1) and (2) does not entitle the holder to pursue an economic activity nor to take up a student

job. As a general rule, foreigners staying in Germany pursuant to subsection (1) are to be granted a temporary residence permit for another purpose of residence only in accordance with sections 18a or 18b or where they are legally entitled to it. As a general rule, foreigners staying in Germany pursuant to subsection (2) are to be granted a temporary residence permit for another purpose of residence only in accordance with sections 16a, 16b, 18a or 18b or where they are legally entitled to it.

Section 17a

Recognition of foreign professional qualifications

(1) For the purpose of recognising professional qualifications a foreigner has acquired abroad, the foreigner may be granted a temporary residence permit for up to 18 months to undertake a training measure and to take a subsequent examination, if a body responsible according to federal or Länder regulations on recognition of professional qualifications has determined that adaptation measures or further qualifications are necessary

1. to establish the equivalence of the professional qualification with a German professional qualification or
2. to grant authorisation to practise the profession or to issue permission to use the professional title in a regulated profession in Germany.

The training measure must be suited to enabling recognition of the foreigner's professional qualification or access to the profession. In the case of primarily in-company training, the temporary residence permit is issued subject to approval from the Federal Employment Agency in accordance with section 39 or if it has been determined by statutory instrument pursuant to section 42 or by intergovernmental agreement that participation in the training measure is permissible without the approval of the Federal Employment Agency. Any restrictions imposed by the Federal Employment Agency in granting approval are to be specified in the temporary residence permit.

(2) The temporary residence permit authorises the holder to pursue employment which is independent of the training measure for up to 10 hours per week.

(3) The temporary residence permit entitles the holder to pursue an economic activity which is not restricted in terms of time and whose requirements are closely connected to the specialist skills needed in the later employment if there is a concrete offer of a job for later employment in the profession which is to be recognised or which is covered by the authorisation to practise the profession

applied for or permission to use the professional title applied for, if this vacancy may be filled by foreigners in accordance with sections 18 to 20 and the Federal Employment Agency has granted approval in accordance with section 39 or if it has been determined by statutory instrument pursuant to section 42 or by intergovernmental agreement that the employment is permissible without the approval of the Federal Employment Agency. Any restrictions imposed by the Federal Employment Agency in granting approval are to be specified in the temporary residence permit.

(4) Once equivalence of the professional qualification has been established, the authorisation to practise the profession has been granted or permission to use the professional title has been granted, the temporary residence permit may be extended for up to one year to allow the foreigner to seek employment commensurate with the recognised professional qualification, provided that foreigners are permitted to fill the vacancy pursuant to sections 18 to 20. During this period the temporary residence permit authorises the holder to pursue an economic activity. Section 9 does not apply.

(5) A foreigner may be granted a temporary residence permit in order to take an examination to recognise the foreign professional qualification if there is a concrete offer of a job for later employment in the profession which is to be recognised or which is covered by the authorisation to practise the profession applied for or by the permission to use the professional title applied for, if foreigners are permitted to fill the vacancy in accordance with sections 18 to 20 and the Federal Employment Agency has granted approval in accordance with section 39 or if it has been determined by statutory instrument pursuant to section 42 or by intergovernmental agreement that the employment is permissible without the consent of the Federal Employment Agency. Any restrictions imposed by the Federal Employment Agency in granting approval are to be specified in the temporary residence permit. Subsections (2) to (4) do not apply.

Section 17b

Study-related EU training programmes

(1) A foreigner may be issued with a temporary residence permit for training purposes in accordance with Directive 2016/801/EU, if the Federal Employment Agency has granted approval in accordance with section 39 or it has been determined by statutory instrument pursuant to section 42 (1) no. 1 or by intergovernmental agreement that such training is permissible without approval from the Federal Employment Agency, and

1. if the training programme is designed to enable the foreigner to gain knowledge, practice and experience in a professional environment,
2. if the foreigner presents a training agreement which provides for theoretical and practical training with a host entity and contains the following:
 - a) a description of the training programme, including the educational objective or learning components,
 - b) the duration of the training programme,
 - c) the conditions under which the foreigner will work and be supervised,
 - d) the working hours and
 - e) the legal relationship between the foreigner and the host entity,
3. if the foreigner provides evidence of having obtained a higher education degree within the two years preceding the date of application or of pursuing a course of study that leads to a higher education degree,
4. if the training is equivalent to the higher education degree or studies referred to in no. 3, in terms of both content and level, and
5. if the host entity has undertaken in writing to bear the costs incurred by public bodies up to six months after termination of the training agreement for
 - a) the foreigner's subsistence during an unlawful stay in the federal territory, and
 - b) deportation of the foreigner.

(2) The temporary residence permit is issued for the agreed duration of training, but not to exceed six months.

(3) Where the foreigner is under 18 years of age, the persons entitled to the foreigner's care and custody must consent to the planned stay.

(4) No temporary residence permit for training purposes in accordance with Directive 2016/801/EU is granted if any of the conditions mentioned in section 20

(6) nos. 1 to 3 and 6 to 8 are met.