



Australian Government
Refugee Review Tribunal

Country Advice

Japan

Japan – JPN39773 – Spouse or Child of
Japanese National visa – Re-entry Permit

17 January 2012

- 1. Is a Japanese long-term/permanent visa that is granted to a foreign national in Japan on the basis of being the spouse of a Japanese national contingent on the continuing relationship of the foreign national with his/her Japanese spouse? Are there different provisions regarding separation and divorce?**

Current laws dictate that the validity of the ‘Spouse or Child of Japanese National’ visa (hereafter ‘Spouse Visa’) is not contingent on the continuing relationship of the foreign national with his/her Japanese spouse. A Spouse Visa is not a permanent visa. The visa is granted for a period of either one year or three years and its renewal is contingent on the continuing relationship.¹ If the visa holder and his/her Japanese spouse divorce, the visa will remain valid until the expiry date. However, new laws effective from 9 July 2012 dictate that a Spouse Visa may be revoked if the visa holder fails to engage in activities as a spouse for six months or more without a justifiable reason.

Situation under the Current Law

Under the current law, divorce does not render the Spouse Visa invalid. A ‘Q&A’ page on the Immigration Bureau of Japan’s website states that a Spouse Visa will not be revoked in the case of a foreign national and Japanese national divorce. The page states:

Q18 I got married with a Japanese citizen and have stayed in Japan with the status of residence “Spouse or Child of Japanese National.” If I get divorced with the Japanese citizen during my period of stay, will the immigration control authority revoke my status of residence?

A. Since the status of residence “Spouse or Child of Japanese National” is listed on Annexed Table II of Immigration Control Act, your status of residence will not be revoked even if you reside in Japan with such resident status and get divorced with your Japanese spouse during your period of stay.²

An article published by the Nagoya International Center, a non-profit organisation that provides advice to foreign residents in Japan, explains Japanese divorce procedures as follows:

¹ ‘Specified visa: Spouse, etc. of a Japanese national’ undated, Ministry of Foreign Affairs of Japan, http://www.mofa.go.jp/j_info/visit/visa/long/visa10.html – Accessed 17 January 2012

² Ministry of Justice, undated, ‘Residence Procedures for Foreign nationals Q&A’, *Immigration Procedures Guidebook*, <http://www.immi-moj.go.jp/english/tetuduki/zairyuu/qa.html> – Accessed 4 January 2012

Once a divorce is granted, the visa category “spouse of a Japanese” remains valid for the foreign spouse until the visa’s date of expiration. If you wish to remain in Japan after this period you will need to change your visa status.³

No information was found stating that Japanese immigration law has different provisions regarding separation and divorce. One dated report was found indicating that a Spouse Visa would not be renewed if the couple do not live together. The report was published in 2002 by the Japanese Institute of Global Communications, a social research institute of the International University of Japan. The article states:

Regardless of the circumstances of the divorce, the Immigration Bureau will not renew the Spouse Visa unless a couple are actually living together as husband and wife. The stringent renewal process requires proof that the wife is living with her husband. A letter of guarantee written by the spouse is also needed as well as evidence of the spouse’s employment, and a certificate of tax payment.⁴

Sources were found that indicate that while a Spouse Visa would not be renewed after divorce, the foreign national may apply for a Long Term Resident Visa through the Minister of Justice. Those eligible for Long Term Resident Visas are defined in the *Immigration Control and Refugee Recognition Act (Cabinet Order No. 319 of 1951)* as ‘[t]hose who are authorized to reside in Japan with a designation of period of stay by the Minister of Justice in consideration of special circumstances’.⁵ An article written by a Japanese administrative lawyer and published on the tourism website of Kurume City states that most divorced foreign nationals who receive this visa have children to their Japanese former spouse.⁶ However, there are cases where a foreign national who does not have children can be granted the Long Term Resident Visa ‘if they are financially stable and have a basis for life in Japan after their divorce’.⁷ An article posted on the website of a Japanese visa application service states that the grant of the Long Term Resident Visa is largely left to the discretion of the minister, who considers each case based on its particular circumstances.⁸

Situation under the New Law (effective 9 July 2012)

Information on the Immigration Bureau of Japan’s website states that a new residency management system is being introduced on 9 July 2012, which includes several changes affecting mid- and long-term residents. One of the changes includes redefining the circumstances under which a foreign national’s resident status may be revoked. A pamphlet on the Immigration Bureau of Japan’s website states that those holding a Spouse Visa who have ‘failed to engage in activities as a spouse for six months or more without a justifiable

³ ‘Getting Divorced in Japan’ 2009, *Nagoya International Center*, June http://www.nic-nagoya.or.jp/en/dailyliving/your_family/divorce.htm – Accessed 4 January 2012

⁴ Sean Curtin, J. 2002 ‘International Marriages in Japan: Part One – Visa status of non-Japanese spouses in 2002’, *Social Trends*, no. 13, 28 October http://www.glocom.org/special_topics/social_trends/20021028_trends_s13/ – Accessed 4 January 2012

⁵ *Immigration Control and Refugee Recognition Act (Cabinet Order No. 319 of 1951)* (Japan), Appended Table II, (effective 12 May 2008), Cabinet Secretariat, <http://www.cas.go.jp/jp/seisaku/hourei/data/icrra.pdf> – Accessed 4 January 2012

⁶ Hashiguchi, K. undated ‘Questions about Transnational Marriage : “Can I still live in Japan if I divorce or if my spouse passes away?”’ Kurume City of Hospitality, <http://www.kurume-hotomeki.jp/en/international/?mode=detail&category=5&id=17> – Accessed 16 January 2012

⁷ Hashiguchi, K. undated ‘Questions about Transnational Marriage : “Can I still live in Japan if I divorce or if my spouse passes away?”’ Kurume City of Hospitality, <http://www.kurume-hotomeki.jp/en/international/?mode=detail&category=5&id=17> – Accessed 16 January 2012

⁸ ‘Long Term Resident Visa’ undated, Visa Japan, <http://english.visajapan.jp/teiju.html> – Accessed 16 January 2012

reason' will have their resident status revoked.⁹ The pamphlet lists the following circumstances under which it is deemed the visa holder has justifiable reasons for not engaging in activities as a spouse:

In case a foreign resident is in the process of arbitration with his/her spouse over the custody of his/her child or having a divorce case holding his/her Japanese spouse culpable, the foreign resident is deemed to have "justifiable reasons," even though the activities of such a resident as the status of spouse are not approved. Also, even if a foreign resident in Japan does not act as a spouse for six months or longer, the resident may be permitted to change his/her resident status to another one if he/she has any reason, such as taking care of and raising his/her biological child who has Japanese nationality.¹⁰

2. What conditions must be met in order for a person to use a Japanese re-entry permit? In particular, if a foreign national separated from his Japanese spouse, could his re-entry permit be revoked on that basis?

No information was found to suggest that re-entry permits are revoked if a foreign national holding a Spouse Visa separates from his/her Japanese spouse. However, one source was located stating that an application for a new re-entry permit may be rejected on this basis.

Re-entry permits allow foreign nationals with valid visas the ability to temporarily depart Japan. The Immigration Procedures Guidebook issued by Japan's Ministry of Justice describes the nature of re-entry permits:

Re-entry permission is permission which is granted prior to departure by the Minister of Justice in order to simplify the immigration (entry and landing) procedures in cases where foreign nationals residing in Japan temporarily depart from Japan and intend to re-enter Japan.

If a foreign national residing in Japan departs from Japan without the re-entry permission, the status of residence and period of residence held by the foreign national will be extinguished, and therefore, if the foreign national intends to re-enter Japan, they will have to acquire a new visa prior to entry into Japan...

...There are two types of re-entry permission: one which is valid for one-time use (handling charge of 3,000 yen) and another which is valid multiple times within the valid period (handling charge of 6,000 yen).¹¹

Article 7 of the *Immigration Control and Refugee Recognition Act (Cabinet Order No. 319 of 1951)* stipulates that upon entering Japan, a foreign national's status will be examined by an immigration inspector and the foreign national's intended activities in Japan must be compatible with the visa they hold. However, the article goes on to say that re-entry permit holders are exempt from this condition.¹²

⁹ Immigration Bureau of Japan undated, 'Start of a New Residency Management System!', [http://www.immi-moj.go.jp/newimmiaact_1/pdf/NewResidencyManagementSystem-\(EN\).pdf](http://www.immi-moj.go.jp/newimmiaact_1/pdf/NewResidencyManagementSystem-(EN).pdf) – Accessed 13 January 2012

¹⁰ Immigration Bureau of Japan undated, 'Start of a New Residency Management System!', [http://www.immi-moj.go.jp/newimmiaact_1/pdf/NewResidencyManagementSystem-\(EN\).pdf](http://www.immi-moj.go.jp/newimmiaact_1/pdf/NewResidencyManagementSystem-(EN).pdf) – Accessed 13 January 2012

¹¹ Ministry of Justice, undated, 'Re-entry Permit', *Immigration Procedures Guidebook*, <http://www.immi-moj.go.jp/english/tetuduki/zairyuu/sainyuukokukuyoka.html> – Accessed 4 January 2012

¹² *Immigration Control and Refugee Recognition Act (Cabinet Order No. 319 of 1951)* (Japan), art 7, (effective 12 May 2008), Cabinet Secretariat, <http://www.cas.go.jp/jp/seisaku/hourei/data/icra.pdf> – Accessed 4 January 2012

While no information was found to suggest that a re-entry permit can be revoked in the case where a Spouse Visa holder has divorced their Japanese spouse, one source was located stating that an application for a re-entry permit may be rejected on this basis. An article from a Japanese immigration solicitor's office states that in these cases the applicant would be 'assessed as no longer justified to stay in Japan' and the re-entry permit would be rejected.¹³ The application form for a re-entry permit is available on the Ministry of Justice website. Question six of the application form for a re-entry permit requires the applicant to specify their marital status as either married or single and question 11 requires the applicant to state their visa type.¹⁴

¹³ 'I want to leave Japan temporarily' (undated), Tokyo Immigration Service
<http://www.tokyoimmigration.jp/eng/ichiji.html> - Accessed 22 February 2010

¹⁴ 'Application for Re-entry Permit' undated, Ministry of Justice, Government of Japan,
<http://www.moj.go.jp/content/000050357.pdf> – Accessed 16 January 2012

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