

KOREA PREPARES FOR VISA WAIVER PROGRAM



by

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Citizens and nationals of the Republic of Korea received welcome news on April 18, 2008 when the Department of Homeland Security announced that the United States and Korea had reached an agreement which paves the way for Korea's inclusion in the Visa Waiver Program. Certain additional measures must first be met before Korean citizens and nationals can travel to the United States without a visa. It is expected that Korea will be admitted into the U.S. Visa Waiver Program by the end of 2008.

What is the Visa Waiver Program?

The Visa Waiver Program authorizes citizens and nationals of certain countries to travel to the United States without first obtaining a B-1/B-2 Visitor's Visa. Individuals traveling under the Visa Waiver Program must possess a machine-readable passport from the particular country and must be admissible to the United States. Certain individuals, even if citizens or nationals of the designated country, cannot use the Visa Waiver Program due to certain grounds of inadmissibility. Travelers under the Visa Waiver Program can only be admitted for short-term visits of ninety (90) days for the limited purpose of visiting the United States for business or pleasure. During their 90 day admission to the United States, VWP entrants are authorized to do only those activities they could do if they had entered with a B-1/B-2 Visitor Visa.

Which countries are members of the Visa Waiver Program?

As of May 2008, 27 countries are members of the Visa Waiver Program: Andorra, Australia, Austria, Belgium, Brunei, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, the Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovenia, Spain, Sweden, Switzerland, and the United Kingdom.

In addition, the United States has signed recent agreements with not only the Republic of Korea, but also the Czech Republic, Estonia, Latvia, Slovakia, Hungary, Lithuania and Malta. These agreements put these countries on the path to becoming full members of the Visa Waiver Program, assuming each of these countries meets various requirements of the U.S. government.

What is the main advantage of the Visa Waiver Program?

Many citizens or nationals of a designated Visa Waiver Program country who wish to visit the United States for up to 90 days can be admitted to the United States simply by providing their machine-readable passport. In most cases, they do not need to apply for a B-1/B-2 Visitor Visa in order to visit the United States for business visits or pleasure visits. This is a tremendous advantage for those individuals who may have applied for a visitor visa but were rejected.

Are there any disadvantages to the Visa Waiver Program?

Yes, there are several disadvantages to entering the United States under the Visa Waiver Program:

- Visits under the Visa Waiver Program are limited to 90 days. This is much shorter than the typical 6-month admission on a Visitor's Visa);
- A VWP entrant cannot extend his 90-day admission period. B-1/B-2 visa entrants can file to extend their stay beyond the usual 6-month admission period.
- A VWP entrant cannot change to a different non-immigrant visa status in the United States. For example, after entering under the Visa Waiver Program, a VWP entrant cannot change his status to F-1, R-1, H-1B, E-2, or any other non-immigrant visa category.
- VWP entrants cannot file for permanent residence ("green card") while in the United States ("adjustment of status") unless the VWP entrant is an "immediate relative" (spouse, parent or unmarried child under age 21 of a United States citizen).
- Waive various rights to a hearing before an immigration judge: If you enter on a non-immigrant visa such as B-1/B-2 and it is alleged that you have violated your status, you are entitled to a hearing before an immigration judge.
- VWP entrants have the same limitations as B-1/B-2 visitors. For instance, like B-1 or B-2 visitors, VWP entrants cannot attend school and cannot work while in the United States.

Conclusion

The recent agreement paving the way for Korea's inclusion in the Visa Waiver Program is exciting news for Korean citizens. Many Korean citizens living in Korea who may have had difficulty in applying for a visitor visa soon will be able to travel to the United States. As Korean citizens await Korea's formal inclusion in the Visa Waiver Program, however, it is important that they should be aware of the Visa Waiver Program's advantages and disadvantages.

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