

# Immigration and Refugee Board of Canada

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## Responses to Information Requests

Responses to Information Requests (RIR) respond to focused Requests for Information that are submitted to the Research Directorate in the course of the refugee protection determination process. The database contains a seven-year archive of English and French RIRs. Earlier RIRs may be found on the UNHCR's [Refworld](#) website. Please note that some RIRs have attachments which are not electronically accessible. To obtain a PDF copy of an RIR attachment, please email the [Knowledge and Information Management Unit](#).

15 February 2016

### PER105442.E

Peru: Requirements and procedures for a foreign national married to a Peruvian citizen or resident to obtain residence; whether there is a time limit for residents to remain outside of Peru before losing their status; whether rights and obligations attached to residence are equal or similar to those of Peruvian citizens; procedures to regain resident status

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#### 1. Requirements and Procedures for Obtaining Residence

Legislative Decree No. 1236 on migration (*Decreto Legislativo No. 1236, Decreto Legislativo de Migraciones*) was published in *El Peruano*, the official newspaper of Peru (Peru n.d.g), on 26 September 2015 (ibid. 26 Sept. 2015). Sources indicate that a number of specific provisions [1] came into force the next day (Barboza Sánchez 3 Dec. 2015; Peru 2015, 1st final supplementary provision). According to sources, the rest of the legislation was to be put into effect 90 working days after the regulations were published; the regulations are to be issued within 180 working days [of the publication of Legislative Decree No. 1236] (ibid., 1st and 2nd final supplementary provisions; *Gestión* 2 Oct. 2015).

According to ANDINA, a Peruvian news agency, the Peruvian Law on Foreigners (*Ley de Extranjería*), was enacted in 1991 (ANDINA 14 Aug. 2013). The same law was amended by Legislative Decree No. 1043 in 2008 (Peru 2008). A consolidated version of the Law on Foreigners that includes the 2008 amendments could not be found among the sources consulted by the Research Directorate within the time constraints of this Response. According to Article 13 of the 1991 law, a resident visa authorizes the holder to stay for one year and it is extendable (ibid. 1991). Article 11(u) of the 1991 law, as amended by Legislative Decree No. 1043, states that resident visas are issued to family members (*familiar residente*) of a Peruvian citizen or of an adult foreigner with resident status (ibid. 2008, Art. 1). The amended Article 34 also specifies that the familiar residente status is valid for one year and can be renewed (ibid., Art. 2).

For more information on resident statuses, see Response to Information Request PER104722.

The website of the National Migration Authority (Superintendencia Nacional de Migraciones), the government agency responsible for controlling migration, issuing travel documents and granting Peruvian nationality (ibid. n.d.a), indicates that foreigners married to Peruvian citizens wishing to obtain a residence visa must include the following documents with their application:

- The application form;
- A proof of payment of the processing fee;
- A copy of the passport or travel document, indicating that its holder's immigration status in Peru has not expired;
- A copy of the marriage certificate: if the marriage took place in Peru, the copy must be certified by the National Registry of Identification and Civil Status (Registro Nacional de Identificación y

- Estado Civil, RENIEC) [2]; if the marriage took place abroad, the copy of the certificate must be certified by a Peruvian consulate and endorsed by the Peruvian Ministry of Foreign Affairs; and
- A copy of the National Identity Card (Documento Nacional de Identidad, DNI) of the Peruvian spouse, which should be valid and up to date (ibid. n.d.b).

The website also indicates that foreigners married to Peruvian residents who wish to obtain a residence visa must include the following documents in their application:

- The application form;
- A proof of payment of the processing fee;
- A copy of the passport or travel document with a six-month validity period or more, and indicating that its holder's immigration status in Peru has not expired;
- A copy of the marriage certificate: if the marriage took place in Peru, the copy must be certified by the RENIEC; if the marriage took place abroad, the copy of the certificate must be certified by a Peruvian consulate and endorsed by the Peruvian Ministry of Foreign Affairs; and
- A copy of the spouse's identification card for foreigners (*carné de extranjería*), which should be valid and up to date (ibid.).

The website further indicates that, in both cases, the application package must be submitted in person at a National Migration Authority office on a date indicated by an online appointment system and that the application form can be signed by a third party, in which case a power of attorney must be attached to the application package (ibid.). Powers of attorney must be certified by a notary public, if issued in Peru, or by a Peruvian consulate and the Peruvian Ministry of Foreign Affairs, if issued abroad (ibid.). An official Spanish translation of documents is required (ibid.).

### 1.1 Renewal

The website of the National Migration Authority indicates the following requirements in order to renew residence:

- The application form;
- A proof of payment of the processing fee and of the [translation] "residence renewal fee"; and
- A copy of the spouse's DNI, which must be valid and up to date (ibid. n.d.c).

The website further indicates that the application package must be submitted in person at a National Migration Authority office on a date indicated by an online appointment system (ibid.). A power of attorney can be used and must be certified by a notary public or by a Peruvian consulate and the Peruvian Ministry of Foreign Affairs (ibid.).

## 2. Time Allowed for Peruvian Residents to Remain Outside Peru

According to Article 42 of the amended Law on Foreigners, foreigners with a resident status can leave and re-enter the country with their migratory status and visa, as long as they meet the requirements and time limits provided by law (ibid. 2008, Art. 42). Article 42 further indicates that they lose their migratory status if they stay outside of Peru for more than 183 days, consecutive or not, over a period of 12 months, except in cases of force majeure or [translation] "valid" labour or health-related reasons, in which case their stay can be extended to up to 12 months, upon prior authorization (ibid.).

The website of the National Migration Authority indicates that, in order to obtain an authorization to remain beyond the 183-day limit, the applicant must submit the following documents to the National Migration Authority before the 183th day outside Peru:

- The application form;
- A proof of payment of the processing fee;
- A letter explaining the labor or health-related reasons to request the authorization;
- Originals or certified copies of the documentation in support of the application;
- A valid and up-to-date *carné de extranjería* showing that the resident status has been renewed and that the annual levy on foreigners has been paid (ibid. n.d.d).

The website further indicates that documents produced abroad must be translated in Spanish and certified by a Peruvian consulate and the Ministry of Foreign Affairs (ibid.).

## 3. Rights and Obligations of Foreigners with a Resident Status

Article 55 of the Law on Foreigners indicates that foreigners have the same rights and obligations as Peruvian citizens, with exceptions established by the Constitution and other laws (ibid. 1991, Art. 55). The

website of the National Migration Authority specifies that foreigners who obtained residence for being married to a Peruvian citizen or resident must obtain a permit from authorities in order to work in Peru (ibid. n.d.e). Further information on the rights and obligations of foreigners with a resident status could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

#### 4. Procedures to Regain Resident Status

Information on procedures to regain resident status could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

#### Notes

[1] The provisions that came into force on 27 September 2015 are the following: first Title, Articles 65, 67, 69-71, 77 and 88, 10th [final supplementary provision], as well as parts of Articles 60-64 and 9th final supplementary provision that have to do with migration control (Barboza Sánchez 3 Dec. 2015; Peru 2015, 1st final supplementary provision).

[2] RENIEC is the government agency responsible for issuing the National Identity Card (Documento Nacional de Identidad, DNI) and for registering births, marriages, deaths, divorces, and [translation] "other types of civil statuses" (Peru n.d.f).

### References

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### Additional Sources Consulted

**Oral sources:** Peru -- Embassy in Ottawa.

**Internet sites, including:** Amnesty International; ecoi.net; Factiva; Human Rights Watch; *La República*; Peru – Embassy in Washington, Ministerio de Relaciones Exteriores; Peru21; United Nations – Refworld, ReliefWeb, Sistema de Naciones Unidas en el Perú; United States – Department of State.

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