

The “I” Word – Changes to Immigration rules in the UK

The “I” word has been on tip of many a tongue since the general election, and with a crescendo of calls for change to the immigration system, the new year will bring with it some important changes.

The Home Secretary, Theresa May, has recently trumpeted the introduction of an annual immigration limit for skilled non-European workers – a key coalition pledge. This is meant to allow Britain to remain competitive in the international jobs market; and has been derided by many in the IT and University sectors.

Here is a snapshot of the proposed changes:

- From April next year the government will introduce an annual limit of **21,700** for those coming into the UK under the skilled and highly skilled routes – **20,700** under Tier 2 (General) and **1,000** under the new ‘exceptional talent’ route;
- The minimum salary for those coming under the Tier 2 (Intra company transfer) route for more than 12 months will be raised to £40,000; and Tier 1 will be restricted to all but entrepreneurs, investors and the exceptionally talented.

There has been a constant swathe of announcements from the UK Border Agency in the last two weeks:

- **From 14 December 2010** people applying for further leave to remain in the UK under the Tier 1 or Tier 5 (Temporary Worker) categories of the points-based system will be required to provide their biometrics (fingerprints and photograph) as part of their application;
- **From 14 December 2010** new versions of the application forms (to be used with immediate effect) and policy guidance under the following categories of the points-based system have been issued: Tier 1 (General) ; Tier 1 (Entrepreneur); Tier 1 (Investor); Tier 1 (Post-study work); Tier 2 – all categories (application form only – no change to policy guidance) ; Tier 5 (Temporary worker) -all sub-categories ; PBS Dependant; and,
- **From 10 January 2011**, English language students wishing to attend exclusively English language courses will be able to apply for a student visitor visa allowing them to stay for up to 11 months. The extended student visitor visa will only be available to applicants outside the UK.

UK Border Agency guidance on preventing illegal working

For HR professionals the new 83 page UK Border Agency guidance on preventing illegal working will be essential reading. The guide is an update of the original comprehensive guidance, published in February 2008. Crucially it provides up-to-date pictures of the documents, stamps and endorsements that may be presented by migrant workers as evidence of their right to work in the UK, and it also confirms that employers can accept evidence of status in expired passports and travel documents (with the exception of the certificate of entitlement to the right of abode).

Acceptable documents

Appendix A includes a comprehensive question and answer section which answers questions such as “*Why can’t I depend on a National Insurance number as a single document*”; and “*Why aren’t driving licences issued by the DVLA acceptable?*”

Short period of grace for staff acquired TUPE transfers

HR professionals will be interested to note the specific comments concerning staff acquired via a Transfer of Undertakings (Protection of Employment) Regulations (“TUPE”) transfer. The guidance states that employers who acquire staff as a result of a TUPE transfer are provided with a grace period of just 28 days in which to undertake the appropriate document checks and establish an excuse, following the date of transfer.

The guide includes further appendices with specific guidance:

- Appendix B: employing asylum seekers and refugees (new guidance);
- Appendix C: employing Nationals from European Economic Area (EEA) countries and Switzerland;
- Appendix D: employing students (New guidance);
- Appendix E: Guide to stamps and endorsements that the UK Government places in a person’s passport or travel document when they are from outside the European Economic Area (EEA); and,
- Appendix F: Flow charts for carrying out document checks.

Further information:

For general enquiries regarding illegal working employers can contact the sponsorship and employers’ Helpline: 0300 123 4699.

Link –

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/preventingillegalworking/currentguidanceandcodes/comprehensiveguidancefebo8.pdf?view=Binary>

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