

Global Immigration Update

UK

Biometric Residence Permits Roll out Internationally

UK Visas and Immigration started issuing Biometric Residence Permits (BRPs) for non-EEA nationals travelling to the UK in March 2015, and this scheme rolled out in three phases. From 31st July, the international rollout schedule was completed which means that all applications made by non-EEA nationals from overseas will receive a BRP.

Applicants will now receive a 30 day vignette in their passport instead of the full grant of leave. Once they enter the UK, they are required to collect their BRP confirming the full length of the visa from a designated post office or an Alternative Collection Location (ACL).

The post office and 30 day travel window is determined using information provided in the application form and applicants receive a letter which provides instructions on how to collect their BRP upon the grant of their initial visa. Generally, applicants are required to collect their BRP within 10 days of entering the UK.

What The Sponsors Need To Be Aware Of?

If the individual would like to start work before collecting their BRP, you must conduct the right to work check by dating and retaining a copy of the assignee's passport containing personal details and the 30 day vignette. As soon as the individual collects their BRP, you must ensure that a repeated right to work check by ensuring that the BRP is copied, dated and retained on file.

Minimum Salary Threshold For Migrants Who Wish To Settle

From 6th April 2016, new measures will be in place affecting all skilled migrant nationals from outside the European Economic Area (EEA) with regards to their eligibility for Indefinite Leave to Remain (ILR) in the UK.

The new rules intend to impose a salary threshold requirement for all Tier 2 General visa holders and Tier 2 Sports person switching applications for Indefinite Leave to Remain. The UK Home Secretary previously announced this measure in 2012 and has now

proceeded to put this into effect to aid in curbing the continuous rise in the immigration statistics.

All Non EEA migrants will be required to be earning a total gross salary package of £35,000 per annum if they wish to settle in the UK after 6 years. Exceptions to this apply if the migrant's job role has been at any time on the shortage occupation or PhD occupation lists, during the preceding 5 years.

According to the Immigration Rules published April 2015, from 2016 onwards, the threshold will increase annually to steadily assist with managing and reducing net migration figures.

See the scheduled salary thresholds listed below:

- £35,000 if applying on or after 6 April 2016
- £35,500 if applying on or after 6 April 2018
- £35,800 if applying on or after 6 April 2019
- £36,200 if applying on or after 6 April 2020.

It is to be noted that the Government have faced significant opposition by many to the above new reforms. This is due to the fact many industries are already struggling to meet existing salary thresholds and will not be able to meet the even steeper salary threshold that is to be put in place.

Due to this controversial development, many employers may now struggle to retain their trained and skilled employees for the long-term and instead be forced to employ individuals with less experience. This could further lead to a lack of skills in the many significant industries and result in employers losing their ability to remain competitive in an international market place.

New Measures To Tackle Illegal Working

The UK government's new immigration bill will introduce a package of measures, one of which will be the introduction of the offence of illegal working which will carry a six-month jail sentence and an unlimited fine. New powers will provide for temporary shutdown of businesses suspected of employing illegal migrants. It also means that trading licences could be removed from takeaway shops, pubs

and off-licences, which consistently fail to comply with immigration rules.

Any defence to the discovery of illegal workers is also due to change. Employers will no longer be able to state that they did not know a particular employee was not permitted to work. It will be expected by the government that employers show they carried out full and proper checks before taking on any potential employees. The maximum sentence for employers found guilty will be increased from two to five years, in addition to the £20,000 fines already in operation.

The immigration bill proposes closing businesses found to be employing illegal migrants for a period of up to 48 hours while they prove the correct right to work checks have been conducted on staff.

UKVI Plan To Revise RCoS Salary Bands

UK Visas & Immigration (UKVI) has announced plans to revise the number of salary bands in the points table used to prioritise applications for Restricted Certificates of Sponsorship (RCoS) in months where the RCoS limit has been oversubscribed.

The current points table uses considerably wide ranging salary bands to determine each month whether an RCoS application meets the minimum points score required in order to be granted within the annual RCoS limit. The minimum points required each month based on gross annual salary depend on the number of applications received by UKVI that same month.

In order to 'improve flexibility', UKVI plan to increase the number of salary bands in a revised points table. For instance, this June, all RLMT RCoS applications were required to meet a minimum points score of 50, meaning the gross annual salary must have been between £46,000 to £74,999 in order to be granted. UKVI explain that under the revised salary bands of the planned updated points table, any RLMT RCoS application with a gross annual salary of £34,000 or more would have been granted.

The prioritisation of Shortage Occupation List and PhD-level RCoS applications would remain unchanged.

While the updated points table has been laid before Parliament as a change to

the Immigration Rules, UKVI intend to apply the revised salary bands in October.

AUSTRALIA

Increased Focus on Sponsorship Compliance

Australia's Department of Immigration and Border Protection has recently shown an increased focus on employer sponsorship compliance and a preparedness to impose sanctions against sponsors that are found to be in breach of their sponsorship obligations.

It is important that businesses utilising the Subclass 457 visa programme familiarise themselves with their obligations and ensure compliance. This is most pertinent when it comes to ensuring employees are paid at the nominated rate and that the Department are notified at the cessation of the employee's appointment.

CANADA

New Electronic Travel Authorisation

The Canadian government has followed the lead of the US and Australia in implementing a new requirement for citizens of countries that are visa exempt. The new programme, called eTA, is an online registration system that travellers access through the Citizenship and Immigration Canada website. The eTA process went into effect in August 2015 but will not be mandatory until March 2016.

The eTA requirement applies to travellers who do not need a visa to enter Canada and who are planning to arrive by air. Visa exempt countries include the UK, Japan, Australia, Korea, countries in the European Union and more. The eTA requirement does not apply to citizens of the US and it is not required if a person is entering at a land or sea port of entry.

The eTA process involves entering a traveller's personal details and passport information into an online portal and paying a fee of \$7CAD. Every traveller must obtain an eTA - including children. In most cases, CIC will approve the eTA within minutes of applying. The validity period of the approval is for five years or to the expiry of the applicant's passport. In situations where an immediate decision is not rendered, CIC will follow up with applicants with requests to obtain more information.

CHINA

Developments on Permanent Residence Permit for Skilled Workforce

It has been announced by The Ministry of Public Security in China that migrants who are currently employed in certain

industries will soon be able to apply for Permanent Residence.

The objective of the new system is to encourage more highly skilled and top-level foreign professionals to move to China.

Those wishing to apply for the Chinese Permanent Residence Permit must have been working in China for at least 4 years with a clean tax record. They must also have high professional or above associate professor titles.

The foreign applicant can only file their application at the municipal level security departments where the applicant is currently residing. Once obtained, a Permanent Residence Permit holder can take advantage of a number of new rights such as property purchase, enrolment into local schools etc.

This new policy has yet to be implemented officially and no further application details are available at this time. Further updates will follow once any new developments occur.

IRELAND

Ireland's New Shortage Occupations List

Ireland's Employment Permits (Amended) Regulations have been revised, effective 1st September 2015, to accommodate the current dynamics of the Irish labour market. The highly skilled, or shortage occupations, and ineligible occupations lists have been updated to accommodate shifting demands, mainly in the technology and medical industries.

Amongst the additions to the shortage list now qualifying for Critical Skills Employment Permits are: IT and telecommunication engineers, chiropractors, mobility instructors for the visually impaired, radiation therapists, orthoptists and prosthetists.

The shortage list revision has inevitably had a direct but rather dramatic knock on effect on the ineligible list, with an array of service industry jobs removed. These are mainly management occupations in healthcare and social services along with graphic designers, property managers, bookmakers, librarians and opticians.

Sponsors and work permit applicants should also be wary of the new version of the work permit application form, effective 31st August. Using the wrong form will lead either to a refusal or delays with your application.

KUWAIT

Ministry of Interior Amend Visa Rules

Kuwaiti Government have recently announced changes to their immigration processes in the hope that proper legal procedures are applied for the good of the country.

Individuals intending to enter Kuwait who have been issued with entry visas must enter the country within one month from the date of issue. Anyone failing to do so will have their entry visa nullified. Entry visa holders must therefore be extremely vigilant in planning their trip to ensure that they do not miss this deadline.

Apart from the above, there have been some stark changes to the category of persons who may enter Kuwait under the dependency route for expats. Changes are also made to limit the time to which the dependency visa is granted for.

Below are some of the key changes that will take place:

- Expatriates dependency visa for parents will stop with immediate effect but the visitor route will still be opened to parents of the expats
- Parents visit visas will now be limited to only one month
- Although wife and child dependency visas can still be applied for, the time limit will now be restricted to three months
- All visit visa for relatives will now be restricted to one month.

In the meantime, the Interior Minister is also discussing further changes to the system and in particular, a review of expat fees. The proposal is likely to be submitted to the Kuwait parliament during the next parliamentary term.

SAUDI ARABIA

Saudi Labour Ministry Cuts Visa Eligible Jobs

In a move to reserve capacity for their internal workforce, the Saudi Arabian government has announced measures to strike off 19 job titles from migrant availability. The Labour Ministry has informed businesses that they will only be permitted to hire Saudi nationals in any of the 19 job titles. Even existing employees within these job descriptions will no longer be able to renew their visas, in an attempt to phase out all expatriate employees in these categories.

Although the full list is yet to be disclosed, a few of the proposed unpermitted titles have been announced including;

- Chief Administrator of Human Resources
- Receptionist (Hotel and General)
- Director of Personal Relations

- Head of Personnel Department
- Director of Labour Affairs
- Cashier.

Given that these measures have been announced as part of a more general move to protect the Saudi internal employment market, it would appear more crucial than ever for employers to stay on top of the developing situation.

SINGAPORE

The MOM Revises Framework to Increase Local Hires

The Ministry of Manpower (MOM) is at work again with a further revision to the Fair Consideration Framework (FCF) for Singaporean Professionals, Managers and Executives (PMEs).

Some Key Changes: Transparent Salary

In August last year, MOM introduced a resident labour market test requirement for Employment Pass (EP) applications. As a result, EP applications can only be filed if the position has been advertised in the MOM's Jobs Bank for 14 days. From 1st October 2015, MOM stipulated

a further requirement for these job postings to specifically include the salary range related to the job position. Failure to do so will result in the EP application being rejected.

Having Singaporean Core Team is essential

Any EP application submitted with a small percentage of Singapore PME will also experience enhanced scrutiny as MOM will request for details of the recruitment process, including shortlisting of Singaporean nationals and number of Singaporean PMEs the business currently have within various levels of the organisation.

Genuine Qualification

MOM has also announced an enhanced examination on qualification and experience submitted with any EP applications. Any qualifications deemed doubtful by the MOM will be rejected and any applications presenting a forged qualification will have the applicant banned from ever working in Singapore.

What should employers do?

It is likely that for companies who do not have a good percentage of Singaporean employees, that it will become more difficult to obtain Employment and S Passes.

It is advisable that you have a hiring policy which ensures a higher percentage of local hires in Singapore, at all levels of seniority, to make it easier to hire talent from overseas when a skills gap cannot be filled in-country.

Newland Chase are specialist immigration consultancy with over 50 offices in 15 countries. For advice on immigration compliance and risk, please call +44(0)20 7001 2121 or email enquiries@newlandchase.com

If you would like to meet with Newland Chase, they will be exhibiting at Worldwide ERC® in Boston, USA, on 7-9 October; FEM EMEA Summit in London, UK, on 6 November; and FEM APAC Summit in Hong Kong, on 1 December.

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