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Immigration - Working Visas

Drastic Changes Affecting Employers of Non-UK Workers

Last month UK Border Agency published a statement of intent to limit the number of non-EEA (European Economic Area) workers coming to the UK with effect from 6 April this year, and to impose drastic limitations on them. Under the new scheme businesses will have to contend with:

- The need to apply on a case by case basis
- A huge reduction in numbers (an annual limit of 20,700 for the whole country) and
- A curtailment of workers rights to stay here permanently.

Any business which employs or wishes to employ non-EEA workers should read this Focus Sheet and may need to take legal advice

Need to Apply on a Case by Case Basis

Before October 2010 employers wishing to employ non-EEA workers were given an annual number they could bring into the country. However, in October 2010, employers who had not used their allocations at that date had them reduced to zero. Such employers now have to apply to UKBA each time they want to fill a post with a non-EEA worker. These applications are considered on the first working day of every month by a UKBA panel. It has emerged that they the panel has been giving priority to the jobs which offer the highest salaries and no authorisations have been given for any job offering less than £36,000 per annum.

The new arrangements will be set out in new Immigration Rules to be published at the end of March which will take effect from 6 April.

The changes are justified on the grounds that:

- Britain needs to attract the brightest and best to fill the job gap but this should never be at the expense of workers already here.
- It is the Government's intention to restrict settlement and to end the link between temporary migration for work or study and staying in the UK permanently.

Huge Reduction in Permitted Non-EEA Workers

The Government's new annual limit for Tier 2 General Visas (previously known as work permits) for non-EEA workers will be 20,700 for the whole country with effect from 6 April 2011. This limit will be divided into 12 monthly allocations and any unused places will roll over to the following month. UKBA is planning to weight the number of authorisations they will issue in April to 4,200, with the monthly limit being 1,500 for the rest of the year to the end of March 2012. It is widely thought by employers and immigration practitioners that this annual limit will be nothing like enough. Before October 2010 there were no overall limits and non-EEA workers were entitled to come here if they met the required criteria. According to recent statistics published by the Office of National Statistics, in work-related cases, 84,370 non-EEA workers were granted the right to remain permanently in the UK in 2010 (which probably indicates that at least this number of such workers were admitted to the UK in 2005/6).

Intra company transfers are not affected by the limit.

Right to Remain in the UK after Termination of Employment Curtailed

In addition the government is going to severely limit or curtail the ability of most non-EEA workers from remaining in the UK after they have been here for 5 years.

Raising Qualification Standards

In addition to all these restrictions non-EEA workers will need to have a "graduate-level job", speak an intermediate level of English (a higher standard than is currently required) and meet certain specific salary and employment requirements.

General

Employers filling a vacancy that attracts a salary of £150,000 or more will not be subject to any of the limits described earlier. An additional 1,000 visas will be made available under new "exceptional talent route".

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