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flash Alert

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United Kingdom – Immigration Developments Bring Efficiencies, Tighter Rules, Higher Fees

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In this *GMS Flash Alert* we briefly examine a number of immigration-related developments that will concern globally mobile employees coming into the United Kingdom and their employers. This newsletter covers the:

- New visitor rules;
- Roll-out of Biometric Residence Permits for Entry Clearance;
- Visa charges and the National Health Service surcharge;
- Closure of the Tier 1 (General) route for extension applications.

Why This Matters

The developments discussed in this newsletter are important for immigration professionals and global mobility managers with immigration responsibilities vis-à-vis their globally mobile employees coming into the United Kingdom. They aim to:

- Make the rules more streamlined and efficient for non-European Economic Area (EEA) nationals visiting the U.K., thereby making the job of the immigration professional or global mobility manager with immigration responsibilities vis-à-vis their globally mobile employees potentially somewhat easier.
- Reduce fraud by issuing visas on credit-card sized permits rather than vignettes in passports. This will mean a new procedure for document collection following U.K. visa applications that immigration and global mobility professionals will need to factor in to U.K. assignments.
- Abolish extensions under Tier 1 (General). Employers with staff in the U.K. in this category may need to arrange for such staff to extend before 6 April due to this.
- Raise the costs of various visas which could make sending employees into the U.K. slightly more expensive for multinational organizations.

New Visitor Rules

According to recent reports¹, on 26 February 2015, the government intends to introduce new immigration rules on visitors to the United Kingdom designed to simplify the current regime.

These new rules will work to streamline the 13 visitor categories that presently exist and allow a greater degree of flexibility around the activities that visitors are permitted to undertake when they travel to the United Kingdom on visitor visas. In particular, the current separate categories of Business Visitor and General Visitor will be merged into a Visitor (Standard) category.

However, Visitors will be able to enter the United Kingdom for 30 days of recreational study under the Visitor Rules. The student visitor route and the extended student visitor routes will be removed from the visitor rules and re-branded the “short-term study route.” The Visitor rules will also redefine the types of work that Visitors are prohibited from undertaking. The Home Office has confirmed that the list of permitted activities will be expanded to include the following:

- incidental volunteering for up to 30 days at a registered U.K. charity;
- employees of an overseas training company delivering global training to employees of a multinational company based in the U.K.;
- allowing training in specialist U.K. work practices and techniques to be delivered by non-corporate organizations (e.g., reference laboratories); and
- lawyers who are not employed by an overseas multinational company (which means the current provision for overseas lawyers who can advise U.K. clients on litigation and international transactions is to be broadened).

KPMG Note

The new rules will come into effect on a date to be confirmed by the Home Office.

The Legal Services Immigration team with KPMG LLP (U.K.) has been involved in discussions with the Home Office leading to the simplification of the Visitor rules.

Biometric Residence Permits (BRPs) for Entry Clearance

From March 2015, the Home Office will begin phasing in procedures whereby non-EEA nationals who apply for entry clearance to the U.K. for more than six months will be issued a BRP confirming their leave to enter the United Kingdom and the conditions associated with this such as the right to work and length of stay. Currently such leave is granted as a vignette in the applicant's passport.²

This system will mean that on the grant of entry clearance, an applicant will be issued a short-term visa valid for 30 days and a decision letter setting out the condition of the leave granted and BRP collection process. Once in the U.K., applicants will need to show up at their pre-selected post office within 10 days to collect their BRPs. To do so, the applicants will need to present their short-term visas and their decision letters to a security-cleared post office official who will carry out an identity check before issuing the BRP. If an applicant fails to collect his or her BRP within 10 days, it will be cancelled.

As part of the on-line visa application process, an applicant will be required to provide an address in the U.K. that will determine from which post office branch he will collect his BRP. This address could be a sponsor address or a residential address or a city or town name where the applicant might be intending to stay immediately on first arrival in the United Kingdom.

KPMG Note

KPMG LLP (U.K.) anticipates that the rules on prevention of illegal working will change as a result of this process. However, it is currently unclear whether the short-term entry clearance vignette will be acceptable evidence of an employee's right to work or whether that employee will need to obtain his BRP before commencing work. We will endeavor to provide a further update once this is clear.

Visa Charges and the National Health Service (NHS) Surcharge

The Home Office has published indicative pricing for its services in 2015/16.³ They generally show increases.

The fee for visit visas valid between six months to two years will increase from £300 to £324 and the fee for visit visas between six months and five years will increase from £544 to £588. Tier 2 (General) and (Intra-Company Transfer) Long Term Staff entry clearance visas for up to three years will see an increase from £514 to £564. In-country extensions and switches for these categories for up to three years will increase from £601 to £651. Similar increases will also apply to other Tier 2 categories, with the exception of shortage occupation, where fees will remain unchanged. The fee for assigning a Certificate of Sponsorship will increase from £184 to £199. Sponsor license fees are not expected to change.

Tier 1 (Investor) applications and applications for indefinite leave to remain all see significant increases to £1,500.

As a final note, optional priority service fees for applications made overseas will increase for non-settlement applications from £100 to £120, and for settlement application from £300 to £360. In-country priority postal and Premium Service Centre fees will remain unchanged at £300 and £400 respectively.

In addition to the increases fees outlined above, the NHS surcharge is expected to come into force in April 2015. It will apply to non-EEA nationals applying for leave of more than six months, whether at an entry-clearance or extension stage. This includes Tier 2 (General), Tier 4, and Tier 5 migrants. It will apply to both main applicants and dependants. The surcharge will not apply to Tier 2 (Intra-Company Transfer) migrants and other categories including asylum seekers, refugees, and victims of human trafficking, who will continue to be able to access NHS care without charge.

The expected annual fee per migrant is £200, with Tier 4 (General) migrants expected to be liable to a reduced annual fee in the region of £150.

KPMG Note

The surcharge is expected to be payable up-front and in full when the application is made, rather than on an annual basis. It will be in addition to the visa application fees, and it is expected that there will be no "opt out" available for migrants who wish to make their own health-care arrangements.

Combined, the overall effect of these changes is that the up-front official fees for a three year visa for a Tier 2 (General) migrant using the priority service will increase from £614 to £1,255.

Closure of Tier 1 (General) Route

From 6 April 2015, the option to apply for an extension under the Tier 1 (General) category will be permanently removed.⁴ Three years later, on 6 April 2018, the option to apply for Indefinite Leave to Remain ("ILR") as a Tier 1 (General) migrant will also end. As a result, holders of Tier 1 (General) visas should decide how to protect their position now.

Tier 1 (General) visa holders are entitled to apply for ILR after completing five years of living in the U.K. in this category. During this period, the Tier 1 (General) visa holder must not have spent more than 180 days per 12 months outside the U.K. and any time outside the U.K. must have been consistent

with having a Tier 1 (General) visa, for example, business travel or annual leave from work. The possibility to extend leave may also be of interest to visa holders that have any criminal convictions or who need time to pass the "Life in the U.K." test.

KPMG Note

If a current Tier 1 (General) visa expires between 6 April 2015 and 6 April 2018, the holder must check if he or she will be able to qualify for ILR before its expiry; if not, the holder may need to make an extension application before 6 April 2015, to protect his or her position.

The decision of whether to apply for an extension of leave prior to 6 April 2015, will depend on individual circumstances. Although a Tier 1 (General) extension is costly, it can provide invaluable time to plan as to when to proceed with an ILR application.

Have Queries? Seek Advice

If you have has any queries in relation to the April deadline, you should contact your usual immigration adviser. KPMG can help regarding your or your employees' options.

Footnotes:

1 See for example, M. Bentham "Theresa May Announces Sweeping Reform to Visa System," in *London Evening Standard* (online), 25 February 2015, at:

<http://www.standard.co.uk/news/politics/theresa-may-announces-sweeping-reform-to-visa-system-10035988.html>.

2 See:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/372640/6424_Biometric_RP_Code_of_Practice_final_v3.pdf.

3 See: <https://www.gov.uk/government/publications/indicative-visa-charges-for-2015-to-2016>.

4 For more information, see: <https://www.gov.uk/tier-1-general/overview>.

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For additional information or assistance, please contact your usual KPMG GMS or People Services professional or one of the following professionals with the KPMG International member firm in the United Kingdom:

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Please note the KPMG International member firm in the United States does not provide immigration services.

The information contained in this newsletter was submitted by the KPMG International member firm in the United Kingdom. The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

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