



GMS Flash Alert

Immigration Edition

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Brazil - New Migration Law Ushers in Significant Reforms

Brazil's new Migration Law was enacted upon its publication in the Official Gazette (*Diário Oficial*) of 25 May 2017.¹ The Migration Law establishes the rights and duties of immigrants and visitors, and the principles and guidelines regarding related public policies.

The law's measures take effect 180 days following publication in the *Diário Oficial*.

WHY THIS MATTERS

Immigration counsel and global mobility professionals charged with the immigration affairs of their assignees should familiarize themselves with the new rules to help ensure compliance as well as the preparation of appropriate communications and procedures for their cross-border workers coming to Brazil.

Key Measures in the Law

General Rights: inviolability of the right to life, liberty, equality, security, and property, and equal and free access of the migrant to services, social programs and social benefits, public goods, education, full legal public assistance, work, housing, banking, and social security.

Political Rights: right of association, including participating in a trade union, for legally established purposes.

Humanitarian Visa: grant of a temporary visa for humanitarian assistance to a stateless person or to a national of any country in a situation of serious or imminent institutional instability, armed conflict, major disaster, environmental disaster, or serious violation of human rights or international humanitarian law.

Combating Discrimination: institutes the repudiation and prevention of xenophobia, racism, and all forms of discrimination, as well as a guarantee of broad access to judicial institutions and free legal aid for those who prove insufficient resources.

End of the Criminalization Tied to Immigration: the new law terminates criminalization for “migratory” reasons. This means that no migrant can be arrested/detained for not being in a “regularized” situation. Infractions by the migrant will only be subject to pecuniary and administrative penalties.

New Definitions: for “immigrant,” “emigrant,” “border resident,” “visitor,” and “stateless person.”

Reduction in Visa Types: only five now – “visit,” “temporary,” “diplomatic,” “official,” and “courtesy.”

Residence Authorization Category Requests (Made Directly in Brazil) Allowed: for purposes of research, teaching, study, extending academic studies, work, health treatment, humanitarian care, religious activities, and family reunion.

Deportation Rules: deportation will be preceded by notification to the deportee, and a period of at least 60 (sixty) days, which may be extended for an equal period, and an offer made (where feasible) for regularization of the migrant’s situation. Where necessary, access to legal counsel will be provided.

Increased Fines for Non-Compliant Employers and Foreign Nationals: The amounts of the fines have undergone a significant change, and may be applied to individuals from a minimum of BRL 100.00 (one hundred reais) up to BRL 10,000 (ten thousand reais) and for legal entities from a minimum of BRL 1,000.00 (one thousand reais) up to BRL 1,000,000 (one million reais).

It should be noted that the prohibition on the exercise of remunerated activity for the holder of a visitor's visa was maintained; however, measures were approved that facilitate transforming the visitor’s visa into residence authorization within the territory of Brazilian.

KPMG NOTE

The new law’s measures are expected to come into force in November 2017. In many cases, the reforms introduced by the Lei de Migração will need to be implemented through the issuance of government regulations and those will need to be applied in practice by a variety of governmental agencies/entities, including the National Immigration Council. This could take some time.

There is still much uncertainty about how the new law will be practically implemented. As developments occur affecting companies with globally mobile employees, the KPMG International member firm in Brazil will endeavor to provide further updates.

FOOTNOTE:

1 See [Lei de Migração](#) (Lei nº 13.445/2017).

Contact us

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* Please note that the KPMG International member firm in the United States does not offer immigration services.

The information contained in this newsletter was submitted by the KPMG International member firm in Brazil.

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