



# GMS Flash Alert

## Immigration Edition

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## Belgium – Updates on Flemish Immigration Policy

This *GMS Flash Alert* provides a brief overview of the most important changes implemented by Decree of the Flemish government amending the Decree of the Flemish government of 7 December 2018 implementing the Act of 30 April 1999 regarding the employment of foreign workers<sup>1</sup>.

The aforementioned Decree will enter into force on 1 March 2021<sup>2</sup>.

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### WHY THIS MATTERS

In order to promote economic migration, the Flemish government wants to adjust its policies to improve flexibility and to attract top talent at home and from overseas. With the implementation of the current changes, the Flemish government is aiming to simplify certain procedures and prevent abuse.

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## Overview of Key Changes

### Work Permits for Short-Term Work

As from 1 March 2021 on, a work permit can be provided to third country-nationals who:

- are authorised to work in Belgium for a period up to a maximum 90 days within a period of 180 days;
- are authorised to work in Belgium for a determined duration as frontier workers – frontier workers are defined as employees working on the territory of the Flemish Region, but holding residence in a neighbouring country and who, in principle, return daily or at least once a week to their home country.

In current practice, a work permit is only issued for a continuous period of up to 90 days. With the introduction of the new measure, the requirement to apply for multiple work permits in cases where individuals have to enter Belgium for work several times (up to 90 days within a period of 180 days) is abolished. Frontier workers are from now on also expressly distinguished from other categories of foreign workers.

## **Facilitating Access for International Lecturers**

The Decree introduces the general definition of an “international lecturer,” which is broader than the old definition of “guest professor.”

## **Work Authorisations during Postings**

The Decree now stipulates that in case of a posting, the work authorisation will be limited to the duration of the validity of the underlying Certificate of Coverage for social security/declaration provided by the National Social Security Office (NSSO). Although it was a general practice that the regional authorities limited the validity of the work authorisation to the Certificate of Coverage/declaration provided by the NSSO, it was not explicitly stipulated. With the present provision, the Flemish government is intending to prevent fraudulent postings.

The work authorisation for a determined duration in the case of a posting is limited to postings of individuals to an entity or user that has a registered office or place of business in the Flemish Region. Also here, the Flemish government wishes to prevent fraudulent postings whereby an employee is sent to Belgium without having an actual Flemish user in Belgium. This requirement does not apply in cases where the employee is subject to Belgian social security.

## **Re-examination in Case of Renewal of Work Authorisation**

Every renewal application must be subject to an assessment in order to verify whether the applicable criteria in order to obtain a work authorisation are met. With expressly including this measure in the Decree, the Flemish government wishes to prevent abuse. An exception to this rule is only foreseen for so-called “bottleneck” professions and employment profiles falling under a specific category (e.g., market research). This exception can help limit the administrative burden that employees and their employers could experience given that they have already gone through the burdensome procedure of a labour market test once.

Furthermore, a renewal application can only be accepted in so far as the employment starts during the period of legal stay in Belgium. This can be important in case of a short interruption of work when changing employers for instance.

## **Notification of Changes during Work Authorisation Period for Determined Duration**

As from 1 March 2021 on, the employer is obliged to inform the authorities:

- in case the employment contract has been terminated;
- of any significant change of the employment conditions that can have an impact on the validity of the work authorisation.

Previously, a notification by the employer was only required in case of a termination of the employment relationship. In case of an important change during the actual employment of the employee in Belgium, the employer had to submit a new request for a work authorisation. With the present provision, the notification requirement will also be due in case the start date of an individual’s employment is postponed.

Within 15 days after receiving the notification by the employer, the authorities will inform the employer whether a new work authorisation is required or not.

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## KPMG NOTE

Any questions or concerns regarding third-country nationals wanting to work or currently working in Belgium should be directed to your qualified professional services contact or a member of the team (see Contact Us section) with the KPMG International member firm in Belgium.

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## FOOTNOTES:

1 Decree of the Flemish government of 8 January 2021 amending the Decree of the Flemish government of 7 December 2018 implementing the Act of 30 April 1999 regarding the employment of foreign workers' *Belgisch Staatsblad/Moniteur Belge* (8 February 2021). (8 Janvier 2021 - Arrêté du Gouvernement flamand modifiant l'arrêté du Gouvernement flamand du 7 décembre 2018 portant exécution de la loi du 30 avril 1999 relative à l'occupation des travailleurs étrangers.)

2 Art. 23 of the Decree of the Flemish government of 8 January 2021 amending the Decree of the Flemish government of 7 December 2018 implementing the Act of 30 April 1999 regarding the employment of foreign workers' *Belgisch Staatsblad/Moniteur Belge* (8 February 2021).

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## Contact us

For additional information or assistance, please contact your local GMS or People Services professional\* or one of the following professionals with the KPMG International member firm in Belgium:



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

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