THE EMPLOYMENT HIVE

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UK immigration update

Written by Tim Richards

2018 has already ushered in new UK immigration rules, as well as some other developments that employers should be aware of.

The new rules include:

1. Tier 2 sponsors must now notify the Home Office within 10 working days of becoming aware of changing from a 'small' to 'large' sponsor, or vice versa.

It is the size of your business which, for example, determines the level of Home Office fee you pay when you apply for and renew your Tier 2 Sponsor Licence as well as the amount of Immigration Skills Charge (ISC) when you assign a Certificate Of Sponsorship (COS) which is liable for the fee.

The size of the business is a matter of company law and you will currently be deemed to be a small UK business

if you meet at least two of the following in a financial year:

- Turnover less than £10.2 million

- Balance sheet total of less than £5.1 million

- You have less than 50 employees

The question is raised in terms of when a sponsor would become aware of a change in size as above. The Home Office's approach so far has been that it is a question of fact when the business becomes aware, but that certainly when accounts are filed with Companies House it would be difficult to argue the business was unaware of the change.

2. The Home Office has expressed its intention to raise the level of the Immigration Health Surcharge from £200 per year of the leave/visa to £400. Whilst the start date has not been indicated, the Home Office has a habit of increasing fees in April and so it might not be far around the corner.

Employers who are Tier 2 sponsors may also like to be aware of:

3. The need to renew their annual allocation of COS before the 5 April deadline. This is well worth doing so that COS are on hand should you need them urgently. Whilst the £200 priority service can be used as a backup in order to obtain an ad hoc COS within 5 days, there is not a fee in requesting COS as part of the annual allocation process. The fee for the COS and ISC is only incurred when the COS is assigned online. As has been the case in recent years, sponsors should provide as much detail as possible as to why they require the COS, including where possible the personal details of the applicant and the job title/salary/Job Type of the role.

4. Many Tier 2 sponsors will have been caught by surprise that the Tier 2 (General) Restricted COS monthly quota has been oversubscribed since December 2017. Once shortage occupation and PhD level roles have been prioritised in the quota, the applications are primarily assessed in relation to the level of salary on offer. If a quota request is knocked back, so long as the advertisements remain valid, sponsors can enter again the next month.

If times gone by have been anything to go by, it would be expected that the level of applications will even out again and oversubscription will be behind us. On the other hand, these are not ordinary times. With Brexit looming and recent Office for National Statistics showing there are already reductions in EU nationals arriving in the UK and more leaving, UK immigration policy is up in the air. The situation is compounded by the Immigration Minister recently being unable to rule out UK visas being offered as part of new trade deals with non-EU countries, such as the US, India and Australia. Given all that, it is no surprise the long awaited post Brexit white paper on UK immigration policy and Immigration Bill have been delayed and, it is understood, are unlikely to be released until after the Brexit transition deal has been reached.

We will continue to keep you updated with UK immigration law changes.

👤 Authors

Tim Richards
Legal Director

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