

Management Alert



UK Immigration: New Biometric Residence Permits for Overseas Applicants

By Deirdre M. Murphy

The following alert is directed to organizations with a presence in the UK or who anticipate the need to place talent at a UK work site.

Seyfarth Shaw's Global Mobility Practice hosts attorneys licensed to practice in the UK, Canada, and Germany. The group has the capability to assist clients with obtaining work and residence visas for over 70 jurisdictions around the world. If we can assist you in placing talent, please call your Seyfarth attorney. We will be happy to help you.

In compliance with EU Regulations, the UK Home Office has announced the introduction of Biometric Residence Permits ("BRP") for all non-EEA nationals applying for permission to enter the United Kingdom for more than six months.

Under the new provisions, applicants will be issued a short-term visa valid for 30 days. Upon arrival in the UK, the applicant must then pick-up his or her BRP from a designated post office in the UK.

This new process will be phased in on a country-by-country basis from March 2015 to July 2015.

What is a Biometric Residence Permit?

A BRP is an identity document (similar in size to a credit card) that contains the bearer's biometric information (digital photo and fingerprints), as well as his or her name, date of birth, and nationality. In addition, it provides the individual's immigration status, for example "Tier 2 General," and the validity dates of his or her permission to remain in the United Kingdom.

How will the process change?

Under the current visa application process, the British diplomatic post endorses an applicant's passport with a visa, which permits the holder to enter and remain in the UK for the duration of the visa. For example, a Tier 2 migrant may obtain a visa valid for five years.

When the changes are introduced, the procedure will be:

1. The applicant must state his or her intended date of travel to the UK on the visa application form and provide an address in the UK. This address will determine the branch of the post office to which the BRP will be sent.
2. When the application has been approved, the British diplomatic post will endorse the individual's passport with a short-term travel visa valid for 30 days from the intended date of travel.
3. The individual will receive a letter confirming the designated post office branch from which he or she must pick-up the BRP within 10 days of arrival in the UK.

Key Points

- The short-term visa can be used for multiple entries to the UK during the 30-day period.
- If an individual does not travel to the UK within the 30-day period, he or she must apply for another short-term visa before entering the UK.
- Once an individual has arrived in the UK, it is possible to change the location of the designated post office for a fee, the amount of which has not yet been confirmed.
- The individual, or a family member over 18 years old who traveled to the UK with the named individual, may pick-up the BRP. Evidence of the relationship will be required.
- The Home Office will implement a procedure whereby pre-approved representatives may collect BRPs on behalf of clients.
- The short-term visa will be acceptable evidence of an individual's right to work in the UK, but only for the 30-day validity of the visa.

What is the impact on employers?

Processing times for visa applications should not be impacted by the new procedures. However, applicants must be mindful when stating their intended date of travel to the UK on the visa application form, as the validity of the 30-day visa will run from that date. Further, employers will need to communicate to employees the importance of picking-up their BRP from the designated post office within the specified 10-day period. We expect the Home Office to issue further guidance with regard to the repercussions of failing to do so.

For the purpose of the *"Right to Work" checks*, individuals may commence employment in the UK on the basis of the short-term visa. However, employers must undertake the Right to Work check again once the BRP is available, and before the expiration date of the short-term visa. This creates an additional step for employers, which is critical to ensure full compliance with the prevention of illegal working regulations.

We will update clients as further details of the new procedures are announced.

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