

Management Alert



UK Immigration: Government Introduces Changes to the Immigration Rules

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.

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The UK Home Office has released a "Statement of Intent" introducing several changes to the Immigration Rules. These changes will impact most Tiers under the Points Based System.

The full statement is [available](#). The key changes are summarized below.

1. Tier 1 Investor

The Tier 1 Investor category is for high net worth individuals making a substantial financial investment in the UK. Following recommendations by the Migration Advisory Committee, these will be amended on November 6, 2014.

From that date, the minimum level of an initial investment will double, from £1 million to £2 million. Under the current rules, applicants are required to invest £750,000 of the capital in UK Government bonds, or share or loan capital in active and trading UK registered companies. Under the new rules, the full amount of the capital, £2 million, must be invested in accordance with the guidelines.

2. Tier 2 Skilled Workers

From November 6, 2014, a "genuine vacancy" test will be applied to Tier 2 Intra-Company Transfer and Tier 2 General applications where there are reasonable grounds to believe that a genuine vacancy does not exist. An application may be refused if there are grounds to believe:

- The job as described in the certificate of sponsorship does not genuinely exist;
- The role has been exaggerated to meet the requisite skill level;

- The applicant is not appropriately qualified to perform the duties of the job in question; or,
- The requirements of the job have been tailored to exclude resident workers from being recruited.

An Entry Clearance Officer or caseworker may request additional evidence from an applicant or the sponsor, and an application may be refused if the information does not satisfy the genuine vacancy test. We expect the Home Office to issue further guidance detailing the criteria that will be taken into consideration by caseworkers when assessing the genuineness of a role.

3. Business Visitors

The Home Office has expanded the list of permissible activities that Business Visitors may undertake while in the UK. From November 6, 2014, individuals entering the UK in the Business Visitor category may undertake the activities listed below, including those previously allowed, provided he or she remains paid and employed overseas:

- Share knowledge or experience relevant to, or advise on, an international project that is being led from the UK as an overseas scientist or researcher, but must not carry out research in the UK.
- Advise a UK client on litigation and/or international transactions as an employee of an international law firm which has offices in the UK.

This additional flexibility to the Business Visitor route is welcome, as it will enable researchers to collaborate on international projects and overseas lawyers to advise UK clients.

Action Items

Individuals who plan to submit an application in the Investor category should consider doing so before the required level of initial investment increases to £2 million. Applications received prior to November 6, 2014 will be considered under the lower threshold currently in place.

The new “genuine vacancy” test, which will apply to Tier 2 Intra-Company Transfer and Tier 2 General applications, introduces an element of subjectivity to the Points Based System, which is otherwise intended to be objective in nature. Employers who sponsor Tier 2 migrants in the UK must ensure that their current internal record keeping procedures are sufficiently robust to respond quickly to any requests for additional evidence, if the genuineness of an particular role is called into question.

Deirdre M. Murphy is a counsel in Seyfarth’s Boston office. If you would like further information, please contact your Seyfarth Shaw LLP attorney or Deirdre M. Murphy at dmmurphy@seyfarth.com.

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