

The times they are a changin' Irish Immigration Update

Ongoing developments in Irish immigration policy provide a shifting landscape for employers. Whilst some of these changes should serve to make life more straightforward for employers, other developments have the potential for the opposite effect. As always, it pays to be aware of changes and their potential impact on your business.

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Ireland's short stay Visa Waiver Programme – just in time for the Olympics

Ireland's first ever Short Stay Visa Waiver Programme commenced on 1 July 2011 and is intended to run up to the end of October 2012 taking in the period of the London Olympics. This Programme is an integral part of the Government's Jobs Initiative and is intended to encourage tourists to visit Ireland.

Under the Programme tourists or individuals on business trips, who have lawfully entered the UK on a valid UK visa, will be able to travel on to Ireland without the requirement to obtain an Irish visa. Visitors will be allowed to stay in Ireland for up to 3 months or until their UK visa runs out, whichever is the shorter.

Visitors from visa-required countries will still require an Irish visa for direct travel to Ireland, or a UK visa (for travel to Ireland via the UK), however the programme eliminates the need to have both when visiting Ireland via the UK.

Countries covered by the scheme include Belarus, Bahrain, India, Kazakhstan, Kuwait, Montenegro, Oman, China, Qatar, Russia, Serbia, Saudi Arabia, Turkey, Ukraine, United Arab Emirates, Uzbekistan.

Employers and individuals should also be aware that while the programme includes business and tourist visas, other types of visas are not included in the programme.

Does Ireland do enough to encourage entrepreneurs?

The Department of Justice and Equality is proposing major reform to the current system in place for non-EEA nationals seeking entry to Ireland to start a business.

The current system requires a €300,000 investment and has other stringent conditions attached. It has long been considered insufficiently flexible to cater for start-ups and entrepreneurial ventures.

Tax administration for foreign employers is on the increase – how will this affect your business?

The Department of Jobs, Enterprise and Innovation (DJEI) have recently implemented a new on-line tracking system which identifies employers by their Employer's Registered Number (ERN). This means that each foreign employer must register as an employer with Revenue if they wish to obtain an ERN which in turn will be required if they wish to make employment permit applications.

While in general foreign employees working in Ireland are subject to Irish PAYE withholding tax on income which is attributable to their Irish duties, it is not a requirement of Revenue that all foreign employers be registered for PAYE.

Clearly this change may impact foreign employers by creating an additional administrative burden associated with PAYE registration and tax filings. Foreign employers must also consider the potential wider consequences of undertaking such registrations.

Common sense approach for EU Treaty Rights

European legislation provides for the rights of its citizens to move freely within the EU, but what of the rights of a spouse or family member of an EU citizen who is not from the EU? Irish legislation protects the right of movement of a non-EU family member of an EU citizen. To avail of the benefits of what are commonly known as 'EU Treaty Rights' the non-EU spouse/family member must make a formal application to the Department of Justice and Equality seeking permission to reside and work in Ireland without the requirement to obtain an employment permit. Where all the conditions are met, an EU Treaty Rights residence permit is issued which allows the individual to live and work in Ireland for a 5 year period.

Last year, changes were introduced which prevented the applicant from working in Ireland while the application was being processed. With processing times averaging 6 months, this was clearly an inconvenience for applicants and their families, but common sense prevailed and applicants are currently permitted to live and work in Ireland while their applications are being processed.

Be aware of the new student scheme

Following a public consultation process on the reform of the Non-EEA student immigration regime, a series of recommendations were published and the new rules came into force from 1 January 2011. The aim of the new student scheme is to tighten the regulatory framework for students whilst at the same time maintaining the growth of the international education sector and retaining talented non-EEA students in Ireland once they have completed their studies.

Some of the main changes which came into force include setting a maximum period of residence in Ireland on student permission and a more selective approach to the range of third level courses for which student permission is available. The aim of these changes is to facilitate students at the upper end of the academic spectrum and to enable skilled non-EEA students to progress within the Irish immigration system.

Questions of citizenship

The Minister for Justice and Equality recently introduced major changes to the citizenship application processing regime. When the new Government came into office there was a backlog of approximately 22,000 citizenship applications awaiting decision, with many awaiting decision for in excess of 24 months. Reforms to the naturalisation application process will

include a faster turnaround (6 months) on applications and the introduction of a formal citizenship ceremony.

The application forms for those wishing to apply for Irish citizenship were updated by the Irish Naturalisation and Immigration Services (INIS) on 24 June 2011.

INIS have also introduced a new tool which should help potential candidates to make an initial evaluation of whether they satisfy the strict qualification requirements. This on-line residency calculator provides a rough guide to whether residency conditions are satisfied and gives an indication of how long an applicant must wait before they are eligible to submit an application.

The Residence Bill

The Immigration Residence and Protection Bill originally drafted in 2005 remains at committee stage and is still set for review by the Irish Parliament. The change of government, coupled with backlogs of other legislation, have contributed to further delays in the passing of the Bill. The comprehensive Bill, if enacted, would deal with a wide range of issues relating to immigration, asylum and the rights of foreign nationals to reside in Ireland.

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