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BREXIT AND BEYOND

uk immigration

BREXIT AND EU CITIZENS' RIGHTS

In March 2018 the European Commission published a draft agreement[i] on the withdrawal of the United Kingdom from the European Union. Subject to the over-arching Brexit caveat that "nothing is agreed until everything is agreed", the document set out the clearest information so far on the likely future rights of EU citizens in the UK (and UK citizens in the EU) during a transition period from 29th March 2019 ("Brexit day") to 31st December 2020.

It is clear that the UK Government's position shifted in a more generous direction during the final weeks of the Phase 1 negotiations to a place where "freedom of movement" provisions will in effect be preserved through the transition period. Crucially, EU nationals who enter the UK in exercise of a "treaty right" during the transition period will benefit from an entitlement to apply for settled status (under new UK domestic provisions) upon completion of five years' lawful qualifying residence in the UK. This is a major shift from the policy position that was set out in Q4 2017 which indicated that EU nationals arriving during a transition period would have to apply under new domestic immigration arrangements from March 2021 or be required to leave the UK.

Transition

The stated purpose of the transition arrangements is to give people, businesses and public services in the UK and across the EU the time to put in place new arrangements. Given that the UK Government has not yet published a White Paper (a document setting out government policy prior to the publication of an Immigration Bill in 2018) on the future post-Brexit immigration framework (and is unlikely to do so until after the Migration Advisory Committee has reported in September 2018), stakeholders cannot reasonably be expected to prepare for schemes that they have no knowledge of. The risk to the supply of essential workers (whether highly-skilled or otherwise) is such that the status quo needs to be preserved for a longer period. This is despite the fact that the Government will inevitably fail to meet its famous net-migration target until well into the 2020's.

Whilst the Government's stated position is that "expectations should be different"[ii] post 29th March 2019, the immediate changes will be administrative and legalistic rather than substantive. Britain will have left the EU, by virtue of the conclusion of the two-year Article 50 notice period, and this means that immigration control will fall under domestic administration (there will be a requirement to register or obtain settled status under UK immigration law), however the practical reality will remain that EU nationals will be free to come to the UK to work, study, be self-employed or self-sufficient for a much longer period than initially thought.

Registration

The Government has not yet published details of the new registration process for EU citizens; however the expectation is that it will be "streamlined, easy to use and led by digital". The Home Office is still in the process of recruiting the caseworkers needed for this enormous task. As the Home Affairs Select Committee notes in their recent report (see below), the Home Office does not have an outstanding track record in the administration of major projects of this nature.

The Offer

The key elements of the UK's offer to EU migrants are that those who enter the UK, establish themselves as lawful residents and register during the transition period will:

- Be eligible to apply for settled status (indefinite leave to remain) under domestic law after five years continuous and lawful residence;
- Be eligible to continue in their temporary qualifying status beyond the transition period to enable them to accrue five years continuous residence;
- Be able to enforce their rights under the UK legal system

Qualifying individuals will remain eligible to register for three months following the end of the transition period on 31st December 2020, thus benefitting last minute entrants.

The February 2018 policy document requests reciprocity of treatment for UK citizens living in EU 27 states, although it does not appear to make such treatment a condition precedent of implementation of the new policy.

i TF50 (2018) 35 – Commission to EU27

ii Policy Statement: EU Citizens Arriving in the UK During the Implementation Period – 28 February 2018

NET MIGRATION FIGURES

It is clear that anxiety amongst prospective EU27 migrants regarding their future status in the United Kingdom post-Brexit has begun to impact on the appeal of the UK as a destination country for work and residence. Whilst net migration to the UK remains significantly higher than the Government's long frustrated target (the aim is to secure the annual net migration population increase at less than one hundred thousand), the figures show that the trend is downwards. Net migration for the 12 month period from September 2016 to September 2017 was plus 244,000. This represents a reduction of around 100,000 on the same period in the previous year.

It remains to be seen whether the Government's offer to preserve freedom of movement rights (albeit under domestic legislation) during a 21 month transition period after 29th March 2019 will have a counter-balancing impact on the figures. EU nationals will have a greater level of certainty and confidence regarding their future eligibility to settle (obtain indefinite leave to remain) in the UK and be joined by qualifying family members. This follows the publication of the UK Government's revised policy document on EU citizens' rights (February 2018) and the European Commission's draft Withdrawal Agreement (March 2018).

It is clear that the reduction in supply of EU workers has had an impact on demand for sponsorship of non-EU migrant workers as the Tier 2 cap was over-subscribed from December 2017 to April 2018. The annual quota opened up again on 6th April 2018 – we wait to see whether this will alleviate some of the pressure on employers.

HOME AFFAIRS SELECT COMMITTEE REPORT ON "HOME OFFICE DELIVERY OF BREXIT: IMMIGRATION"

In its report[iii] published on 14th February 2018, the Home Affairs Select Committee ("the Committee") gave its conclusions on the ability of the Home Office to deliver immigration services pre, during and post Brexit. The inquiry, to which the report relates, started with oral evidence in October 2017 and involved two further sessions of oral evidence as well as numerous written submissions from a wide range of interested parties including members of the public, immigration campaigning organisations, universities and immigration law specialists, including Magrath Sheldrick LLP.

The Committee concluded that the Home Office's current preparations for the anticipated surge in applications from the European Economic Area ("EEA") nationals, and their family members, are insufficient, leading to concerns that the Home Office and UK Visas & Immigration ("UKVI") will be unable to deliver on time the changes required for the registration and settlement schemes outlined by the Government in their Brexit strategy documents.

Concerns

The main concerns of the report stem from the substantially increased workload expected when around three million EEA nationals apply to register their status in the UK (whether for settled or temporary status). The evidence submitted to the inquiry indicates that staffing levels within UKVI are inadequate, resulting in poor decision-making and straightforward applications being decided outside of service standards. In acknowledging the "hard work" of UKVI staff, the Committee highlights the need to address the current failings within the system where "frontline staff are poorly supported and overworked". Although the Immigration Minister has outlined plans to recruit an additional 1,200 staff to meet the additional "Brexit" demand, the actual number of recruits so far is disputed by campaign organisations and the Committee views the proposed adjustments as "moderate" compared to the "unprecedented scale" of applications facing UKVI in the coming 12-24 months.

Recommendations

The Committee makes several recommendations to address the staffing concerns and to streamline the workload of UKVI, including: removing the requirement for EEA nationals to have a Permanent Residence document before applying for British Citizenship; simplifying the Immigration Rules and application system; removing the need for extension applications for some immigration routes; and ensuring that changes to the Immigration Rules, including incorporating the rules relating to EEA nationals, are made less frequently and with greater training before implementation.

iii HC 421 14 February 2018

It doubts the ability of the Home Office to deliver the promised "smooth process" for the registration of EEA nationals, which proposes to combine information-sharing across Government departments, such as HMRC, and to introduce more digital services, such as accepting scanned documents. Whilst these proposals are welcomed by the Committee, it cites previous implementation failures and a lack of information on how the registration system will work in practice as the main concerns.

The Government has stated it wishes to begin the registration process in or around September 2018, but no details on the system have yet been published. The Committee is heavily critical of the lack of clarity and recommends that the Government immediately publishes its plans in order to provide some certainty and reduce anxiety to businesses, employers and EU citizens.

In particular, the Committee draws attention in its report to a number of related issues which, so far, do not appear to have been considered by the Government and which it recommends are clarified as a matter of priority:

- *"The legal status of EU nationals who have not registered by the time the grace period is over;*
- *Whether the registration process and rights for EEA citizens will be identical to those of EU citizens and how their rights will be enforced;*
- *The legal status of EU nationals arriving after March 2019 who have not registered—including their entitlement to work and their ability to rent;*
- *Whether employers, landlords and banks will be expected to check registration documents for EU citizens in the way that they are required to check the immigration status of non-EU citizens;*
- *The status of EU citizens who have lived in the UK for more than five years but are temporarily not living in the UK in March 2019;*
- *The status of EU citizens who have lived in the UK for more than five years but have had an absence in excess of 6 months;*
- *The rights of posted workers;*
- *Family reunion rights for future spouses of EU and UK citizens;*
- *The legal implications of applying for settled status prior to ratification of any Withdrawal Agreement and the UK leaving the EU (or during any transitional period when free movement rights continue to exist), and the consequences of any refusal of such an application; and*
- *The status of non-EEA nationals with rights derived from EU law including under Zambrano, Metock and Surinder Singh case law."*

Clearly, failure to address the above issues is a failure to acknowledge the complexities within EU citizens' rights which consist not only of Treaty rights, Directive rights but also rights afforded through CJEU decision-making. Whilst many will fall into the "worker" category, many will not and those individuals will continue to feel anxious as a result of these points not being properly responded to.

In addition, the delay to the publication of the White Paper is found to be "completely unacceptable", risking insufficient time for Parliament to properly scrutinise and debate the plans before implementation. The framework for a post-Brexit immigration regime is as yet unclear.

The report also noted that the Government's plans (so far) have been based on the first round of negotiations only (and as stated in the UK and EU's joint report[iv] on progress made during Phase 1 negotiations, published on 8th December 2017, "nothing is agreed until everything is agreed"), and recommends that contingency plans are urgently developed and published to allow for variations in the expected transitional arrangements and to manage a possible underestimation of the volume of applications (specifically suggesting an extension of the grace period allowed for EU nationals to register).

iv TF50 (2017) – Commission to EU 27

The Committee also noted that it may not be appropriate to apply the "hostile environment" policy to EEA nationals. It questions how EEA nationals can be subject to checks from employers, landlords and banks whilst at the same time Prime Minister May provides assurances to the EU that its citizens are welcome to stay in the UK. It also draws attention to the absence of "any assessment of the effectiveness of the policy" and finds it concerning that it will apply to around three million more people "without any evidence that the policy is working fairly and effectively".

The report from the Committee is damning in a number of key areas for the Home Office and UKVI, however it acknowledges the hard work of its staff and the enormity of the task ahead. What is clear from its conclusions and comments is that we will witness one of the largest registrations of individuals ever seen in the UK. To expect the process to be completely without fault may be unrealistic.

MIGRATION ADVISORY COMMITTEE

EEA WORKERS IN THE UK LABOUR MARKET: AN INTERIM UPDATE

The Migration Advisory Committee ("MAC") has published an interim update[v] on its work for the Government on the current and likely future patterns of EEA migration and the impacts of that migration on the UK economy and society.

What is the MAC?

The MAC is a body of economists with significant expertise on labour market issues. The committee is independent from Government and receives periodic requests from the Home Secretary to provide expert advice on trends in the labour market in order to inform the development of the UK's immigration policy. In July 2017, the Home Secretary asked the MAC to set out the current patterns of EEA migration into the UK and their impact on the UK's economy and society. The intention is to provide an evidence based report for the design of a new migration system at the end of the post–Brexit implementation period in 2021.

The Update

The MAC has been asked to submit its full report in September 2018. The update summarises the responses received to the Call for Evidence that the MAC published in July 2017. The MAC received 417 responses to this request for stakeholder evidence. Responses came from a range of employers across industry sectors and regions of the UK. The update is a "half-time" summary of the evidence received from stakeholders and the overarching themes that are emerging.

Caution

This interim update does not include recommendations on the framework for a new immigration system for the UK. The work is for a system due to come into force from 2021. Once the report has been published in September 2018, the Government will introduce a White Paper on future immigration policy in October followed by an Immigration Bill 2018. The update is a just one staging post in long process of policy development. The MAC says:

> *"A thriving business sector is vital but it is part of the means to the end of providing a high quality of life for UK residents, an objective that the MAC has always used in evaluating migration policy. How the lives of UK residents are affected by EEA migration requires a full assessment of the impacts of that migration, not just the perspectives of employers. Our final report will consider a wide range of impacts: on wages, unemployment, prices, productivity and training, the provision of public services, public finances, community cohesion and well-being. Nothing in this update should be used to prejudge our conclusions on these questions."*

v Migration Advisory Committee March 2018

Why do businesses employ EEA migrants?

The update summarises reasons employers provided for identifying EEA migrants as the best candidates for a job, including:

- The necessary skills are scarce among the UK born workforce;
- Migrants often have a higher motivation to work so are more productive and reliable;
- Migrants are prepared to do jobs in difficult conditions that UK born workers are not interested in; and / or
- Low unemployment means a low supply of UK born workers.

Skill Shortages

EEA migrants are employed across a range of high and low-skilled jobs. There was a spike in the supply of migrants to medium and low-skilled jobs following EU expansion in 2004. Many businesses adapted their operating models in response to this supply.

> *"Many employers disputed labelling jobs in their sector as low-skilled or unskilled. Some expressed concern that workers in these jobs would not be eligible for work permits if the current non-EEA Tier 2 systems are extended to EEA migrants and they were not classified as sufficiently skilled."*

Work Motivation and Flexibility

Many employers expressed the view that EEA migrants are more motivated and flexible than non-UK born workers. The MAC view is that it is hard to assess objectively many of these claims:

> *"It seemed plausible to us that EEA migrants are sometimes a "high quality", eager workforce compared to UK-born workers in similar conditions. If wages are equal (we shall consider wages in due course) then they are a higher quality for the same cost."*

Low Unemployment

The MAC emphasises that the UK unemployment rate is currently low, and the ratio of vacancies to unemployment is high.

> *"It is unsurprising that, with such a tight labour market, many employers reported increasing difficulties in recruiting workers and this is one reason why they employ EEA nationals"*

Wages

There is a significant difference between EEA migrants from the older member states (those who were EEA members before 2004) who earn 12% more than the UK born and migrants from the new member states who earn 27% less than UK born workers.

> *"The UK has experienced a period of declining real wages in recent years, the worst decade according to some estimates for over 200 years. The timing of this seems more closely linked to the financial crisis than the expansion of the EU in 2004, and has affected UK born workers of all skill levels, not just those in lower skilled jobs where the increase in EEA migration has been concentrated."*

Attitudes to Future Restrictions on the Flow of EEA Migrants

In responding to the Call for Evidence, employers have underlined their concern about the prospect of restrictions on the ability to recruit EEA migrants once the UK leaves the EU. Employers are fearful about what the future migration system might be. Higher skilled sectors which currently use the Tier 2 system to recruit non-EEA migrant workers expressed negative views of that system, identifying it as time consuming, costly and overly complex. Concern was raised both about the rules and the caps in that system being applied in the future to EEA migrants.

The tone of the update suggests that the MAC is thinking in an alternative direction to employers:

> *"The MAC view is that it is unsurprising that business does not welcome restrictions on their ability to hire, seeing such restrictions is likely to make a harder job even harder. The views of business are important but they should not be the only analysis to be considered. Historically, many employers were hostile on grounds of cost and burden to the Equal Pay Act and the National Minimum Wage, legislation now thought to be a "good thing" including by business."*

The MAC recognises the concern from business that there are no workable alternatives to the supply of EEA migrant labour, in which case businesses might grow more slowly, contract or even disappear. However the response in the update is balanced:

> *"The MAC view is that it is important to be clear about what the consequences of restricting migration would be. Lower migration would very likely lead to lower growth in total employment, and lower output growth. It would not necessarily mean lower growth in output per head which is more closely connected to living standards. There is little evidence that, over long periods of time, countries that have had higher rates of labour force growth have had higher rates of growth output per head. However, there is no doubt that some types of migration can raise productivity and output growth may be desirable if the extra output improves the government finances; our final report will discuss the physical impacts of EEA migration."*

Conclusion

The update does not conclude with recommendations. The purpose of the update is to provide a summary of the evidence received so far and an indication of the Committee's approach to its final report. Three conclusions emerge:

- *"Employers have increased their employment of EEA migrant labour following the accession of new member states in 2004. Before 2004, EEA migration was primarily high-skilled; this has continued but migration from new member states has been heavily concentrated in lower-skilled jobs. In many lower-skilled sectors, 2004 marked a point at which high-quality workers became available at a reasonable wage and employers in some sectors took advantage of the opportunities this offered.*

- *Why do businesses employ EEA Migrants? The simple answer is because they are the best available candidates. Understandably, employers are unenthusiastic about the prospect of restrictions of the pool of possible workers.*

- *What is best for an individual employer is not necessarily best for the welfare of the resident population, which is the criterion the MAC uses when evaluating migration policy. To assess that requires a detailed study of the impacts of EEA migration of different skill levels: our final report will consider these."*

RESIDENCE REQUIREMENTS FOR PBS DEPENDANTS APPLYING FOR SETTLEMENT

The Change

The UK Immigration rules were changed at the start of the year[vi] so that dependants of Points Based System ("PBS") migrants must spend no more than 180 days per year outside of the UK to qualify for indefinite leave to remain. Prior to 11 January 2018 this requirement only applied to main applicants; consequently their dependants did not have a restriction on how many days they could spend outside of the UK.

The rule change does not have retrospective effect for indefinite leave to remain applications for partners. In other words, only absences from the UK during periods of leave to remain issued under the rules in place from 11 January 2018 will be included in the 180 day restriction.

The Impact

In particular the change may impact individuals whose partners hold Tier 1 (Investor) visas. In some circumstances, principal investors may have decided that it would be better for their partner to be a main applicant (and invest the funds in their name) where it was known ahead of time that the original holder of the funds would be required to travel extensively. This rule change means that, as those with the dependant visa will be subject to the same residence requirement as the main applicant, there will be no benefit any more to this 'switch' of status.

The partner applicant will need to maintain a strict record of their travel outside the UK and ensure they have spent less than 180 days outside of the UK per year.

Calculating Absences

At the same time, the rules regarding how absences are calculated have also been changed for indefinite leave to remain applications. Previously, the requirement of no more than 180 days absence from the UK applied to each of the five twelve month periods immediately preceding the date of application. However from 11 January 2018 the rule has been amended so that no more than 180 days are permitted during any 12 month period within the five years of residence and will be calculated on a rolling basis. This rule applies retrospectively and affects anyone applying for indefinite leave to remain after 11 January 2018.

Cooling Off

This requirement will have a particular impact on individuals who hold visas which have length of leave limitations such as Tier 2 (General) status where there is a maximum length of leave to remain permitted in the UK of 6 years. If an individual does not apply for indefinite leave to remain before the sixth anniversary of their entry under Tier 2 (General) they are required to leave the UK. They are then subject to a 12 month "cooling off" period which prevents them from applying for another Tier 2 entry-clearance for at least one year. The only exception to this cooling off period is where a migrant's annual salary is over £159,600. Migrants must therefore be aware of the new rule regarding their UK absences to avoid their indefinite leave to applications being refused, thereby leaving them without permission to remain in the country.

Advice

Due to these rule changes it is essential that main applicants and their partners keep a detailed schedule of absences during their stay in the UK to ensure that they do not exceed the residence requirement and thus avoid any risk of refusal of their settlement applications.

EXTENSION OF PILOT SCHEME FOR INTERNATIONAL STUDENTS

In July 2016 the Home Office began a pilot scheme to help simplify the visa application process for students applying for a Tier 4 visa to study on a Masters course in the UK. Four Universities were selected to participate in the scheme: Cambridge; Oxford; Imperial College London and Bath. The premise behind the scheme was to ensure UK universities remain competitive across the rest of the world and ultimately attract and retain highly-skilled international talent.

The scheme was specifically aimed at international students wishing to study on a Masters course of 13 months or less in the UK. The incentive was a more streamlined application process and an additional grant of 4 to 6 months leave to remain following the completion of their course.

Extending the Scheme

On 18 December 2017 the Immigration Minister announced that the scheme will be extended to a further 23 UK universities. As before, this means students applying for a Tier 4 visa to enable MA studies in the UK will experience a more efficient application process. Applicants will not be required to submit financial evidence or previous academic qualifications. The Home Office will reserve the right to request these documents; consequently applicants should be prepared to provide them if required. The additional 6 months added to their Tier 4 status will provide greater scope to students who are keen to seek employment or apply for further studies in the UK.

Tier 2 Switch

Students who obtain a job offer from an employer with a sponsor licence will be permitted to switch their visa to Tier 2 (General) from inside the UK once they have completed their course. The job on offer must be at Regulated Qualifications Framework (RQF) Level 6 and meet the minimum salary threshold of £20,800 or the appropriate rate for the job, whichever is higher. UK employers are exempt from conducting the Resident Labour Market Test within the settled workforce before offering Tier 2 sponsorship to qualifying students.

The expansion of the scheme is a positive move for International students, UK universities and UK employers. The pilot has been compared to the Tier 1 (Post study work) route, which closed in 2012. That route granted graduate students a 2 year visa to explore their employment opportunities and further study options in the UK. This pilot scheme was set to run for 2 years. The Home Office will carry out an independent evaluation to test the aims of the pilot, issuing a final report in the spring of 2019.

SETTLEMENT FOR TURKISH BUSINESSPERSONS

As of 16 March 2018, Turkish nationals who have been in the UK benefitting from the Ankara Agreement are no longer permitted to apply for settlement in the UK. This is following the recent decision in *Aydogdu v SSHD*[vii].

Council Regulation (EEC) 2760/72 (the "Ankara Agreement") permits Turkish nationals to apply, either inside or outside of the UK, for a visa on the basis of being a self-employed businessperson. All applications are reviewed under the old flexible provisions from 1973.

The aim of the Ankara Agreement was to achieve "continuous improvement in living conditions in Turkey and in the European Economic Community through accelerated economic progress and the harmonious expansion of trade, and to reduce the disparity between the Turkish economy and ... the Community".

A Turkish individual can set up a business or join an existing one, and the visa is initially granted for one year. Should they meet the requirements, the individual and their family members can apply for a three year visa extension, totalling four years in the UK. Unlike the majority of settlement rules that demand five years in the UK, a Turkish businessperson and their family were able to apply for settlement after four years, providing they were not in breach of UK immigration laws.

In *Aydogdu* the Secretary of State successfully argued that settlement was *"not caught [in the Ankara Agreement]"*. The main submission was that: "*(settlement) does not fall within the scope [of the Agreement] ... as it is neither necessary for, nor a corollary of, the ... freedom of establishment.*" Being granted limited leave to remain in itself would fulfil the aims of the Ankara Agreement.

McCloskey J passed judgment in favour of the government, confirming that the Ankara Agreement's aim could be effectively achieved with the grant of limited leave to enter or remain. Further, he pointed out the disparity between the settlement requirement of five years' residency for EU nationals and four years for Turkish nationals.

Home Office guidance has been updated and, as of 16 March 2018, no new applications for settlement will be accepted from self-employed Turkish businesspersons on completion of four years in the category. Those who have obtained visas within this category can make extension applications which can be granted for three years at a time, providing that they continue to meet the requirements.

vii R (on the application of Aydogdu) v Secretary of State for the Home Department (Ankara Agreement – family members – settlement) [2017] UKUT 00167 (IAC)

GLOBAL UPDATES

Country Focus - Brazil

On 8th December 2017 the National Immigration Council of Brazil published new immigration regulations which made changes to the requirements of many categories of Brazilian temporary visas and residents permits.

Local Police Registration

Foreign workers who are required to complete the in country registration process with the Federal Police (Registratro Nacional Migratoro/RNM) must now provide their original long form unabridged birth certificate (and marriage certificate where applicable), or an original notarised and legalised copy. Certificates that are not provided in Portuguese must be accompanied by an original sworn translation, which must be accomplished in Brazil.

The rules concerning registration with the Federal Police apply to anyone who travels to Brazil under a temporary visa, or wishes to obtain a residence permit that entitles them to live in Brazil. Those travelling with short-term technical assistance visas are therefore required to undergo the local registration process. Anyone travelling with a temporary visa (whether long-term or short-term) has to register with the Federal Police upon arrival in Brazil and submit their birth certificate.

Foreign workers who apply for a residence permit from within Brazil will need to submit a police clearance certificate issued by the competent authorities in all countries where the traveller has lived during the five years prior to submission of the application in Brazil. Such documents must be duly legalised for use in Brazil, and translated by a sworn public translator in Brazil. Foreign workers who are required to submit police clearance certificates before traveling to Brazil (in support of the Consular visa application process abroad), must submit the desired police certificate(s) duly legalised for use in Brazil and translated if necessary into English or Portuguese.

Normative Resolution 03

An amendment to Normative Resolution 03 has been implemented regarding the (Short Term) technical services visas, whereby the following now applies:

- Professional experience no longer needs to be demonstrated. Previously, three years of professional experience was required.
- The technical visa is now valid for stays of up to 180 days per year. Previously it was 90 days in any 180 days.
- This visa was previously authorised and issued by the Consulate abroad, but now requires Ministry of Labour authorisation. This authorisation will be decided within five working days, or within two days in case of emergency applications. The application form must be submitted to and authorised by the competent authorities in Brazil before the visa can be applied for abroad.

Normative Resolution 04

The amendment to Normative Resolution 04 has been implemented regarding the technology transfer visa, whereby the following now applies:

- Technology Transfer has been given its own immigration category and normative resolution, and has been separated from the Technical Services Visa.
- Professional experience no longer has to be demonstrated. Previously three years of professional experience was required.
- A training plan is now required in support of this application.

- This visa was previously authorised and issued by the Consulate abroad, but now requires Ministry of Labour authorisation. This authorisation will be decided within 5 working days, or within two days in case of emergency applications. The application form must be submitted to and authorised by the competent authorities in Brazil before the visa can be applied for abroad.

Change to permitted activities for visitors

It is now possible for a traveller to visit Brazil for consulting work purposes, and to do so under a visitor visa, for a maximum period of 90 days in one migration year which is the period of one year counting from the first entrance. Provided the activities are considered to be "consulting services", then the traveler can enter under the visitor's visa scheme, as a Business Traveller. For British citizens, there will be no requirement to apply for a Consular visa, as British citizens are currently visa exempt for a stay of up to 90 days in one migration year for such purposes.

Ministry of Labour Authorisation

For the Technical Service Visa and the Technology Transfer Visa, applicants must now apply for prior approval, known as "residence authorisation". This enables them to obtain a short-term temporary visa which is now granted for a maximum period of 180 days, with multiple entries in one migration year. Only the days of actual stay in Brazil are counted for purposes of the 180 days limit. A prior residence authorisation application must be submitted and reviewed by the Ministry of Labor in Brazil, which should take around five working days to process.

Country Focus - Italy

Investor Visa for Italy

Full guidelines are now available concerning the investor visa for Italy. Eligible applicants are able to submit their applications on-line via the electronic investor visa platform, which is also available in English. Non EU citizens who are eligible for the visa will receive a visa valid for two years during which period the applicant can travel to Italy to apply for a residence permit. Visas are issued to those who wish to invest in strategic assets which support the economy and society of Italy. The following investments are considered acceptable:

- 2 million Euros in Italian Government Bonds;
- 1 million Euros in an Italian Limited Company;
- 500,000 Euros in an Italian Innovative Start Up Company;
- 1 million Euros in a Philanthropic Initiative.

In order to apply for the investor visa, eligible applicants must first apply for a Nulla Osta (certificate of no impediment) with the Investor Visa Italy Committee (IV4I). Once awarded, the applicant may then proceed to apply for the two year investor visa with the Italian mission in their country of legal residence abroad.

Post arrival in Italy with the investor visa, the holder has eight days to apply for a two year permit of stay (Investor Residence Permit). Applicants are required to make their investment or donation within three months from the date of arrival in Italy in order to obtain the residence permit. Should the investor maintain their investment or donation throughout the two year validity of the residence permit, a further renewal is possible for up to three years. To renew, a new Nulla Osta from the IV4I Committee will be required. As per current Italian law, after five years of legal stay in Italy, and provided the eligibility requirements are met, the foreign national investor may then apply for permanent residence.

Country Focus - United Arab Emirates

Certificate of Good Conduct

For all new employment permit applications submitted on and from 4th February 2018, Police Clearance Certificates will be required. The certificates must be legalised for use in the UAE and translated into Arabic. Foreign employees must submit certificates for every country they have been a resident of during the five years preceding the date of their application.

Supporting Documents

Effective immediately, documents required to be submitted to Government Offices (including the Ministry of Interior, Ministry of Labour and the Free Zone Authorities) in the UAE, in support of employment permit applications, must be in Arabic. Documents originating in a foreign language will need to translated and legalised for use in the UAE. Such documents include degree certificates, marriage certificates and birth certificates.

For further information on any of the topics discussed in this briefing or wider immigration issues please contact the head of the relevant practice group:

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