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3HR Legal Weekly

Immigration

Changes to Entry Clearance Visa Process

Q. I have heard that there will be a new system for entry clearance visa cases starting from March this year, how will this affect our business?

A. The Home Office have given notification of their intention to start issuing Biometric Residence Permit ("BRP") cards to migrants who are granted an entry clearance visa for the UK for over 6 months. Under the current system, BRP cards are only issued to migrants upon being granted an extension of their visa, with entry clearance migrants simply receiving a visa vignette in their passport. This system will be rolled out from March this year, and we anticipate receiving further details from the Home Office over the coming weeks.

It is currently intended that the actual application process itself will not change significantly. The key differences will be:

Migrants will now receive a visa vignette in their passport that will be valid for travel to the UK only for **30 days**.

Upon arrival in the UK, migrants will have to collect their BRP cards from a Post Office within **10 days**.

This therefore means that migrants coming to the UK need to be quite clear about their intended travel date, as they will only have 30 days from the grant of the visa to actually enter the UK – otherwise they will need to apply for a new vignette. They will then need to be sure to collect their BRP cards within 10 days of arrival in the UK.

The Home Office are proposing that they will allow certain approved representatives to collect BRP cards on the migrants' behalfs, in order to reduce the administrative burden on the individual migrant. This new system will also mean that if there are any errors on the BRP card, they will need to be resolved through liaison with the Home Office here in the UK. 3HR regularly assist clients in the UK with such Home Office liaison and will continue to be able to offer the full visa application service for all our clients.

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Employment

Is your business ready for Shared Parental Leave?

The Children and Families Act introduces shared parental leave (SPL) for any of your employees that have babies due on or after 5 April 2015 (or children who have been matched or placed for adoption on or after this date). Your employees could make requests from 8 February, so you will need to update your current policies and procedures as soon as possible to make sure you remain compliant.

Currently, female employees can have up to 52 weeks maternity leave. The first 26 weeks is ordinary maternity leave (OML), with the remainder being additional maternity leave (AML). Meanwhile, male employees have the right to take two weeks of ordinary paternity leave (OPL) and then a further 26 weeks' additional paternity leave (APL).

From 5 April 2015, both parents will be able to share up to 50 weeks' leave, following the mother's compulsory maternity leave period immediately after the birth (usually 2 weeks). Parents can take the leave together or consecutively. A request for a continuous period of SPL must be accepted by an employer, whilst a request for a discontinuous period of SPL can be refused – but you must ensure you have a good business reason for refusing and are not treating an employee less favourably as this could lead to a discrimination claim.

Parents on SPL can take up to 20 shared parental leave in-touch days (SPLIT days) each – the intention of these days is for the employee to be able to do some work and undertake training and be paid for this, without bringing their SPL to an end. These are separate and additional to any keep-in-touch (KIT) days that a woman has on maternity leave.

In order for your employees to be eligible for the SPL, the following criteria must be met:

- The employee taking SPL must have 26 weeks' service by the end of the 15th week before the EWC (expected week of childbirth).
- They must confirm their partner has been employed or self-employed for 26 weeks before the EWC and that they have average earnings of at least £390 per week in 13 of those 26 weeks.
- The mother can only share parental leave with one person, who is the child's father, mother's husband or civil partner, or cohabiting with her in an enduring family relationship.
- All SPL must be taken before the child's first birthday.

Female employees need to comply with the statutory notification requirements in order to take SPL. Employees must give at least eight weeks' notice of when they want to take SPL – which enables their employers time to plan for business continuity. Employees can also serve up to three notices to take SPL, so they can change their plans.

Considering the relative complexities of the new SPL regime, a written policy is essential. If you would like us to draft an appropriate policy, please get in touch.

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