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3HR Legal Weekly

Immigration

Home Office Audit Visits

Most Sponsors should expect a Home Office audit visit at some point during the lifetime of their Sponsor Licence. The Home Office can visit your premises at any time to carry out an audit and will not always give any prior warning at all. Many Sponsors will actually receive more than one audit, meaning that you must always have your practices and procedures in good order, and be ready to show the Home Office your required records.

When the Home Office visit, they will be checking that you are complying with all of your specified Sponsor duties – this includes not just the record keeping obligations, but also ensuring that you have updated the Home Office as to any changes of circumstances that need reporting and that you have done so within the appropriate timescales. You will also need to show that there are appropriate systems in place to enable you to continue to comply with your obligations and that you are appropriately making right to work checks and monitoring migrant worker attendance.

In addition to checking documents and procedures, the officers are likely to want to interview your Authorising Officer to ensure that they understand the duties that they are responsible for, in light of the fact that the Authorising Officer has overall responsibility for compliance with the Home Office rules. They may also wish to interview various migrant workers to ensure that they are performing the correct job duties as set out in their Certificate of Sponsorship and that they understand their own obligations as visa holders.

If the Home Office find that the company is not compliant then potentially the consequences can be quite severe. This can include being placed on an “action plan”, which requires the payment of a fee by the company and then improving the systems that have been found to be defective and evidencing that in future you will be compliant with your duties. In the meantime, you can be prevented from sponsoring new migrant workers. In serious cases it can even result in your Sponsor Licence being revoked, which will of course prevent you from continuing to employ even your existing migrants, which could have a catastrophic impact on the company since expatriate workers are often business-critical.

In light of the above, it is important that you are always prepared for a visit and maintain your practices and procedures on an ongoing basis. 3HR regularly conduct audits of our clients’ systems and procedures to allow them to fully prepare for the risk of a Home Office visit, and can even conduct mock interviews of your staff and Key Personnel. We are also able to offer full support and guidance to modify any existing procedures and can provide template documentation to assist you in performing your duties.

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Commercial

Confirmation Statements Replace Annual Returns

Ever since the Companies Act 2016 came into force, companies have been required to file an AR01 annual return. This (rather unhelpfully drafted) form asked you to provide information about the company, its officers and shareholders, and confirm whether or not the company had traded in the last year.

Given that the requirement to file the AR01 was annual, the vast majority of companies were simply filing the same information year after year, and Companies House was repeatedly receiving a deluge of information it already had. Enter the new confirmation statements.

Just as the name suggests, the statement simply confirms that the information already held by Companies House is accurate. So rather than providing all the company’s information again, if you are confident that the records are unchanged you can simply confirm that the records are correct.

The aim is to reduce the red tape on both companies and Companies House, by reducing the amount of paperwork in the system.

If there has been a change to the company’s details then you will file the usual documents updating the Companies House records, and then file another confirmation statement ratifying those changes. You can therefore file multiple confirmation statements throughout the year, as and when you need to. Happily, there is only one annual fee for your confirmation statement (£40 if by paper or £13 online), no matter how many you actually end up filing.

Your company’s confirmation statement will be due within 14 days of either the first anniversary of the company’s incorporation (if the company is less than a year old and has therefore not previously filed an annual return), or the date 12 months after the previous AR01 was filed.

In each subsequent year the deadline for filing will probably vary slightly, as the next deadline will be 12 months after the previous confirmation statement was filed. It is therefore possible to file early and bring the filing date of subsequent statements forward to a date that is more convenient to your company, rather than being stuck with the fixed AR01 date.

In addition to the new confirmation statements, companies will also have to report and maintain a register of persons with significant control of the company (PSC Register). You can read more on this here: <http://www.3hrplc.co.uk/Publications/Newsletters/2016-04-15.pdf>.

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