



EMPLOYMENT ISSUES UPDATE.

September 2008

Issue No 54

ARE YOU RECRUITING MIGRANTS FROM OUTSIDE THE EUROPEAN ECONOMIC AREA (EEA) AND SWITZERLAND? DO YOU KNOW WHAT IS EXPECTED OF YOU AS THEIR EMPLOYER? ARE YOU/WILL YOU BE COMPLIANT?

The Home Office's Border Agency (UKBA) has recently launched a TV ad campaign to try and alert employers to changes in the immigration rules. The changes are part of a continuing and major overhaul of the UK's economic migration system.

Under the new rules, businesses who would like to bring in skilled workers from outside the EEA will need a licence and will be obliged to sponsor the arrival of each individual. The new regulations are on a points-based system which will replace over 80 existing routes to work and study in the United Kingdom, with five tiers. Lin Homer, Chief Executive of the UK Border Agency is quoted as saying, "The points based system is one of the biggest shake-ups to the immigration system in a generation ensuring only those with the skills the United Kingdom need will be able to work or study here, and no more."

Under the points-based system, migrants will need to pass a points-based assessment before they are given permission to enter or remain in the United Kingdom.

The number of points the migrant needs and the way the points are awarded will depend on the tier they are applying under. Points will be awarded to reflect the migrant's ability, experience, age and when appropriate the level of need within the sector the migrant will be working.

The points-based system consists of five tiers. These are:

- Tier 1 - highly skilled workers, for example scientists and entrepreneurs; (already in existence)
- Tier 2 - skilled workers with a job offer, for example teachers and engineers; (being introduced in November 2008)
- Tier 3 - low skilled workers filling specific temporary labour shortages, for example construction workers for a particular project; (currently suspended)
- Tier 4 - students; (being introduced in November 2008)
- Tier 5 - youth mobility and temporary workers for example musicians coming to play in a concert. (being introduced in November 2008)

Migrants applying under any tier except tier 1 will need to be sponsored in order for their application to be successful. If an employer wishes to recruit a migrant under tiers 2, 4 or tier 5 they will have to apply for a sponsor licence.

Under tiers 2 and 5, the sponsor will need to be a UK-based employer. Under tier 4, the sponsor will need to be a UK-based educational institution.

As a licensed employer, you will be given an A rating or a B rating and you will be added to the UKBA published register of sponsors. Sponsors that the UKBA think could be a risk to immigration control or those who do not have the correct systems in place, including good HR Practices, will be given a B rating. B-rated sponsors must follow a sponsorship action plan designed to help them become A-rated or they risk losing their licence.

Sponsors are fully responsible for the actions of any migrant they employ and teach. The employer must ensure migrants comply with their immigration conditions, by keeping records on each migrant, and reporting any changes to the UKBA, such as if they do not turn up for work. If the employer does not comply with their duties, they can have your licence downgraded to a B rating or withdrawn.

This year the Home Office introduced fines for businesses employing illegal workers and has so far issued 450 penalties of up to £10,000 a time.

In June some 35 firms became the first to be "named and shamed" for employing a total of 56 illegal immigrants, almost all of them being restaurants and takeaways.

Don't let your Company get caught out, the UK Border Agency are estimating that it may take up to two months to deal with licence applications ahead of the scheme's launch in November of this year.

Licences will cost from approximately £300 to £1,000 each and each sponsorship will cost a further £170 approximately.

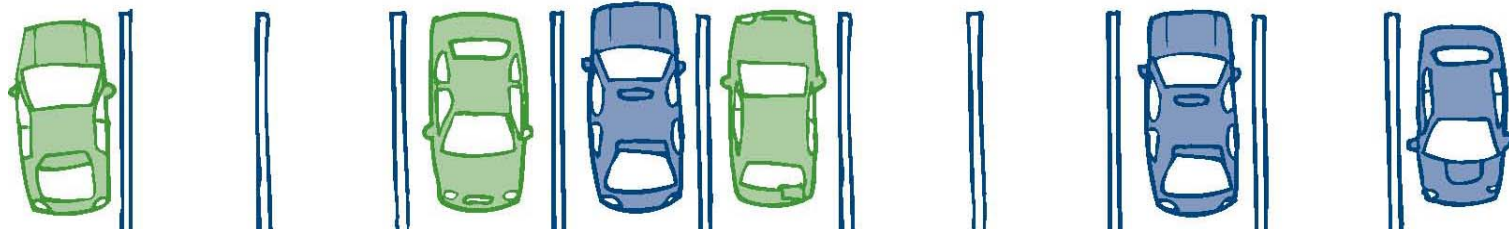
Employers who want to be able to bring in migrant workers when tiers 2 – 5 (tier 3 above is currently suspended) open at the end of November 2008 should apply for a licence no later than 1 October 2008.

Before you apply for a licence, the employer must be able to show they have good human resource systems and compliance in place to allow them to monitor and keep records of the migrants they employ or teach.

Continued overleaf . . .

Page 1/2

Ever wished you could park your worries?



What will happen with work permit applications during the transition to the points-based system?

The skilled worker tier (tier 2) and the temporary worker tier (tier 5) of the points-based system will be introduced at the end of November 2008. In the meantime, employers may still wish to make work permit applications.

All work permit applications which the UKBA receive before the launch of tiers 2 and 5 will be treated under the current work permit system. If a migrant makes an application for entry clearance, or further leave to remain, on the basis of a valid work permit they will also be treated under the current immigration arrangements.

Work permits will remain valid for entry to the United Kingdom for six months after being issued, as is currently the case. They will therefore remain valid after the launch of tiers 2 and 5.

Prospective migrants applying on the basis of a work permit issued before tiers 2 and 5 launch will not have to meet the tiers 2 and 5 attributes requirements.

For further information on the points system and the new rules surrounding migrant workers, please visit www.ukba.homeoffice.gov.uk or speak with your Human Resources Consultant.

Fiona Douglas, HR Consultants' Assistant

INSTITUTION OF OCCUPATIONAL SAFETY AND HEALTH (IOSH) COURSE DATES

IOSH Managing Safely: 4 days
For Managers

Day 1: Tuesday 18 November 2008
Day 2: Wednesday 19 November 2008
Day 3: Wednesday 26 November 2008
Day 4: Thursday 27 November 2008

Price: £395.00 + VAT for **existing clients** (per delegate)
£590.00 + VAT for all other delegates

IOSH Directing Safely for SMEs: 1 day
For Directors and Business Owners
Wednesday 1 October 2008

Price: £325.00 + VAT for **existing clients** (per delegate)
£375.00 + VAT for all other delegates

All the above training days will be held in our Training Suite.

For more information or to make a booking, please contact Sarah Vickery on 01206 752100 or email sarah.vickery@parkcity.co.uk

DRIVEN TO DISTRACTION

Are your employees driven to distraction from mobile phone calls and tight deadlines while driving on behalf of work? For anyone who is unsure about the answer to this question, it is time to address the issue of road risk management.

Most people now recognise that workplace driving is a potential health and safety risk that must be assessed, controlled and managed in order to avoid any potential liability under the Health & Safety at Work etc Act 1974 and the many regulations associated with it but something new means employers will need to look at things again.

New legislation has increased the emphasis on employers' responsibility for workplace road traffic accidents and new offences of causing death by careless driving and causing or permitting another person to commit an offence which were contained within the Road Safety Act 2006 have now finally come into force. This alongside the introduction of the Corporate Manslaughter and Corporate Homicide Act 2007 should make employers aware that they are more likely to be prosecuted where they have been negligent in failing to ensure their employees are driving safely.

The threat of a long prison sentence could now tempt motorists facing such an offence to deflect responsibility to their employer meaning organisations who fail to maintain an adequate road risk management policy have become far more vulnerable to prosecution. Others may also discover they are at risk in circumstances where a well written, compliant document has been ignored by directors, managers and staff.

Workplace driving has always been a difficult area to manage and issues likely to be of interest in investigations under the new legislation include the use of mobile phones, satellite navigation systems, driver scheduling and employees using poorly maintained vehicles (whether provided by the employer or the employee) as this could easily be construed as a "profit before safety" issue which will be considered as an aggravating feature by the courts.

For assistance with this or any other health and safety related issue within your organisation, please contact the health and safety team at Park City.

Roly Buss, Health and Safety Consultant

Page 2/2

Advice?

For further information on implementing these changes in Employment Law and Health and Safety legislation make a little space for Park City now. Call us today on 01206 752100.

Free Business Health-Check?

Would you like a Human Resources or Health and Safety check free of charge for your business? Call now on 01206 752100.



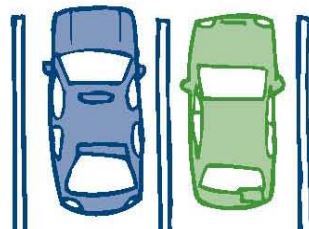
We park your worries. You drive your business.



Park City are experts in all areas of Human Resource Management. For the brochure of your choice, call us now.

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- Tailored Training

IMPORTANT: This document is only intended as a general statement of the new law and does not constitute legal advice. No action should be taken in reliance upon it without our specific legal advice.
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