

Immigration Newsletter

December 2009

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In our final issue for 2009, we review a number of regulatory changes introduced across Asia in recent months. In India, the tightening of the business visa and employment visa criteria sparked uncertainty in relation to the classification of business activities, and prompted the issuance of further guidance by the India authorities. Singapore introduced changes to residential address reporting, family pass applications and medical insurance for its mid-level skilled foreign workers. Health insurance was also a focus in Australia, as part of wide-ranging changes implemented for its temporary foreign worker visas, and in Vietnam, stricter measures have been introduced in relation to the renewal of entry visas for foreigners.

INDIA

New Guidelines for Business and Employment Visas

In recent months, the immigration spotlight has been focused on India, following the announcement of amendments to its immigration regulations. In particular, there has been a tightening of the rules in relation to allowable work activities for those holding a business visa.

Previously, foreigners could visit India for certain short to medium term business trips and assignments holding a business visa. Under the new regulations, many such visitors now require an employment visa to be engaged with activities such as executing projects and contracts. Going forward, business visas will only be issued to those who will be engaged in bona fide business visitor activities such as meetings and exploring business opportunities.

These changes led to some uncertainty for those business visa holders already engaged in India on such projects and the time limit 31 October 2009 was imposed for these individuals to leave the country or face implications associated with non-compliance.

Filing of visa applications

The process for obtaining India visas continues to require applications to be submitted at the relevant High Commission outside of India. This should be within the foreigner's 'country of origin' although

there is provision for applications to be submitted in another country if some degree of 'residency' can be established.

These recent announcements generated a number of queries from employers and individuals and further information was subsequently provided by the Ministry of Home Affairs (MHA) in the form of a detailed FAQ document. This document went some way to clarify the activities classified under a Business Visa and Employment Visa respectively. Further guidance is anticipated from the relevant authorities in due course.

SINGAPORE

Update of Residential Address

With effect from 1 October 2009, the Ministry of Manpower (MoM) introduced the requirement for all Employment Pass and S Pass holders to update their residential address within five days of commencement of their Singapore employment or upon a change of home address. Although the requirement to report this change existed previously, there is now a defined timeline within which to do so.

Employment Pass holders or their employers can notify the MoM of the change of address via the MoM's EP Online system or through manual submission of the notification form to the Work Pass division of the MoM. Online submission of these details is the preferred approach by the MoM to reduce paper administration.

Changes to Dependant Pass and Long Term Visit Pass applications

The MoM has recently updated its Dependant Pass and Long Term Visit Pass application forms for accompanying family members to include information relating to:

- Highest educational qualifications
- School enrolment plans in Singapore
- Current or previous salary details

The MoM has advised that the additional information is for analysis purposes only and would not affect the eligibility criteria for these passes for relevant accompanying family members.

Increased Medical Insurance for S Pass holders

From 1 January 2010, all new or renewed employer health insurance policies for S Pass holders will require a minimum annual coverage of SGD 15,000. This marks a significant increase from the existing SGD 5,000 threshold, and is a move designed by the MoM to help minimise the high medical and hospital expenses which can be incurred by employers.

AUSTRALIA

Significant changes to the Temporary Residence 457 Program

In September, the Australian Government introduced new laws to protect the rights of temporary overseas workers and ensure that Australian wages and conditions are not undermined.

The Worker Protection Act 2008 introduced a raft of changes, which are anticipated to have a significant impact on employers who sponsor foreign nationals to work for their business in Australia. These changes are the culmination of a series of measures introduced by the Australian Government to maintain the integrity of the Temporary Business Entry 457 visa program. The new provisions include the following:

- Redefined sponsorship obligations for employers
- Expanded powers to monitor and investigate non-compliance
- Establishment of a framework for punitive penalties
- Improved information sharing between government agencies

A key provision in the new laws will enable the Australian Taxation Office (ATO) to disclose information to the Department of Immigration and Citizenship in order to ensure correct salary levels are being paid to visa holders.

In addition, information could be shared with other enforcement bodies including the Fair Work Ombudsman and Occupational Health and Safety agencies.

Health Insurance

Historically, the requirement to maintain adequate health insurance coverage for 457 visa holders fell under the remit of the employer. This responsibility has now been transferred to the visa holder for all new applicants as of 14 September 2009. The health insurance details will be checked at the point of application and must be provided with the relevant supporting documentation. Health insurance coverage for existing 457 visa holders (issued prior to this date) will continue to be the employer's responsibility for the remaining validity of the visa.

VIETNAM

Reduction of Business Visa duration and tightening of renewal criteria

In recent months, the Immigration authorities have been introducing measures to manage the number of foreigners entering Vietnam for employment. This has resulted in a reduction in the duration of stay granted by a business (entry) visa from six to three months. After this period, the foreigner must renew his visa in order to validly remain in the country, and the Immigration Department now requires evidence of a work permit as part of the visa renewal application (the Vietnamese entry visa requirements remain separate from the issuance of a work permit).

Where a copy of the work permit is not available, other supporting documents evidencing valid employment may be submitted (for example, employment contract, tax code, and formal evidence that the work permit is in process). Applicants who are able to fulfill this criterion would be granted a further six month visa.

Foreigners who have not obtained a work permit at the time of visa renewal may be granted a further one to three month visa at the discretion of the authorities. It is anticipated, however, that they may encounter difficulties in applying to remain in the country for any further period without evidence of a work permit.

Temporary Resident Card

The Temporary Resident Card (TRC) is not a mandatory requirement for expatriate employees working in Vietnam and remains a personal decision for an individual work permit holder and their family. However, in light of the stricter visa renewal procedures, the TRC has become an increasingly popular choice for work permit holders and their families. TRC holders are exempted from the requirement to obtain Vietnam entry visas for the validity of the TRC card, which can be issued for up to three years.

Proof of relationship of family members

A visa application for a spouse or child accompanying a foreign work permit holder now requires submission of documentary evidence of the relationship. This may include a copy of the relevant birth or marriage certificate, and must be submitted in Vietnamese and English. The timeline for processing a family member visa is approximately five business days from submission to the Immigration Department.

How PwC's Global Visa Services can help you

The Global Visa Services (GVS) team of PwC's International Assignment Services is a dedicated team specialising in the provision of immigration advice and assistance with visa requirements and applications for employees. Our global network of immigration specialists based in over 95 countries globally forms one of the largest immigration service providers of its kind in the world.

Please visit our website at www.pwcias.com

This guide is intended as a brief overview only – please contact us for further information and advice.

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