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Nasa Consulting Industry Update July 2008

Summarising the new UK immigration regulations

In this month's legal update we summarise the new visa and worker registration regulations in the UK. A radical overhaul of the UK's work permit system is being implemented which, in reality will affect recruitment agencies. With large fines for end users of freelancers and temps who are not eligible to work in the UK, it is likely that End Clients will look dimly on agencies putting forward workers who are not eligible to work here. This update aims to provide clarity for agencies as to what their requirements are.

Before we look at the requirements for each group, under the Conduct of Agency Regulations 2003, it is legally necessary for agencies to ID workers whose CV's they put forward to clients. This is then also a convenient time to check their eligibility to work in the UK before putting them forward for client interview.

Right to work

The right of individuals to work in the UK is being broken down into two groups. The first group are **nationals from within the European Economic Area (EEA)**, whilst the second group are **visitors from the rest of the world**.

The decision tree for agencies is then simple within the two categories:

1. If the worker is from **within the EEA** - they can work freely in the UK, although individuals from those countries from the old eastern bloc need to have registration forms from the Home Office. Some workers will be exempt from the registration, but agencies should request proof of this for their own compliance and client protection.
2. If the worker is from **the rest of the world** - they need to have a visa in one of the five categories below. These categories have replaced the previous work permit scheme and are labelled Tier 1 through to Tier 5.

These tiers are being rolled out in stage between February 2008 and May 2009.

- **Tier 1** - This visa allows successful applicants to live and work in the UK without restrictions. This has to a large extent replaced the Highly Skilled Migrant Programme (HSMP). It is available to highly skilled individuals who can bring professional skills, qualifications and experience to the United Kingdom. A job offer is not required in order to apply under tier one.
- **Tier 2** - This visa is employer sponsored. The worker must have a job offer in place prior to applying for the Visa. The visa must be applied for by the employer and as such is unlikely to fall within the radar of an agency worker.
- **Tier 3** - These visas are also employer sponsored and are intended to cater for the fluctuating need for low skilled workers throughout the year. They will be used in circumstances where the Skills Advisory Body (SAB) identifies a shortage area which cannot be filled by the domestic workforce.
- **Tier 4** - These visas are for students who are paying for tuition in the UK. There are restrictions on the number of hours students can work, which agencies must stick to in the billing and payments process. When the education is completed the student will not have leave to remain in the UK.
- **Tier 5** - This tier comes into force from November 2008 and is also known as the Youth Mobility Visa. A successful candidate must be aged between 18-30 years and will be granted leave to enter the UK for a maximum period of 24 months. As with tier 3 and tier 4 visas, immigration to the UK via this route is temporary and they will be required to return to their home country upon expiry of the visa.

In Summary

For recruitment agencies, the overall picture is that if a worker is from a member state of the EEA or has a Tier 1 visa, there is little need to seek further details of their eligibility to work. However, if the worker falls outside of this group, agencies are likely to need clarification on the rights to work and may need to see further documentation to ensure compliance for themselves and their clients.

If you are unsure as to which nationalities may require further documentation please don't hesitate to contact us.



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