

# BRIEF UPDATE

FROM THE EMPLOYMENT DIVISION



## BUSINESS IMMIGRATION THE NEW SYSTEM IN PRACTICE

Over the course of the last year employers have had to adapt to wide reaching changes when employing overseas nationals. The new system has already seen fundamental change prompting confusion and uncertainty rather than establishing simplification as was intended.

The key feature of the new system was the shift in immigration control responsibilities from the UK Border Agency to employers, with the threat of significant penalties for failure to meet those burdens. Rather than allow the system time to integrate change has already been made in a number of areas including:-

- Highly skilled workers (Tier 1) will no longer be eligible for consideration under new applications unless their educational qualifications are at the level of Master's degree or above
- Employers who have acquired licences to sponsor skilled workers (Tier 2) have seen the Government tighten the resident labour market test which prevents them offering skilled jobs to overseas workers unless they have failed to recruit UK or European workers. All jobs in this category must now be advertised for stipulated periods in Jobcentre Plus together with another method specified in sector specific codes of practice. If the resident labour market test is not met, certificates of sponsorship will be refused with the result that employers will not be able to recruit the candidate of choice

- The Business Visitor rules have changed for business visitors with the intention of making it clearer exactly what business visitors are entitled to conduct in the UK. The rules have changed for secondees, trainees, advisers, consultants, trainers & troubleshooters
- The prescribed system of document control gives employers an 'excuse' to avoid prosecution if they inadvertently employ migrant workers who do not have permission to work in the UK. Notwithstanding this, Scottish employers have already been fined in excess of £100,000 for the use of illegal migrant workers in the last year (including a business in Aberdeen city centre).

Linda Beedie is delivering a non chargeable lunch and learn session on looking at the new regime in practice, the changes since implementation, its application to the offshore sector; emerging case law, examples from practice and the issues as they interact with employment law generally.

These sessions will be held on 25 & 26 August 2009 at Union Plaza. Between 12.30 and 2.00 and are aimed at HR professionals, in-house lawyers and employers.

If you would like to attend either of the above seminars please register on the link below:

[trainingsolutions@paul-williamsons.co.uk](mailto:trainingsolutions@paul-williamsons.co.uk)

**Linda Beedie is an employment & business immigration lawyer. She is a member of the Immigration Law Practitioners Association.**