United Kingdom

UK Government announces changes to student visas coming into effect from September 2015

Executive summary
The UK Government has announced changes to tackle abuse of the Tier 4 student visa system and reduce net migration. From next month, the changes will mean that new students at publicly funded colleges will be able to work in the UK. In addition, overseas students wishing to stay on in Britain and work when they finish their course will first be required to leave the country. The change is scheduled to take place in the autumn.

Other updates and clarifications relate to family and private life applications, reflecting feedback from caseworkers and legal practitioners on the operation of the rules. Additional smaller changes to the immigration rules will enable South African diplomatic passport holders to travel visa free to the UK for the purpose of “visit in transit”, amending the eligibility requirements for transit passengers.

Tier 4 (general) students

The most significant of the changes surround the Tier 4 student category with students attending publically funded colleges no longer able to work in the UK in line with those attending private colleges in the UK.

Furthermore, the maintenance requirement for Tier 4 is set to increase again to be brought in line with the maximum amount an English student could be loaned (via maintenance loan and grant) when living away from home. This change will be effective from September 2015. The Home Office are also removing the principle of “established presence” from the immigration rules meaning there will no longer be a reduced rate of maintenance for those who have been studying in the UK for over 12 months prior to the date of application for leave to remain.

The amount of time a student may spend completing further education courses (National Vocational Qualification 3-5) will also be reduced from 3 to 2 years. Again this change is to reflect the amount of time a British student would be expected to spend completing such courses.

Tier 4 students attending colleges will now be prevented from extending their stay within the category or switching into any other points based route from within the UK. The exception to this rule is where the college is recognised as an “embedded college offering pathway programmes to prepare students for entry to a higher education course”. The Home Office have confirmed this change to current policy should reduce net migration by encouraging students to leave the UK following the completion of their studies. This change does not affect those students attending UK universities at the present time.

Family members
The Home Office have made further changes to Appendix FM - for family members of those present and settled in the UK. The changes primarily focus on the
sources of income which are permitted in order to meet the minimum income threshold required when sponsoring family members in this category. The rules now allow sources of equity income, non-executive director fees, and certain cash incomes from pensions. In addition, the statement of changes has clarified the documentary evidence required to meet the English language requirement and that an applicant must have direct access to their child to be eligible for leave to enter/remain in the UK as a parent under Appendix FM.

Visitors
Travellers who hold a valid South African diplomatic passport are now able to travel to the UK without obtaining a visa prior to travel for official, tourist, and transit purposes.

For visitors in transit through the UK to an onward destination, the period during which a non-visa national may stay in the UK before departure has been extended. A non-visa national may now be in transit through the UK for up to 48 hours, which is in alignment with restrictions for visa nationals in possession of a visitor in transit visa.

Next steps
Employers should ensure they are familiar with the changes to the Tier 4 student category to ensure any graduate hiring and intake of students are able to switch into an employment category. Educational establishments must carefully consider further education enrolment is permitted when students apply to extend their stay in the UK.