

ILPA information sheet

Information sheets provide general information only, accurate as at the date of the information sheet. Law, policy and practice may change over time.

ILPA members listed in the directory at www.ilpa.org.uk provide legal advice on individual cases. ILPA does not do so.

The ILPA information service is funded by the Joseph Rowntree Charitable Trust.

An archive of information sheets is available at www.ilpa.org.uk/infoservice.html

Steve Symonds ILPA Legal Officer 020-7490 1553 steve.symonds@ilpa.org.uk

Immigration Law Practitioners' Association www.ilpa.org.uk 020-7251 8383 (t) 020-7251 8384 (f)

Employment-related Settlement 2 – Domestic Workers Consultation

3rd August 2011

The consultation on overseas domestic workers is part of the wider “Employment related settlement, Tier 5 and overseas domestic workers” consultation published on 9 June 2011. This information sheet provides information on the consultation proposals relating to overseas domestic workers, and about how to respond to those consultation proposals. For information about the other proposals in the consultation, see the “Employment-related Settlement 1 – Consultation” information sheet. The consultation documents can be found at:

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/consultations/employment-related-settlement/>

The consultation includes proposals affecting domestic workers in private households and domestic workers in diplomatic households. These are dealt with separately below.

Proposals on domestic workers in private households

The proposals affecting domestic workers in private households include:

- To abolish this category under the Immigration Rules altogether – so that migrants (from outside the European Economic Area) can no longer come to the UK to work as domestic workers in private households
- Alternatively, to limit the period of leave for which a migrant domestic worker may be permitted to come to the UK for a maximum of six months or 12 months
- If continuing to permit migrant domestic workers to come to the UK, to remove the possibility of changing employer
- If continuing to permit migrant domestic workers to come to the UK, to cease to permit these workers bringing dependants (partners and children) with them or to cease to permit those dependants to work in the UK
- If continuing to permit migrant domestic workers to come to the UK, to remove any possibility of their applying for settlement (indefinite leave to remain) in the UK

An important aspect of the Immigration Rules currently applying to domestic workers, which is not properly considered in the consultation document, is that these workers must already be live-in domestic workers for the migrant or migrant family coming to the UK in order to be permitted to come with that migrant or migrant family to continue as live-in domestic workers. These domestic workers must have been with the employing migrant or migrant family for at least 12 months. Thus the Immigration Rules permitting domestic workers to come to the UK are very restrictive. They may allow, for example, a migrant family coming to the UK to bring with them their nanny

provided that nanny has been working for them and living with them for 12 months before the family comes to the UK. They do not, however, generally allow migrants to come to the UK to be nannies (or other domestic workers) for migrants or British citizens in the UK.

Many of the benefits permitted by the Immigration Rules (e.g. the possibility of changing employer or applying for settlement) to domestic workers who come to the UK are, as the consultation acknowledges, provided to protect domestic workers against exploitation. Because these workers are live-in workers, they can be particularly isolated and at risk of abuse by their employers.

Proposals on domestic workers in diplomatic households

The proposals affecting domestic workers in diplomatic households include:

- To limit the period of leave for which a migrant domestic worker may be permitted to come to the UK for a maximum of 12 months
- To remove the possibility of bringing dependants (partners and children) to the UK or to cease to permit those dependants to work in the UK

Unlike domestic workers in private households, there is no proposal to abolish altogether this category under the Immigration Rules. The consultation document indicates the reason for this to be that the UK is required, under the 1961 Vienna Convention on Diplomatic Relations, to permit diplomats to bring domestic workers with them. It is noteworthy that these domestic workers may also be at risk of exploitation in the same way as those in private households. Benefits (such as the possibility of applying for settlement) are, therefore, equally important for this group in avoiding or escaping abuse.

Kalayaan and further information about domestic workers

Kalayaan is a charity providing advice, advocacy and support services to domestic workers in the UK. It does not provide advice or assistance to migrants wishing to come to the UK to work as domestic workers. There is more information available about domestic workers, including information relating to this consultation, on the Kalayaan website at: <http://www.kalayaan.org.uk/>

Responding to the consultation

The consultation closes on 9 September 2011. Responses should be received by the UK Border Agency on or before this date. Responses can be sent by post or by email to:

Work and settlement consultation
UK Border Agency, 1st Floor, Green Park House
29 Wellesley Road, Croydon CR0 2AJ
Worksettlementconsultations@homeoffice.gsi.gov.uk

Questions 26 to 32 of the consultation document relate to domestic workers. The consultation questionnaire may be used to respond to the consultation. However, the following should be noted:

- It is not necessary to use the questionnaire.
- It is not necessary to answer all the specific questions asked.
- If the consultation document and proposals require a response that does not directly respond to a specific question, it is perfectly appropriate to make that response. If possible, it may be useful to include it with any response to a question that seems to most closely relate to it.
- The questions ask for a response of either Yes, No or No Opinion. If none of these responses are appropriate, it is perfectly appropriate to say so and not tick Yes, No or No Opinion.