

ILPA immigration update 55

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'Dobrodošli' to Croatia

On 1 July 2013, Croatia joined the European Union. The UK Government has imposed restrictions on Croatians' access to the labour market similar to those imposed on Bulgarians and Romanians when those countries joined in 2007. A worker authorisation scheme is in operation. Certain Croatian nationals are not required to obtain worker authorisation, for example, those who, on 30 June 2013, had been working in the UK for 12 months and are the spouse or partner of someone settled in the UK, have been studying in the UK or have an EEA registration certificate. Others will need to obtain permission to work. Access to the labour market is restricted to broadly the jobs that Croatians with visas to come to the UK to work were able to do prior to accession.

Legal Aid

The fight to save legal aid continues. The Joint Committee on Human Rights has announced an inquiry into the implications of the Government's proposals for access to justice. It has called for evidence on the human rights implications of the proposed residence test for civil legal aid claimants, the proposed restriction on the scope of legal aid available to prisoners, the proposal that providers of legal services in applications for judicial review against public bodies should only be paid for work done on the case if the Court grants permission for the application to proceed and the proposal that legal aid should be removed for all cases assessed as having "borderline" prospects of success. See <http://www.parliament.uk/business/committees/committees-a-z/joint-select/human-rights-committee/news/legal-aid-inquiry---call-for-evidence/>

Changes to appeal rights

On 25 June 2013, significant changes to when a person has a right of appeal, or has a right of appeal from within the UK, against an immigration decision came into force:

- The right of appeal against the refusal of a family visit visa has been removed;
- The Secretary of State can certify a refusal of leave to remain in the UK on the grounds that it is no longer conducive to the public good for the person to remain in the UK. The person will not have a right of appeal against the decision from within the UK but must leave the UK and appeal from overseas. The remedy prior to removal in such a case is to bring a judicial review.
- Where a person is appealing against a deportation order in certain national security cases before the Special Immigration Appeals Commission, the Secretary of State can certify that it is not in the interests of national security for them to remain in the UK and that to remove them would not cause 'serious irreversible harm' to their human rights. Then the person cannot appeal until they have left the UK. The remedy prior to removal in such a case is to bring a judicial review.

New charges for EEA applications

The Government has imposed charges of £55 for EEA registration certificates, documents certifying permanent residence and residence cards and stamps. The charge has been set at this level 'following advice from the European Commission'. The compatibility of the charges with European law may be tested in the courts, although given the small sums involved this is perhaps unlikely.

Family Immigration Rules

There is continued controversy around the family immigration rules. The rules were changed in July 2012 to impose strict financial requirements to be met by British citizens or other persons

lawfully settled in the UK before they can sponsor a foreign spouse or partner from outside of the European Economic Area. A report published by the All Parliamentary Group on Migration on 10 June 2013 concluded that families were being split by the Government's strict application of the Rules (see <http://www.ilpa.org.uk/data/resources/18294/13.07.04-Family-migration-the-rules-revisited.-pdf.pdf> for the ILPA Information Sheet *Family Migration: the rules revisited*). Now, in a High Court judgment, *MM & Ors v Secretary of State for the Home Department* [2013] EWHC 190, the minimum income requirement has been criticised as an 'unjustified and disproportionate' interference into the right to family life of certain British citizens and refugees. This led to lively debate of the Rules in parliament and the Government has indicated that they were considering changes to some of the requirements, for example the length of time savings must have been held but the Government remained resolute about the majority of the Rules and it appears likely The government is seeking to appeal the case to the Court of Appeal. Meanwhile the Home Office has is has put decisions on family cases that do not meet the minimum income threshold on hold.

Consultation, Consultation, Consultation

In ILPA's immigration update 54, we set out links to a series of Government consultations. There are more. The Home Office has published consultations on provisions in the Immigration Bill which the Government states is aimed at making it difficult for illegal migrants to live in the UK.

Landlords' immigration status checks

On 3 July 2013, the Home Office published its consultation, 'Tackling illegal immigration in privately rented accommodation'. The Government proposes to require private landlords to check the immigration status of new tenants and other adults living in their property. Landlords who do not carry out checks and are found renting residential property to anyone unlawfully in the UK will face civil financial penalties. The new requirements are being modelled on those which presently apply to employers. ILPA has prepared an Information Sheet which outlines the main provisions, here <http://www.ilpa.org.uk/resources.php/18439/information-service-information-sheet-tackling-illegal-immigration-in-privately-rented-accommodation> Responses to the consultation must be submitted before/on 21 August 2013.

Restricting Migrant Access to Healthcare

Also on 3 July 2013, the Home Office and the Department of Health launched consultations on provisions in the Immigration Bill which the Government states are aimed at protecting public services by restricting access to publically funded health services. It is proposed that, in future, all NHS services (other than specified exempt services relating to public health) should be chargeable for non-exempt individuals using the same qualifying 'residency test', irrespective of who provides the service or where the services are provided. ILPA has prepared an Information Sheet which outlines the main provisions, at <http://www.ilpa.org.uk/resources.php/18438/information-service-information-sheet-regulating-access-to-free-health-services-consultations-30-jul> Responses to the consultation must be submitted before/on 28 August 2013.

Strengthening penalties for illegal working

Since 2008, employers have had a responsibility to check that their employees have the right to work in the UK. Employers who fail to do so face civil penalties, principally fines. On 9 July 2013, the Home Office launched a consultation on measures they claim will get tougher on employers who continue to employ those who do not have permission to work in the UK. The 'refined' measures include: increasing the size of the maximum financial penalties; changes to how the penalty is calculated; clarification and addition of 'mitigating factors'; improving the recovery of penalties and changes to the objection and appeal system; reducing the range of acceptable documents for checking purposes to focus on Biometric Residence Permits (non-EEA nationals); replacing annual follow-up check on employees with time-limited permission to work in the UK with checks when their permission is due to expire. ILPA has prepared an Information Sheet which outlines the main provisions, here <http://www.ilpa.org.uk/resources.php/18441/information-service-information-sheet-strengthening-and-simplifying-the-civil-penalty-framework-for-> Responses to the consultation must be submitted before/on 20 August 2013.