

Immigration - Global Hotspots

AUSTRALIA

The Department of Immigration and Border Protection announced several changes to migration policy, which became effective for subclass 457 visa applicants, whose applications were submitted on or after 1 July 2017. Such changes include but are not limited to the following:

- Evidence of meeting English language requirements will be required by all applicants unless exempt by way of age, nationality or previous full time studies in English
- Nomination applications must include significant evidence of the efforts made to recruit suitably qualified local Australian workers
- Applicants must provide police clearance certificates for every country lived in for more for 12 months or more in the 10 years preceding the application submission date.

BELGIUM

Despite legislation not yet having been implemented, the Belgian Foreigner's Office and the regional employment authorities have confirmed that foreign national holders of an EU ICT Permit issued by another EU member state are permitted to work in Belgium for entities of the same multinational group, for up to 90 days within a 180 day period.

FRANCE

The French authorities have implemented a "fast-track" Tech Visa which permits the holder to work in France with no need for an additional work permit. Eligible applicants may then apply for a "Passeport Talent" residence permit which will permit a stay for up to 4 years and can be renewed.

The Tech Visa is intended to assist new fast growing companies in France to hire foreign talent, and to attract investors and entrepreneurs to France.

There are three categories of Tech Visa, each with different criteria. Further details of which can be found below:

1) Foreign Employee

- Hold a graduate degree (master's or higher)
- Have a work contract with an eligible French company for a minimum duration of 3 months
- Gross annual salary of at least €35,526.40.

2) Startup Founder

- Financial resources which meet the current French annual minimum wage, €17,763.20 as of January 1st, 2017
- An economically innovative startup project that one plans to develop in France

- Prior approval of the French public organisation called the Direccte.

3) Investor

There are several ways that one can qualify for the French Tech Visa for Investors:

- A foreign venture capital firm opens an office in France
 - A foreign investor is recruited by a venture capital firm based in France
 - A Business Angel (often a successful entrepreneur) moves to France.
- To qualify one must:
- Be investing at least €300,000 in fixed tangible or intangible assets
 - Be investing either directly or via a company in which one has at least a 30% shareholding
 - Own at least 10% of the company in which one is investing
 - Be creating or protecting (or committing to create or protect) jobs within the four years following the investment.

INDIA

The deadline for the conversion of Person of Indian Origin (PIO) cards to Overseas Citizens of India (OCI) cards has once again been extended. The Indian government has extended the 30 June 2017 deadline to 31 December 2017.

JAPAN

With immediate effect, after one year of temporary residence in Japan, it is now possible for Highly Skilled Foreign Professionals to apply for permanent residency, rather than having to wait five years as per previous requirements. The foreign resident must however reach a score of over 80 points on the Immigration Bureau of Japan's point based system. The Japanese Immigration Authorities also announced that those scoring 70 points or more are eligible for permanent residency after three years.

PHILIPPINES

As of 29 June 2017, when a foreign applicant applies in country to convert their 9(a) tourist or temporary visitor visa to a 9(g) Pre-arranged Employment Visa (Commercial), the Bureau of Immigration now requires provision of proof of the newspaper publication showing the approval of the applicants Alien Employment Permit. Here the original newspaper clippings of the approved list applications can be provided. A certification of the publication issued by the publisher can also be provided.

PORTUGAL

Portugal has now incorporated the European Union Directive 2014/67 concerning the posting of workers to Portugal into National law.

All EU based companies who are posting foreign workers to Portugal, in the framework of the provision of services, must report the posting to Autoridade para as Condições do Trabalho" (ACT) and provide the following information via email using a designated form:

- Details of the Foreign Service provider
- Number of posted workers
- Details of the workers to be posted
- Proposed duration of stay and travel dates
- Address of the work location in Portugal
- Nature of the services to be provided and justifications for the posting of the workers
- Host company personnel contact details.

The above reporting obligation is also required to be accomplished by Portuguese based companies who are posting their employees to work in another EU member state.

As well as the obligation to report, the sending/home company and the host company in Portugal must retain the following documents (those held in Portugal must be in Portuguese and retained by the person in the company who is the designated ACT liaison) throughout the period of the posting, and for a period of one year after the posting;

- Details of the posted worker
- Time records of the working days and times
- Employment contract/provision of services contract
- Payslips.

ROMANIA

Romania has now incorporated the European Union Directive 2014/67 concerning the posting of workers to Romania into National law.

All EU, EEA and Swiss based companies who are posting foreign workers to Romania, in the framework of the provision of services, must report the posting at least 1 working day in advance of the start date, to the Regional Labour Inspectorate (RLI) and provide the following information in Romanian:

- Details of the Foreign Service provider including its name, address and registration number
- Number of the posted workers
- Details of the workers to be posted
- Proposed duration of stay and travel dates
- Details of the host in Romania including its name, address and registration number
- Details of the work location in Romania
- Nature of the services to be provided and justifications for the posting of the workers

- Host company personnel contact details
- Declaration.

The above reporting obligation is also required to be accomplished by Romanian based companies who are posting their employees to work in another EU/EEA or Swiss member state.

As well as the obligation to report, the sending/home company and the host company in Romania must retain the following documents (those held in Romania must be in Romanian and retained by the person in the company who is the designated RLI liaison) throughout the period of the posting, and for a period of three years after the posting:

- Details of the posted worker
- Time records of the working days and times
- Employment contract/provision of services contract
- Payslips
- Secondment letter for each posted worker, together with a notarised Romanian translation of the document. The letter must provide details of the worker's salary, details regarding payment, the period of the assignment, the sending and receiving companies, and other general conditions of the secondment
- Original registered report notification
- Details of the designated RLI liaison person.

GERMANY

Germany has introduced the European Union Intra-Company Transfer (ICT) Directive, (2014/66EU of 15 May 2014) permitting eligible third country nationals to be sent on assignment to Germany.

Foreign sending employers and transferees may take advantage of two categories of ICT permits:

1) The ICT Card

For transfers from outside the EU and where the stay in Germany is for more than 90 days

2) Mobile ICT Card

For transfers from within the EU, where the employee already holds an ICT card in respect of the sending EU Company / EU employer and where the stay in Germany is for more than 90 days.

Conditions and eligibility criteria apply to the above.

For short-term ICT assignments, a notification of presence is required, which permits a stay of less than 90 days in Germany.

For stays of less than 90 days it is not possible to apply for an ICT card for Germany.

In such cases, the foreign EU employer/sending company of an employee holding an ICT card for the EU employer /sending company, is required to notify the Federal Office for Migration and Refugees in advance of the assignment.

NIGERIA

The High Commission of Nigeria in London will introduce biometric appointments for all visa applicants. Effective Thursday 14th September, all applicants must visit the Nigerian visa application centre in London (operated by OIS), in order to have biometrics captured for visa purposes.

SAUDI ARABIA

The Saudi government has once again amended the criteria concerning the eligibility requirements for work permits for engineers. In order to try and increase the number of Saudi national's employed locally in the engineering industry, the Saudi Ministry of Labor together with Social Development, and the Saudi Counsel of Engineers has announced that foreign nationals must now demonstrate a minimum of 5 years of professional related working experience, as opposed to the previous requirement of 3 years. "Saudisation" measures are on the increase and further changes are to be expected.

Prepared by Ben Sheldrick at Magrath Sheldrick LLP, and is correct at the time of going to press. Visit www.magrath.com for further information.

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