

EUGENEFCOLLINS

Immigration Group

Client Update

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Common Travel Area Post Brexit

The Department of Foreign Affairs (“DFA”) has issued advice concerning the Common Travel Area (“CTA”) between Ireland and Britain after 29 March 2019. It confirmed that as the CTA pre-dates membership of the EU the CTA is not dependent on EU membership. The DFA further confirmed that both the Irish and UK Governments are committed to ensuring that the CTA remains unaffected by Brexit. The DFA has recently stated that;

“Detailed work is at an advanced stage, both at home and bilaterally between Ireland and the UK, to ensure that all necessary provisions are made in both jurisdictions so that the CTA continues to function effectively. Both the Government of Ireland and the UK Government have committed to maintaining the CTA in all scenarios. The CTA has also been recognised in the negotiations and there is agreement in the Protocol on Ireland and Northern Ireland that Ireland and the UK may “continue to make arrangements between themselves relating to the movement of persons between their territories”.”

More specifically, further advice has been issued stating that the rights of Irish and UK citizens to live and work within the CTA will be protected, regardless of the outcome of the Brexit negotiations.

Our team is closely monitoring developments in this area.

Long-Stay Visa Applications

A recent judgment delivered in 2018 illustrates that even though an applicant may obtain a work permit, an application for a long-stay visa may still be refused.

In *Ashraf v Minister for Justice and Equality* the plaintiff was seeking to challenge the refusal to grant a long-stay visa to him and members of his family.

Mr Ashraf had been refused the long-stay visa despite the fact he had obtained a critical skills employment permit.

The refusal was made on the basis of alleged incomplete evidence supplied with his application.

Although the Judge in this case found flaw in the decision-making process and ruled in favour of the plaintiff, it was noted that the Minister enjoys wide discretion in such cases and that despite the fact that an employment permit has been obtained, a visa application can still fail.

Employment Permit Processing Times

It appears the Christmas break has had a negative impact on processing times. As of 1 February 2019, the Department of Business Enterprise and Innovation (“DBEI”) is processing permit applications on the following time scale;

- Trusted Partner: 4/5 Weeks
- Standard: 15 Weeks

These time frames have reduced since the beginning of the year as already the processing time for applications received from Trusted Partners has reduced from eight to approximately four/ five weeks since the beginning of January.

Immigration Focus Group

Eugene F. Collins is a member of the Corporate Immigration Users’ Group and continues to liaise with the relevant government bodies in relation to the reduction of processing times and other issues with the current system.

Stamp 4 Support Letters

The DBEI recently indicated that it is primarily focussed on reducing the backlog in employment permit applications. As such the processing times for requests for Stamp 4 Support Letters has increased

In response to this, the DBEI has advised that any Critical Skills Employment Permit holder who has completed 20 months of their Critical Skills Employment Permit should apply for a Stamp 4 Support Letter **four months in advance** of the expiration of their Permit.

At the moment the DBEI is processing applications for Stamp 4 letters received eleven weeks ago. However, we recommend that applicants abide by the DBEI's recommendations and apply four months in advance of the expiration of their permit.

The DBEI has advised that provided a worker is awaiting a decision regarding a Stamp 4 Support Letter they will not be required to cease work or leave the country.

Garda National Immigration Bureau ("GNIB")/ Irish Naturalisation and Immigration Service ("INIS") Appointments

The Department of Justice and Equality is continuing to request that applicants living in Dublin make appointments using the online appointment system. A link to the registration appointment system has been provided [here](#).

For applicants currently living outside of Dublin, the applicant should seek to register at the registration office closest to where they live. Applicants do not need book an appointment if they live outside of Dublin. Please see this [link](#) for a list of offices.

Unfortunately, for those living in Dublin, the online appointment system is under significant pressure at the moment and there are long delays in seeking appointments.

The following tips may be of use to applicants:

- Each day, appointments are released for a date at least 9 weeks in advance. These appointments are issued daily at 10am;
- Cancelled appointments are automatically released and so the website should be regularly checked for newly released appointments;
- When the GNIB have extra capacity, they will regularly release appointments for closer dates depending on the capacity of the office. These appointments are released from 1pm – 2.30pm.

We would also suggest that applicants:

- Book the next available GNIB appointment even if this appointment is beyond the expiry of the current temporary residence stamp in their passport; and
- Keep following up with the immigration office by telephone and email (as they may in some urgent cases issue appointments at short notice).

We have been advised by the Irish immigration authorities that due to the delays, any resulting gaps between an appointment and the expiry of immigration permissions will not prejudice an individual's Irish immigration record. Therefore, provided an applicant can secure a GNIB appointment as soon as possible in the future they are unlikely to be prejudiced.

It is very much a case of systematically checking the website every day at the appropriate times in an effort to secure an appointment.

Changes to Highly Skilled Eligible Occupations (HSEO) List and Ineligible Categories of Employment (ICE) List

In order to address a shortage of certain skills in the animation sector, a number of occupations were added to the HSEO list by the Minister for Business Enterprise and Innovation last year.

- Art Director in 2D or 3D animation, with at least one year's experience in the role;
- Location Designer in 2D or 3D animation, with at least one year's experience in the role;
- Character Designer in 2D or 3D animation, with at least one year's experience in the role;
- Prop Designer in 2D or 3D animation, with at least one year's experience in the role;
- Animation Layout Artist in 2D or 3D animation, with at least one year's experience in the role;
- Animation Background and Design Artist in 2D or 3D animation, with at least one year's experience in the role.

Furthermore, the Minister has sought to address a chronic skills shortage in the hospitality industry by approving an exemption from the ICE List for the following chef grades:

- Executive Chef with a minimum of 5 years' experience at that level;
- Head Chef with a minimum of 5 years' experience at that level;
- Sous Chef with a minimum of 5 years' experience at that level;
- Chef de Partie with a minimum of 2 years' experience at that level.

Employment Permits Section Change of Address

The Employment Permits Section of the Department of Business, Enterprise and Innovation recently moved office. For all correspondence going forward the new address is:

Employment Permits Section
Department of Business, Enterprise and Innovation
Earlsfort Centre, Lower Hatch Street,
Dublin 2
D02 PW01, Ireland

For further information on these topics please contact:



David Cantrell
Partner
Immigration Group
D: +353 1 202 6454
E: dcantrell@efc.ie



David Heneghan
Associate
Immigration Group
D: +353 1 202 6452
E: dheneghan@efc.ie



Áine Hartigan
Consultant Immigration
Group
D: +353 1 202 6442
E: ahartigan@efc.ie



Aidan Doran
Solicitor
Immigration Group
D: +353 1 202 6596
E: ajdoran@efc.ie