

Tuning up the KM scheme 09/08/2006 00:00



Immigration lawyer Patrick Rovers reports on changes to the Knowledge Migration Scheme for companies hiring skilled expats.

Our company is interested in hiring foreign professionals, especially with an IT and telecommunications background. A while back we heard some terrific news about the Knowledge Migrant scheme set up by the Dutch immigration service. We tried to get our company accepted as a participant of the knowledge migrant system. To make a long story short: that was quite an experience. The Dutch immigration service is not big on service, if you know what I mean..... Anyway, we recently located some excellent candidates from Malaysia and Canada, and we would like to hire them as knowledge migrant workers as soon as possible. Any advice you can give us?



Patrick Rovers replies:

Working with the Dutch immigration service, de Naturalisatie- en Immigratiedienst (IND), can be challenging at times. I am well aware of that. However, IND is a force that has to be reckoned with. In other words: if your company wants to hire non-EU/foreign specialists it will have to deal with the Dutch immigration service one way or the other.

I work with the IND on a daily basis, and am well versed in the peculiarities of the IND. In my experience the IND is not the enemy, and it is best to simply follow its rules and regulations to the letter, albeit within reason. These rules and regulations are quite detailed and you have to understand the fabric of the Dutch legal system in order to escape IND's pitfalls and requests for evidence. Preparing well and being thorough are key factors in working with the IND.

The Dutch knowledge migrant (KM) scheme allows for easy access into the Dutch labour market for non-EU nationals, if and when for instance the minimum annual gross salary requirements are honoured, and the prospective Dutch employer is officially accepted by the Dutch immigration service as a participant of the 'kennismigrant' system. If all the conditions of the KM scheme are met, it is possible to legally bypass the general Dutch work permit requirement.

A while ago a member of the Dutch parliament, (de Tweede Kamer), asked for some improvements of the KM system. The Dutch departments of Economic Affairs, Social Affairs and Employment Matters, and Aliens Affairs and Integration took on the challenge and recently informed the Dutch parliament of the various changes and upgrades of the KM system and the Dutch work permit system. In the remainder of this column I will shortly inform you on these.

1. The Dutch central employment office ('CWI') will receive discretionary powers with regard to the possibility of waiving the mandatory five-week job vacancy notification (usually required when applying for a Dutch work permit). In cases where it is completely clear that this mandatory notification is useless, CWI is allowed to waive. This policy is scheduled to become effective in September 2006.

2. CWI will accelerate the processing and handling times of Dutch work permit applications from the standard five-week period to a two-week period. This policy is scheduled to become effective in September 2006.

3. The implementation into Dutch law of two EU directives regarding non-EU students and scientific researchers will take place in such a way that simplified and shortened (entry) procedures will be reached and sustained. These changes are scheduled for October 2006 for students and the spring of 2007 for scientific researchers.

4. The KM system will be modified in such a way that certain Ph.D. candidates can be employed as knowledge migrants under the scheme. This policy is scheduled to become effective in October 2006.

5. A Dutch work permit will no longer be required for Dutch employers who allow foreign students, legally residing and studying in the Netherlands, to do an internship as part of their studies. This policy is scheduled to become effective in October 2006.

6. Certain start-up companies - screened by government agencies such as CDIU, CBIN or Technopartner – may be allowed as participants of the KM system. This policy has already been implemented.

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