

STOP PRESS

WINTER 2008

www.wrightshassall.co.uk

Welcome to this special edition of NewsBrief which introduces two specialist areas of practice that are recent additions to the firm: Business Immigration and Employee Incentives. Both are, albeit for different reasons, very much in the press at the moment. Changes in the immigration rules are of utmost importance for businesses and organisations employing staff from outside the EEA. Employee incentive arrangements can provide a cost-effective, tax-efficient tool for companies seeking to keep and motivate key staff without directly increasing salary overheads. Visit our website for more information on both these areas.

Welcome to the Business Immigration team

Wright Hassall's services to businesses in the region have been boosted by the recent addition of a Business Immigration team from Ollerenshaws Solicitors.

The changes in the immigration rules, which take effect on 27 November, are already having a major impact on the way in which UK-based companies employ skilled workers from outside the European Economic Area. In the Midlands, where a large number of companies

and institutions regularly employ workers from the US and other non-EEA jurisdictions, our ability to advise on the new arrangements and application procedures will be crucial for many organisations.

The team, led by Marian Dixon, has a wealth of experience between them: the understanding of the workings and procedures of the UK immigration service combined with the detailed knowledge of the legal technicalities

relating to immigration law means that there is nothing our business immigration team has not dealt with. This application of practical and legal skills means that our clients receive a pragmatic, efficient service with advice tailored to the individual needs of each client.



From left, Emma Wellard, Peter Dixon and Marian Dixon

STOP PRESS contains material for general information purposes and does not constitute legal or other professional advice. Every effort is made to ensure that the content is accurate and up to date but users should always seek specific legal advice before taking, or refraining from, an action or relying on the legal information given here.



Employee incentives specialist joins WH

Solicitor John Dormer (pictured above right with Partner Robert Lee) has joined Wright Hassall as a Partner specialising in employee incentives from KPMG's Birmingham office.

He will help businesses to put in place incentive plans to reward employees for good performance, including rights to acquire company shares and bonus plans.

Employee incentives can play a key role in recruiting, retaining and rewarding staff, which, in turn, contributes to the prosperity of a business. As an area in which very few firms specialise, we spotted a great opportunity for the firm and our clients and the potential to make our practice one of the best in the Midlands.

Quality incentive schemes can be the difference between retaining a hard-working, loyal workforce and continually having to replace quality staff. They help companies to find a balance by linking employees' rewards to performance so that both the company's owners and their staff benefit.

John, who lives in Leamington, has been responsible for multi-million pound incentive arrangements for both key employees and also entire workforces.

Robert Lee, a partner in the corporate team at Wright Hassall, said: "John will bring a wealth of high-quality experience to the firm and will offer a specialist service to companies regionally and nationally.

"His time at KPMG will certainly add a different perspective to how we, as lawyers, approach this area of work and his appointment will help broaden again the range of services we can offer."

Business Immigration: have you got your licence?

The current Work Permit Scheme, which allows UK companies to bring in foreign nationals from outside the European Economic Area (EEA), closes on 26 November. Its replacement, Tier 2 of the Points Based Scheme (PBS) goes live on 27 November and any company that has not been granted a Sponsorship licence by the UK Border Agency will not be able to employ Tier 2 skilled staff from outside the EEA nor will they be able to extend work permits for existing employees.

Once the Work Permit Scheme closes, Tier 2 non-EEA skilled workers will only be able to work in the UK if they are sponsored by a UK employer. As at 20 October, only about 700 organisations, of which a number are academic institutions, were listed on the Register of Sponsors as having been issued a licence. What happens if you need a licence but have not yet applied?

If you need a licence, you need to apply as a matter of urgency and we can help you with your

application. As part of the licence-granting process, your HR procedures and related documentation will undergo rigorous checks. It takes approximately six weeks from applying for a licence to the granting of same so if you were to apply now, you would not receive your licence until the week before Christmas. Arrangements for work permit holders

On 23 October, the UK Border Agency published transitional arrangements for work permit holders. Those people who hold work permits may find that their mobility in and out of the UK is affected depending on the duration of the permit they hold and when it was granted. Again, we can advise you on your best course of action.

Business Visitors

Also commencing 27 November, new immigration rules will apply to business visitors. Procedures for certain categories of business visitor which currently exist as guidelines are being formally adopted within the immigration rules. A new category of 'business

visitor' visa will be introduced for visa nationals who currently come to the UK under the 'visitor' category.

Tier 5 implementation

Tier 5 of the PBS relates to temporary workers and youth mobility. The Temporary Worker side of Tier 5 covers categories such as charity and religious workers and the creative and sporting sectors as well as workers sponsored under Government authorised exchange and international agreement. They will all need to be sponsored by the holder of a Tier 5 licence. The Youth Mobility side of Tier 5 broadly replaces the working holidaymaker scheme as well as smaller schemes such as BUNAC and IAESTE. Only nationals of those countries which have signed an international agreement with the UK are eligible under the youth mobility scheme and at present they are: Australia, Canada, Japan and New Zealand.

For more information or advice, please contact Marian Dixon on 01926 883002 or email marian.dixon@wrightthassall.co.uk.

Share incentives in the economic downturn

As has been well reported, the FSA and the Treasury have stated their belief that a culture of high value performance bonuses, rewarding the meeting of short-term goals, has contributed to the current banking crisis.

The FSA and the Treasury want to see a move towards remuneration structures that reward longer term performance and the creation of maintainable value for shareholders. In practice this is likely to mean share incentives measured over, say, a three year period.

The focus on long-term stability, recovery, performance and corresponding reward is likely to ring more bells with Midlands-based companies than the remuneration policies embraced by troubled financial institutions.

The time for new share incentives

A combination of salary increases and cash bonuses to keep key employees motivated is less sustainable in the current climate when money is tight. Share incentives enable companies to reward their employees for meeting longer term business goals as well as offering employees a stake or

potential stake in the businesses they work for.

Coupled with the tax breaks that well designed share incentives may offer, they can lead to significant cost savings and also aid in employer/employee relations.

For share incentives implemented now, the current financial crisis may well represent something of an



John Dormer explains how share incentives could benefit both employee and employer

opportunity as employees usually are given a right to acquire shares in the future at a price equal to their current market value. The lower that value, the more shares they can buy and the greater the potential for growth in value when the market picks up.

Existing share incentives

Shares under incentive awards already made may now be sitting "under water" (i.e. the price employees are bound, or have agreed, to pay is

more than the shares' current market value).

Therefore, any such incentives may have lost some of their motivational effect. Having said that, there is no reason not to believe that they will not become valuable again in the future.

Companies may take the view that while shareholders' interests have suffered, employee incentive holders should rise and fall with them. However there may be scope (assuming shareholders agree) to surrender and re-grant share incentive awards at today's much lower values. Alternatively and more likely, further awards of share incentives at today's lower values could be granted now offering employees the prospect of holding incentives that will (hopefully) soon be of significant value.

Summary

Either way, at a time when cash may be in short supply and the need to motivate employees is as important as ever, the time is right to review companies' existing pay structures and to identify the opportunities that share incentives could offer in recruiting, retaining and motivating key employees.

john.dormer@wrightthassall.co.uk