

# Immigration Act to be recast (1/36/20)

Announced at the meeting of state secretaries on 2 July 2020, the proposed recast Immigration Act brings many important changes, in particular to procedures for taking out visas and temporary residence permits. Although the Cabinet of Ministers has yet to debate all the proposals, it is advisable to be aware of the amendments and their implications. This article explores five key changes applicable after 3 May 2021, when the recast Immigration Act is to come into force.

## 1. Fewer languages accepted in documents for approving an invitation and a summons or for seeking a visa and a residence permit

The current Immigration Act provides that the documents required for approving an invitation and a summons or for seeking a visa and a residence permit can be filed in five languages: Latvian, English, French, Russian, or German.<sup>1</sup> With very few documents being filed in German and French, the recast Immigration Act provides that the documents for approving an invitation and a summons or for seeking a visa and a residence permit can be filed only in three languages: Latvian, English, or Russian.<sup>2</sup>

## 2. A new basis for refusing an invitation or a summons

The current Immigration Act provides that approval for an invitation or a summons will be refused or an approved invitation or summons for employment will be cancelled if the employer has failed to announce a vacancy on the National Employment Agency's portal of CVs and vacancies before employing a foreign national in Latvia (in cases where the employer was required to announce it) or if the vacancy was not publicly available for at least ten working days, or if the foreign national's qualifications or employment conditions do not match the requirements stated in the vacancy.<sup>3</sup>

The recast Immigration Act adds to this list by stating that an invitation or a summons will not be approved or an approved invitation or summons can be cancelled also if the vacancy includes any requirements that substantially exceed the competences listed in the standard for the occupation. For example, if an employer is looking for someone to clean commercial facilities, then a higher education, experience in pet care or holding a category A driving licence can be considered unreasonable requirements. This amendment aims to protect the local workforce and to avoid an easy procedure for foreign nationals entering and being employed in Latvia.

## 3. A new basis for cancelling a temporary residence permit ("TRP")

This basis will apply to foreign nationals having obtained a TRP entitling them to employment in Latvia. The current Immigration Act does not limit how long a foreign national on unpaid leave can keep their TRP. In future the TRP can be cancelled if their unpaid leave exceeds one month in a calendar year.<sup>4</sup>

## 4. TRP no longer to be registered each year

The current rules require annual registration of the TRP. Although a foreign national can acquire the right to spend up to five years in Latvia, the ID card for the TRP is issued only for one year. Once the ID card expires, the foreign national should apply for a new card, again valid for one year. Foreign nationals who fail to register their ID card on time and fail to obtain a new card will find themselves in a situation where

the Citizenship and Migration Office's decision to grant the TRP entitles them to spend a specified period in Latvia but they have no documentary evidence of that entitlement. The recast Immigration Act extends the time limit to two years, so the ID card will have to be registered every two years and not annually.<sup>5</sup>

## 5. Easy terms for inviting company officers

The requirement that a foreign entity's Latvian branch must have been on the commercial register for at least one year before its officer can apply for a TRP will be abolished. As a result, the current minimum of €21,350 which the entity has to pay in taxes annually to ensure its officer entered on the commercial register keeps the TRP will rise to €25,000.<sup>6</sup>

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<sup>1</sup> Sections 12(3) and 22(4) of the Immigration Act. Latvijas Vēstnesis, 169, 20 November 2002

<sup>2</sup> Draft Immigration Act: Initial Impact Assessment Report (Annotation), Chapter 1, General Rules, paragraph 7

<sup>3</sup> Sections 15.1(9) and 22.1(13) of the Immigration Act. Latvijas Vēstnesis, 169, 20 November 2002

<sup>4</sup> Draft Immigration Act: Initial Impact Assessment Report (Annotation), Chapter 3, Residence Permits, paragraph 10

<sup>5</sup> Draft Immigration Act: Initial Impact Assessment Report (Annotation), Chapter 3, Residence Permits, paragraph 2

<sup>6</sup> Draft Immigration Act: Initial Impact Assessment Report (Annotation), Chapter 3, Residence Permits, paragraph 3