

# Employment and Industrial Relations Seminar

## Labour Clearance/Work Permit Application Procedure

# 14 Day Prior Notification

- Notify Commissioner of intention to recruit – Section 105, Employment Ordinance 2004.
- **105.** (1) An employer wishing to employ a person on a work permit under Part B of Schedule 4 to the Immigration Regulations shall notify the Commissioner of Labour of his intention to recruit such a person at least 14 days before making an application for the work permit pursuant to those Regulations.

# Labour Clearance

contd.

- Schedule 4. paragraph 9.** The employer must show to the satisfaction of the Board that—
- (a) (i) he has made every effort to recruit a Belonger to fill the position; and
  - (ii) he has placed an advertisement for the position in two consecutive issues of a local newspaper circulating within the Islands; and
  - (iii) no suitably qualified Belonger has applied for the position;

# Advertisement

- Advertise in two consecutive issues of a local newspaper – paragraph 9, Part B of Schedule 4 to the Immigration Regulations.

# Advertisement

- 1 **A description of the job to be done;**
- 2 **The Wages/Salary attached to the position;**
- 3 **A description of a suitable person;**
- 4 **The person to contact;**
- 5 **Time within which to contact that person;**
- 6 **A modern method by which the person may be contacted;**
- 7 **What to expect when contact is made;**
- 8 **Time when the position will become available.**

# Prefer Belongers

- Make every effort to recruit Belongers; Prefer Belonger applicants – paragraph 9, Part B of Schedule 4 to the Immigration Regulations. Make Effort means: to do something – use some energy. To Prefer Belonger applicants means: search out Belongers first.

# No Belonger Available

- If no suitable Belonger is available look outside the Belonger population - paragraph 9, Part B of Schedule 4 to the Immigration Regulations. Even though no Belonger may have applied there is still no right to a Work Permit.

# Agree Contract of Employment

- Agree contract of employment with prospective employee; send copy of contract to Commissioner and prospective employee before he/she departs for Turks and Caicos - Section 4, Employment Ordinance 2004.

# Send Agreed Contract to Worker in Home Country

- (2) A person who employs another who lives or resides at the time of the employment in a country other than the Islands, shall send the employment contract referred to in subsection (1) to the address in the country where the person employed lives or resides before his departure for the Islands and shall also send a copy to the Commissioner.

# Migrant's First Contract

- Agree contract of employment with prospective employee; send copy of contract to Commissioner and prospective employee before he/she departs for Turks and Caicos - Section 4, Employment Ordinance 2004.

# Make application for Work Permit/Labour Clearance

- Make application for Work Permit/Labour Clearance – Immigration Regulation # 19. Bring full Work Permit application to the Department of Labour!

# Labour Clearance Certificates

**Regulation 19.** Where, pursuant to these Regulations, the Commissioner of Labour is informed of the making of an application for a Work Permit, extension or a renewal thereof and he is satisfied that the requirements for advertising and Belonger preference have been met, he shall issue a Labour Clearance in the form prescribed in Schedule 6.

# Starting Work

- Do not begin work until Work Permit is in hand. Three weeks is not a reasonable time to allow for the Work Permit process. Allow a minimum of six weeks!

# Relationship Ends While Permit Still Valid

- Where the employment relationship is terminated while the Work Permit is still valid – the worker must notify the Director of Immigration within seven days (Reg. 12); the employer must notify the Director within 14 days (Reg. 11).
- The Director may grant the Work Permit holder an additional 30 days residence.

# Work Permit Changes

- When making application for a worker whose Permit with another employer is still valid include some indication that the old relationship is over – a resignation or document terminating the relationship.